

DATING DURING DIVORCE OR SEPARATION

Dating during divorce can have legal consequences both for the divorcing spouse and their new partner. Dating while separated can hold up and complicate the divorce proceedings, can effect custody and visitation decisions, and rarely but possibly, depending on the state, may be grounds for a lawsuit.

A. EFFECTS ON THE DIVORCE

Dating while going through a divorce can have a number of negative effects on the divorce proceedings, both in court and emotionally. Additionally, marital misconduct can still be considered in some situations. Marital misconduct can encompass a wide variety of actions, including adultery and cruelty. During the proceedings, the fact that a dating spouse is already separated will be noted, but that does not necessarily mean the circumstances of the new relationship will not be considered. For example, the judge might disapprove of the dating spouse's behavior and develop a bias against them. Judges are human and biases are natural and even probable in some instances.

In addition, in some states the new relationship may be considered in the division of property or alimony determinations, so the dating spouse may not get as much as they want out of the divorce depending on the new partner's financial circumstances. This is especially true if the dating spouse begins cohabitating with their new partner during the divorce process. A spouse cohabitating with a partner of the opposite sex is presumed to have a decreased need for spousal support.

Dating before a divorce is final is one of the typical issues that causes heightened conflict during a divorce. The other spouse, if they are not dating, may develop the idea that the dating spouse was committing adultery even if that idea hadn't surfaced before. Or, the other spouse may simply suffer anger and hurt as a result of the limited amount of time it apparently took the dating spouse to recover and move on. Either way, the other spouse may become confrontational, may become unwilling to compromise and obstinate during the proceedings,

B. DATING AND CHILD CUSTODY

Dating while in the process of a divorce may also affect child custody determinations. Seeing parents date new partners is difficult for children, especially older children, and the new relationship may cause older children discomfort such that they decide residence with the other spouse would be more desirable. Although many courts don't take children's wishes into consideration, some will, especially under the circumstance where a child is uncomfortable with a parent's new partner.

When one spouse is dating, the other spouse is likely to be resistant to shared custody agreements as well. A divorce and the prospect of a new partner replacing them is often too much for a spouse to cope with, and may cause disagreements and unwillingness to come to a compromise with regard to custody arrangements. When left up to the court, the judge will make a determination as to which parent should have primary physical and legal custody based on the best interests of the children, and if there is a real or perceived discomfort with the new partner experienced by the children, it is very likely to effect the amount of time each parent and particularly the dating parent is awarded.

If the new partner makes the children feel uncomfortable, whether it has to do with the partner personally or it's related to the children feeling that the partner may be at fault or contributing to the separation and divorce, this is likely to have an effect on custody decisions made by the judge. As such, a spouse who decides to date during the separation is wise to keep the children and the new partner separate to avoid arousing these types of issues during the proceedings.

C. THE RISK OF CRIMINAL CASE

In addition to the possible financial or custody consequences of dating while separated, you may be subject to archaic criminal statutes that make adultery a misdemeanor.