

# Divorce and Custody Glossary

There are few legal issues with the potential to be more contentious and upsetting than divorce. One of the first steps to moving forward is understanding what the law is and how it applies to your unique situation. The Family Law attorneys of Joseph, Greenwald & Laake understand this and are committed to helping inform and advise clients through this difficult time with as little conflict and stress as possible. Below are some of the common terms or phrases you may hear your attorney or the Court use during your family law case.

**Note:** *The following definitions are intended to be helpful, BUT they are not intended to constitute legal advice or address every possible meaning of the term(s) contained in this glossary.*

## Common Terms and Definitions

**Absolute Divorce:** One of two types of divorces in Maryland. An absolute divorce breaks the marital bond, permitting remarriage. During an absolute divorce proceeding the Court will resolve issues relating to the marriage, including addressing the division of property.

**Alimony:** An award of spousal support to the economically dependent spouse. Both the amount and duration of the award is determined by the Court based on a number of factors including the length of the marriage, each parties contributions to the marriage (monetary and non-monetary), the parties' lifestyle during the marriage, the parties' incomes and the dependent's spouse's ability to increase their income through education or training.

**Best interest attorney:** An attorney appointed by the court to represent a child in custody litigation, and advocate for what is in the child's best interests.

**Best interests of the child:** This is the standard by which custody determinations are made in Maryland courts. There are numerous factors that are taken into account in determining what is in a child's best interests, and the court is tasked with considering the totality of these factors, with no single factor outweighing the other factors.

**Child privilege attorney:** An attorney appointed by the court to determine whether a child's privilege, often with their therapist, will be waived or asserted.

**Child Support:** Maryland law requires all parents to provide for the support of their minor child, directly when that child is in their care, or through monetary contributions to the other parent when the child is not in their care.

**Child Support Guidelines:** There are statutory guidelines which calculate the amount of support due when the parents' monthly combined incomes are under a cap (currently \$15,000) guidelines. The calculation uses the parties' incomes, the overnights spent with each parent and payment of certain expenses such as health insurance to determine the amount of monthly support.

**Above the Guidelines Cases:** When the parents' monthly incomes are above the cap, the Court has wide discretion to depart from the guidelines, taking into account the actual expenses for the child.

**Custody evaluation:** An assessment performed by a qualified mental health professional, where the evaluator often interviews the parents, friends, teachers, etc., as well performing observations of the parents with the child and home visits. At the conclusion of the assessment, the evaluator will prepare a report outlining their findings and recommendations for legal and physical custody.

**Financial statement:** A form, signed under oath, that must be completed and filed with the Court in all matters where child support or alimony are at issue. The form includes a listing of income, as well as a breakdown of various monthly expenses.

**Earnings Withholding Order:** This Order is tool to enforce support obligations, providing a way for support payments, either alimony or child support, to be withheld from a parties' earnings, such as paychecks, pension payments, etc.

**Legal custody:** This governs how parents are going to make major decisions (generally regarding education, medical and religion) for their child. There are several different types of legal custody that a Judge may order:

**Joint:** Both parents must discuss the issue together, and reach an agreement on the ultimate decision.

**Sole:** One parent is able to make the decision without discussing or agreeing with the other parent.

**Joint with tie-breaking authority:** Both parents must discuss and attempt to reach an agreement. If the parents are unable to make a decision, the parent who has tie-breaking authority may make the decision. Each parent may have tie-breaking authority for certain types of legal custody decisions.

**Limited Divorce:** One of the two types of divorce in Maryland. A limited divorce does not break the marital bond, and only serving to legalize the parties separation. The Court can only hear certain issues in a limited divorce matter, such as alimony and child support. The Court cannot make determinations relating to the division of property during these proceedings.

**Marital Property:** All property which was acquired by the parties during the marriage, other than property received by one party as an inheritance or a gift for a third party, regardless of how it is titled. The term property includes all real property, personal property, bank accounts, retirement accounts, pensions, etc.

**Modification of custody:** Custody orders are never final, and can be modified if the parent shows that there has been a material change in circumstances, which effect the welfare of the child, and that a modification would be in the child's best interests. Once it has been shown that there was a change in circumstances, the Court applies the best interest standard to determine a new custody arrangement or schedule.

**Monetary award:** Once the Court has determined ownership of and valued the marital property, the Court may order payment from one party to the other, to adjust any inequities in the division of marital property. In considering a monetary award the Court must weigh additional factors, such as the length of the marriage, each parties' efforts in acquiring the property, the cause(s) of the breakdown of the marriage,

**Non-marital property:** All property which was acquired prior to the marriage, was an inheritance or gift from third party, or which the parties agreed was non-marital as part of a valid agreement. Any property which is directly traceable to any of these sources is also non-marital property.

**Parenting coordinator:** A process in which an individual, generally a mental health professional or a family law attorney, works with the parents to improve their communication and help work through disagreements regarding their children.

**Physical custody:** This is where the child 'lays their head at night.' There are a variety of different access schedules that a court may award depending on the child's best interest. The Court will look at a variety of factors, including the child's age, each parent's fitness, the distance between the parent's homes, in reaching a decision.

**Right of first refusal:** The requirement that if a parent is unable to care for a child during their normal parenting time, they must offer the other parent the time before finding an alternative caregiver.

**Supervised visitation:** A parenting arrangement under which visitation between a parent and their child is supervised by either a friend, family member, or a professional supervisor. Supervised visitation is generally thought to be a temporary solution, used when there are concerns about a parent's ability to care for a child.

**Use and possession of family home:** If the court makes the determination that there is a need for the child to remain in their family home, providing the child with stability and a familiar environment, the Court may award a parent who has custody of the child "use and possession" of the family home for up to three years.

**Use and possession of family use personal property:** If the court makes determine that a child has a need to continue to use family personal property (such as vehicles, furniture, etc), the Court may award a parent who has custody of the child with "use and possession" of the property.

**Qualified Domestic Relations Order:** Allows for the transfer of interest in certain plans (401ks, IRA, pensions, profit sharing, etc.) from one party to the other.

# FAMILY LAW ATTORNEYS

**David Bulitt**

dbulitt@jgllaw.com

**Christopher R. Castellano**

CCastellano@jgllaw.com

**Patrick W. Dragga**

PDragga@jgllaw.com

**Stephen Friedman**

sfriedman@jgllaw.com

**Reza Golesorkhi**

rgolesorkhi@jgllaw.com

**Jeffrey N. Greenblatt**

jgreenblatt@jgllaw.com

**Anne E. Grover**

agrover@jgllaw.com

**Jeffrey Hannon**

JHannon@jgllaw.com

**Barbara Jorgenson**

bjorgenson@jgllaw.com

**Allison M. McFadden**

amcfadden@jgllaw.com

**Lindsay Parvis**

LParvis@jgllaw.com

**Darin L. Rumer**

drumer@jgllaw.com

**Rama Taib-Lopez**

rtaiblopez@jgllaw.com

6404 Ivy Lane, Suite 400  
Greenbelt, MD 20770-1417  
301-220-2200



111 Rockville Pike, Suite 975  
Rockville, MD 20850  
240-399-7900