

## Uncontested vs. Contested Divorces: A Brief Summary by Jack Tapper

### Uncontested Divorce

An uncontested divorce in Tennessee is usually based on a no-fault ground, which is known as “irreconcilable differences.” Neither party is blamed for the divorce and there is no finger-pointing. To get the *best possible, lowest fee* at the Law Offices of Jack W. Tapper for handling your uncontested divorce, you and your spouse have to be available to sign and consent to a Marital Dissolution Agreement. This agreement is prepared by the attorney, and it spells out things like:

- how assets (for example, your car or other vehicles) are to be divided,
- how any outstanding credit card debts are to be paid for,
- who will pay existing loans, if any,
- how you intend to deal with a mortgage on your marital residence,
- who will live in the marital home or whether it will be put on the market for sale or lease,
- health insurance needs,
- support and maintenance for either party, including whether alimony is to be considered, or if both parties waive the need for it,
- and other items that divorce lawyer Jack Tapper will review with you.

When one spouse agrees to assume responsibility for paying the bills on jointly held debts, the spouse who relies on that promise needs the right protection if the paying spouse defaults. You need to consult with an attorney to discuss how you can best be protected in that event.

If you have minor children of the marriage, you have additional issues to consider:

- Who will have primary residential custody of the children?
- How will each parent share visitation rights?
- Child support amounts?
- Health insurance coverage for the children?
- Life insurance to cover parental obligations if either spouse dies before the children reach the age of majority?

All of these issues involving minor children are part of what is known as a **Parenting Plan**. The Parenting Plan is filed with the court, and it becomes an **Order of the court**, enforceable like any other court order if either parent violates it. In addition, each parent has to attend a 4 hour course known as a Parenting Class, offered in several places in your county, and at the end of the course each person attending gets a certificate of completion as evidence of attendance. The court requires this to grant your divorce. Both spouses do not have to attend the same session; each can choose his or her own

place and time to take the course from the class schedules available. The 4 hour course is taken all at once, and usually offered on a Saturday as well as other days.

In an **uncontested divorce** in Tennessee based on “irreconcilable differences” with *no minor children of the marriage*, a hearing to obtain your final judgment of divorce can be scheduled **after sixty (60) days** have passed from the date your Petition for Divorce is filed in the court. Of course, you need to have your Marital Dissolution Agreement ready by then for presentation to the court. Cleveland divorce lawyer Jack Tapper believes that if your divorce is truly uncontested, both spouses should be ready to sign the Marital Dissolution Agreement at the same time the Petition for Divorce is ready; otherwise, what you thought was to be an “uncontested” divorce at the beginning can turn into a “contested” one by the time the 60 day waiting period expires.

The waiting period is longer in an uncontested divorce *where minor children are involved*. The hearing to obtain your final judgment of divorce can be scheduled after **ninety (90) days** from the date your Petition for Divorce is filed with the court. In such case, each spouse is expected to have completed the Parenting Class and consented to a Parenting Plan in addition to the Marital Dissolution Agreement; otherwise, you may be facing a “contested” divorce.

## **Contested Divorce**

When both spouses cannot agree on any of the issues that must be resolved in a divorce in Tennessee, your divorce becomes a contested divorce. You need aggressive trial lawyer Jack Tapper to represent your interests with boldness and integrity.

Some of the contested issues usually involve:

- the **grounds** chosen for divorce where one party points fault at the other;
- whether either spouse is entitled to alimony, and if so, how much and for how long, and for what purpose;
- maintenance and support of a spouse during the time the divorce case is pending;
- what should be done with the marital home, who shall continue to live in it, and who shall pay the bills to maintain it; how to divide the equity value of the home;
- how to divide all the rest of the assets acquired during the marriage, including bank accounts, investments, IRA’s, deferred compensation of either spouse, such as 401k’s, pension and profit

sharing plans, and tangible personal property like furniture, tools, equipment, vehicles; and

- how to divide real estate other than the marital home.

Indeed, the valuation of these items can often be the stumbling block in resolving the issue of distribution between spouses. Also, it's important to distinguish those assets that are "marital" assets as contrasted with those classified as "separate." See our [article on marital vs. separate assets](#). Marital assets are subject to division and distribution between the parties, while separate assets are generally not, but there are some fine line distinctions that can make separate assets classified as "marital" and subject to division and allocation between spouses.

You should consult with Cleveland divorce lawyer Jack Tapper to review what you should be getting when it comes to assets and who bears the burden of the liabilities. The distribution of assets and allocation of debts between spouses is referred to as "equitable distribution." That is, the court must determine what is fair and equitable in dividing the marital assets and allocating the marital debts. Check our [Articles](#) page for information on the **factors the court considers in arriving at a fair and equitable division of assets and debts**.

**What about minor children?** In a contested divorce in Tennessee where there are minor children of the marriage, additional issues involve:

Who will get the primary custody of the children?

How much visitation should the opposing parent get and what should the rules be when visitation takes place?

How much child support is the primary custodial parent entitled to for support of the minor children?

Who will cover the children's health and dental expenses?

What arrangements are in the best interests of the children for joint custodial decisions involving children's schooling and religious upbringing? and much more.

All of these items are included in a Parenting Plan.

Before the court gets to decide all of the contested issues, both spouses need to attend a mediation proceeding to see if you can reach a compromise on your disputes. If you can, the agreements reached during mediation will be submitted to the court for approval. If you still cannot agree after your attempt at mediation, the disputed issues will be tried in court, and you have a right to trial by jury or a "bench" trial where there is no jury and the case is presented to the judge who rules from the bench.

Because so many issues are at stake in a divorce, especially for marriages where minor children are involved, your interests are best served with a competent attorney advising you and advocating your position all the way through.