

◆ Property Division

Upon every judgment of annulment, divorce, or legal separation, the court shall divide the property of the parties. Wisconsin is a community property state. This means that all marital property should be divided 50/50, and separate property shall remain in the ownership of each spouse.

The parties in an action for an annulment, divorce, or legal separation may, subject to the approval of the court, stipulate for a division of property, in case a divorce or legal separation is granted or a marriage annulled.

A court may not approve a stipulation for a division of property that assigns substantially all of the property to one of the parties in the action if the other party in the action is in the process of applying for medical assistance, or if the court determines that it can be reasonably anticipated that the other party in the action will apply for medical assistance within 30 months of the stipulation.

Separate property, which is not subject to community property division, is defined by statute as any property shown to have been acquired by either party prior to or during the course of the marriage in any of the following ways:

1.
 1. As a gift from a person other than the other party
 2. By reason of the death of another, including life insurance proceeds, payments made under a deferred employment benefit plan, or an individual retirement account, and property acquired by right of survivorship, by a trust distribution, by bequest or inheritance or by payable on death or a transfer on death arrangement; and
 3. With funds acquired from the funds described above.
 4. If the court finds that refusal to divide separate property will create a hardship on the other party, or on the children of the marriage, then the court may divest the party of that property in a fair and equitable manner.