

What Constitutes Marital Property in Rhode Island Subject to the Equitable Distribution Statute?

What Constitutes Marital Property in Rhode Island (RI) subject to the equitable distribution statute in a divorce? What is Equitable Distribution in a Rhode Island Divorce? Can Non Marital property be transformed to Marital Property?

April 6, 2010 - [PRLog](#) -- What Constitutes Marital Property in Rhode Island (RI) subject to the equitable distribution statute in a divorce? What is Equitable Distribution in a Rhode Island Divorce?

Rhode Island is an equitable distribution of assets state. R.I.G.L 15-5-16.1 is the statute that pertains to equitable distribution of assets. The Rhode Island Supreme Court has stated on numerous occasions that marriage is an Economic Partnership.

Article by Rhode Island Divorce Lawyer David Slepko <http://www.slepkowlaw.com/divorce.htm>. You can contact David Slepko at 401-437-1100.

The equitable distribution statute is designed to fairly assign marital property in a Rhode Island Divorce based primarily on the contributions that each party made to the marital estate. Judges in Rhode Island have a lot of discretion to equitably divide marital assets. Equitable does not always mean equal!

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The assets capable of being divided obviously include real estate, pensions, retirement accounts, 401k, cars, boats, artwork, collectibles, bank accounts, ira's, motorcycles, vehicles, time shares, furniture, televisions, computers, and business interests. Retirement benefits are marital assets under Rhode Island Law if acquired during the course of the marriage. Certain disability pensions may not be marital asset.

What steps must a Rhode Island Family Court Judge use to make an equitable distribution in a Rhode Island Divorce?

Equitable division of assets in RI is a multi step process. The first step is for the Judge to determine what property constitutes marital property in Rhode Island. After a judge determines what constitutes marital property, the Rhode Island Family Court judge must apply the factors set forth in 15-16.1. The judge must lastly equitably divide the marital property.

What are the Automatic Court orders and when do they go into effect?

The Husband and wife must be careful not to violate the automatic court orders pertaining to the parties' assets. This automatic order enters upon the Plaintiff signing the Divorce Petition as to the Plaintiff and becomes effective as to the Defendant in the divorce when the summons is served upon the Defendant. This order essentially prevents either party from unlawfully dissipating assets or canceling life or health insurance among other things.

What property and assets constitute Marital Property subject to equitable distribution in RI?

All property acquired during the course of the Marriage by either party constitutes Marital property subject

to equitable distribution with certain exempt property set forth below.

Gifts given by the parties to each other are marital assets which can be equitable divided in a Rhode Island Divorce.

What assets are not marital property under Rhode Island Divorce Law?

Premarital property is not subject to the equitable division statute. Premarital property is property that was acquired by either spouse prior to the date of the marriage.

Income derived from premarital property during the course of the marriage is subject to the equitable distribution statute in a divorce. The appreciation in value of premarital property during the course of the marriage is also subject to the equitable division statute.

In order for the appreciation of value of premarital property to be equitably divided, the appreciation must result from the efforts of the spouse who did not own the asset prior to the marriage. This provision requiring that the appreciation result from the efforts of the other spouse is often loosely applied in Rhode Island (RI) Family Court, especially in marriages of long duration.

It is important to note that the Rhode Island (RI) Legislature made a distinction between interest and appreciation in determining whether the other spouse must have expended any effort. The RI legislature did not require any effort of the other spouse in order for interest derived from premarital property to be equitably divided by the Rhode Island Family court in a divorce. It is not required that interest earned from premarital property be derived from the efforts of the other spouse.

Gifts from third parties whether acquired before or during the marriage are not marital property subject to equitable division in a divorce under Rhode Island Law. The income and appreciation from gifted property is not marital property. This specifically includes life insurance and distributions from trusts.

Inherited property is not marital property. The income and appreciation of inherited property is not subject to the equitable distribution statute in a RI divorce.

An advanced degree is not a marital asset. A professional's license such as a lawyer's license to practice law is not a marital asset.

Can property, which was originally non-marital separate property, be converted to marital property?

Yes. The Rhode Island divorce case of *Quinn v Quinn* is the seminal RI case pertaining to doctrine of transmutation. The doctrine of transmutation can change the character of non marital property to marital property.

In *Quinn v. Quinn*, 512 A.2d 848, 852 (R.I. 1986), the Rhode Island Supreme Court stated that the "transfer of non marital assets from one spouse to both spouses jointly, in the absence of clear and convincing evidence to the contrary, will be understood as evincing an intention to transfer the property to the marital estate. This doctrine, known as transmutation, is consistent with the recognition that marriage is a partnership ... The provisions in 15-5-16.1 are designed to achieve that end. *Oliviera v. Oliviera*

If one spouse transfers non-marital property to the other spouse in joint names then that will usually change the property to marital property. However, the spouse can by clear and convincing evidence prove that the spouse did not intend to create an ownership interest in the property. There is, however, a rebuttable presumption that the transfer was intended to gift the property to the other spouse.

Personal Injury Settlements and Car accident Claims in RI

A personal injury settlement or judgment for pain and suffering, future lost earnings and reimbursement for future medical bills are not marital property in RI. Awards for past medical expenses and past lost wages for a personal injury, slip and fall or workers compensation claim are marital property. Workers compensation awards compensating disfigurement is not marital property.

Are Social Security, SSI benefits or SSDI Benefits Marital property?

Social security benefits are not marital property subject to equitable distribution in a divorce.

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Source	Rhode Island Divorce Lawyer, David Slepko
City/Town	East Providence
State/Province	Rhode Island
Zip	02915
Country	United States
Tags	Providence , East Providence , Child Custody , Child Support , Barrington , Warren , Bristol , Pawtucket , Cranston , Warwick
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