



THE MID-SOUTH DIVORCE GUIDE

What to Expect, What to Do, and What Nobody Tells You

A Client's Guide to Divorce in Tennessee and Mississippi

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*Written for the Mid-South. Shelby, Tipton, and Fayette Counties in Tennessee,
and DeSoto, Tate, and Tunica Counties in Mississippi.*

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READ THIS FIRST

This guide is not legal advice. It is not a substitute for hiring a lawyer, and reading it does not make me your lawyer.

Family law runs on facts. Two people can walk into my office with what sounds like the exact same problem, and the right answer is different for each of them because of something one of them mentioned in passing forty minutes in. A guide cannot ask you follow-up questions. I can.

Why one guide covers two states

Because the Mid-South does not care about the state line and neither does your life.

People here live in Southaven and work in Memphis. They get married in Shelby County and buy a house in DeSoto County. Half the families I represent have a parent on one side of the line and a school on the other. So when somebody asks me what happens in a divorce, the honest first answer is a question: which side of the line are you filing on, because the answers are genuinely different.

Most of this book is Tennessee, because most cases here are. But Mississippi is not Tennessee with different scenery, and the differences are large enough to change what you should do. Mississippi requires your spouse's consent for a no-fault divorce and Tennessee does not. Mississippi now presumes equal parenting time and Tennessee specifically does not. Mississippi child support runs three years longer. [Chapter 34](#) lays all of that out.

If you are not sure which state your case belongs in, that is one of the most valuable questions you can bring to a first consult, and it is worth more than most of the fights that follow it.

One more thing about timing

Everything in here was current as of the fall of 2026. Tennessee's legislature meets every year and touches family law every year. Two of the rules described in this guide changed in 2026 alone. Mississippi's custody law changed on July 1, 2026, and it changed a lot. If you are reading this well after 2026, assume something in here has moved.

Judges also differ. The law gives them discretion on purpose, and two good judges applying the same statute to the same facts can land in different places. When I tell you what usually happens, I mean usually.

So use this the way it is meant to be used. Learn the vocabulary. Learn the shape of the process. Figure out what questions you need answered. Then go get a lawyer to answer them.

WHY I WROTE THIS

Most people walk into a divorce lawyer's office having already had the worst month of their life, and then we hand them a stack of paper and start using words like [pendente lite](#).

I have been practicing law since 2002. What I have come to understand is that fear of the unknown is a real thing. Not understanding the process, and not understanding how it works, is what makes people feel vulnerable and confused. It is rarely the law itself that frightens somebody. It is not knowing what happens next.

Jerry Seinfeld had a bit years ago whose punchline was that the lawyer is the only person at the table who ever read the instructions. He was joking. He was also describing my job, and it has always struck me as a strange way to run things.

So here are the instructions, read out loud.

I want you to understand the process. Understanding it makes you a better client, because you will know which questions actually matter and which ones do not. It makes you a better witness, because you will not be surprised in a courtroom. And it lets you understand why the other side is doing what they are doing, which turns a lot of things that feel like personal attacks back into what they usually are, which is procedure.

It is long. Read the parts that apply to you, skim the parts that do not, and keep it around, because the part that does not apply to you in March has a way of applying to you in October.

One more thing before we start. I am not going to lie to you anywhere in this book. This is not going to be a fun experience. What I can tell you is that it is a process with rules, and that the people who understand the rules spend less time in it and spend less of their money on the parts that turned out not to matter.

Let's get to work.

Bill Jones Memphis, Tennessee

HOW THIS GUIDE IS PUT TOGETHER

Part One is everything before you file. Whether to do it, how to get ready, how to pick a lawyer, and what this is going to cost.

Part Two is the process itself. What gets filed, what happens next, how long it takes, and how cases actually end.

Part Three is the money. Property, debt, the house, retirement, alimony, and taxes.

Part Four is the kids. Parenting plans, residential schedules, child support, relocation, and modification.

Part Five is about your own conduct and your own judgment. What to do, what to stop doing, the specific mistakes that cost people the most, and how to decide which fights are actually worth having.

Part Six covers Mississippi, life after the decree, and a glossary.

At the back are worksheets. Fill them out before your first meeting with any lawyer and you will save yourself real money.

In the PDF version of this guide, defined terms are linked to the glossary and every cross-reference is clickable. If a word is unfamiliar, click it.

PART ONE: BEFORE YOU FILE

CHAPTER 1: SHOULD YOU ACTUALLY DO THIS

I am a divorce lawyer, and I am going to start by telling you that a lot of people who sit in my chair should not be getting divorced.

Some of them know it. They come in angry about something specific, and about twenty minutes into the conversation you can hear the anger run out of gas. Some of them do not know it yet. And some of them absolutely should be getting divorced and are still trying to talk themselves out of it, usually because of the kids or the money or what their mother is going to say.

I am not a counselor. I am not going to tell you which one you are. But here are the honest observations from a couple decades of watching this.

I have dismissed cases. Not many, but enough to tell you that it happens and that nobody in my office thinks any less of anybody for it. The client sits down, tells me to file the notice, and walks out of the building lighter than they walked in. If there is a version of this where the two of you do the work and it holds, that version beats anything I can do for you on every measure I know how to count.

Counseling is worth trying if there is anything left to try. I serve as an elder at my church and I am not neutral about it, so weigh that however you want to weigh it. What I will tell you as a lawyer is narrower than that. I have watched a marriage turn all the way around because two people started eating dinner at the same table again, and I have watched one end anyway after four years of the best counseling money can buy. It does not predict anything. It is just worth knowing which of those two you are in before you spend a year finding out in my office.

Now the other side of it. If you are staying because you are afraid, that is a different conversation and you should have it with somebody today. If there is violence in your house, skip ahead to [Chapter 32](#) right now and then call somebody. The rest of this book will keep.

And if you are staying purely for the children, understand what the research and my own eyes both say. Children do not need their parents married. They need their parents functional. A calm house with two addresses beats a war zone with one.

The walk from the car

For most people, the walk from the car to a divorce lawyer's office is the most surreal thing they have ever done.

Somewhere in those forty yards you are going to hear yourself asking questions you never expected to ask. How did I end up here. I did not plan on this. Can I even afford this. Do I actually want to go through with it.

Every one of those is a fair question and not one of them has to be answered today.

A consultation is a consultation. That is all it is. There should be zero pressure on you to sign with anybody the first time you meet them, and if you feel pressure, that tells you something useful about the office you are sitting in. Come find out what your situation looks like. Go home. Sleep on it. Talk to two other lawyers. The decision keeps.

CHAPTER 2: PRE-DIVORCE PLANNING

If you are reading this before anything has been filed, you are in the best position you will be in for the entire case. Use it.

Right now you have something you will not have again at any later point in this case. You have time that nobody is watching. No filing deadlines, no opposing counsel reading your mail, no court order telling you what you may and may not do with your own accounts. From the day a complaint is filed, your options start narrowing and they never widen back out.

Most people spend this stretch worrying and then spend the next one scrambling. Spend this one getting ready instead.

Gather your paper

This is the single most valuable thing you can do, and it costs you nothing but time.

Get copies of the last three years of tax returns, including all schedules and W-2s and 1099s. Get the last several months of statements for every bank account, every credit card, every investment account, and every retirement account, including the ones in your spouse's name that you can lawfully access. Get your most recent pay stubs and your spouse's if you have them. Get the mortgage statement, the deed, and any life insurance policies.

I am telling you to get copies of things you have a right to see. Joint accounts, joint returns, statements that come to your house. I am not telling you to guess your spouse's password. That is a different chapter and it ends badly. See [Chapter 30](#).

While you are at it, pull your own credit from all three bureaus. Not your spouse's. Yours. You need it because it is the only complete roster anywhere of every creditor carrying your name, and a sworn income and expense affidavit is going to ask you to list them. Building that list off memory is how people end up amending a sworn document.

Then put all of it somewhere outside the house. A parent's place, a friend's place, a safe deposit box in your name alone. Not because anybody is going to shred it. Because the week after service is the week the filing cabinet gets reorganized, and you do not want to be the one arguing about what used to be in it.

Everything you do from here gets read backward

Run every financial decision for the next several months through this frame.

At some point a lawyer whose job is to make you look bad is going to sit down with a stack of your statements and go through them line by line with a highlighter. That lawyer will not be in the room when you make the decision and will not hear your reason for it. They will see a date and an amount.

So sort your moves into three piles.

Moves that read fine. Get your mail somewhere else. A post office box, your mother's house, anywhere that is not the kitchen counter. Every letter from my office is going to that address for the next year and you do not want a conversation about why your spouse opened one.

Start a log of the schedule you are actually keeping with your children. Who does the morning. Who does pickup. Who took off work the last four times somebody ran a fever. Write it down as it happens, with dates, starting today. In eight months somebody is going to describe that year in a courtroom, and the parent with the contemporaneous log is the parent the judge believes.

Open a checking account in your own name if you do not have one and put something in it every week. Here is the arithmetic nobody does in advance. A retainer, a deposit and first month somewhere, and a moving truck will run past what most people have liquid, and having to ask your spouse for that money is a bad way to start.

And quit adding to joint debt. The bank does not read divorce decrees. If both names are on that account, the bank can come after both of you no matter which one of you a judge assigned the balance to, and the letter you get from the bank two years from now will not mention the judge at all.

Moves that read badly even when the reason was good. Large transfers between accounts. Cash withdrawals with no obvious purpose. Taking your name off of something, or putting your name onto something. Closing an account. Moving a vehicle title. Every one of these has an innocent version, and every one of them is going to be a question you answer under oath, and that question is far easier to answer when your lawyer knew about it beforehand. So here is the real rule. You are allowed to touch your own money. Call first.

Moves that read as fraud, because that is what they are. Emptying the joint account. Parking money with your brother. Selling the boat to your buddy for a dollar. Somebody has probably already suggested one of these to you, and once a [complaint](#) is filed there is a court order that specifically forbids all of it. See [Chapter 6](#).

But set the order aside, because the real cost is not the contempt finding. It is what happens to everything else you say. A judge who concludes you moved money is a judge who now has to decide how much of the rest of your testimony to keep, and judges resolve that question the easy way. Your income becomes a question. Your parenting testimony becomes a question. The true things become questions, and you spend the rest of the trial paying for one afternoon at a bank.

[Talk to a lawyer before you do anything dramatic](#)

Do not move out yet. Do not file anything. Do not sign anything your spouse hands you. Do not send the email you drafted at two in the morning.

Come see somebody first. A consult is cheap compared to unwinding a decision you cannot take back.

Queen for a Day

This is an exercise I do with clients, and it is the part of the planning almost everybody skips.

You get to write the ending. No limits, no lawyers, no judge. Where do you live. What do you drive. What does a Tuesday afternoon look like with your kids. What are you doing for work. What does the monthly number have to be for you to be all right. Write all of it down.

Then price it. What does one month of that life cost, in real numbers, off real bills.

That step is what turns the page from a wish into information, and it is the step people skip. Roughly half the pages I have ever been handed do not survive their own arithmetic. The house on the page costs more than both incomes will carry even before anybody pays a lawyer. The schedule on the page needs somebody home at 3:30 and nobody on the page is home at 3:30. That is not a reason to want less. It is a reason to find out at your own kitchen table on a Sunday, for free, instead of discovering it in pieces over eight months at my hourly rate.

And do not use a chatbot as your therapist or your strategist while you are working any of this out. I mean that literally and there is a whole chapter on why. [Chapter 31](#).

CHAPTER 3: HOW TO PICK A LAWYER

Sit in three chairs before you pick one. This is the only stage of the whole process where comparison costs you nothing, and you are about to hand somebody the most consequential decisions of your adult life.

I tell that to every person who walks into my office, including the ones I would like to keep.

What follows is not a checklist. There are twenty of those online, they all ask the same twenty questions, and any lawyer who has been at this more than a year has smooth answers ready for every one of them. What is below is what I would actually be listening for if I were the one in the chair, and some of it is not a question at all.

Ask about the division, not about the county

Have you tried a case in front of my judge?

Divorce law is statewide and divorce practice is not. Shelby County has multiple divisions handling domestic matters, each with a judge, a clerk, and a set of expectations about how things get done, and those expectations are not written down anywhere you can read them. How much notice that division wants before a hearing. Whether it will hear something on the phone. What it thinks about continuances. Whether a particular kind of temporary request is worth setting at all or whether it is going to get you a look you do not want.

None of that appears in a rule book. It appears in a lawyer who has stood there.

The same is true across the line in DeSoto County, and it is the reason a competent Nashville lawyer is not automatically the right choice for a Memphis case. Ask where they practice most. Ask when they were last in front of your judge. A lawyer learning your division while you pay for it is a real and expensive thing, and it is invisible to you until it is not.

Find out where your money is going to sit

Ask it in exactly these words. When I write this check, where does the money go.

At my firm it goes into a trust account, which is an account I am not permitted to spend out of. The money stays yours while it sits there. I bill against it as I earn it, and if we finish before it is used up, what is left is still yours, because it never stopped being yours.

Other offices structure the same payment as a fee earned when the firm accepts the case. There are sound reasons a practice is run that way and it is entirely proper. It also means the money belongs to the firm from the day you hand it over, so a case that wraps in ninety days wraps with nothing sitting in an account.

Both arrangements are common in this town and neither one is a red flag. Being unclear about which one you signed is a red flag, and that clarity is not going to arrive on its own while you are holding a pen.

While you are on the subject, ask what happens when the money runs low. Every busy office reaches a point where it asks a client to put more in. You want to know now where that point is, how much warning you get, and what the office does if you cannot meet it that month, because that answer describes how the relationship behaves under strain, and strain is the only condition it is ever going to face.

How fast do you return calls

Before anybody gives you a number, sit with this.

On the day your case is the one called in front of the judge, you are going to want your lawyer thinking about nothing but you. Not stepping into the hallway between witnesses to handle somebody else's question. That undivided attention is the whole product you are buying, and it only exists if it works in both directions. Which means the afternoon you are waiting on a call back is very often an afternoon when somebody else's case is the one on the docket.

Now the number. Forty-eight hours is the honest one. A lawyer in trial is gone. A lawyer in a mediation is in a room from nine in the morning until eight at night with no signal and no intention of stepping out. Put a weekend against that and same day is simply not a promise anybody can keep. If somebody promises it anyway, they are telling you what you want to hear, which is worth noticing this early.

Two days without a word is normal. A week without a word, or a week with nobody in the office able to tell you anything, is a real problem and you should say so out loud rather than stewing.

The better question is how the office is built. A firm where a paralegal answers routine questions the same afternoon will make you far less crazy than one where everything, including what time to show up, waits on the attorney.

This is not the time to shop the clearance rack

I love a bargain. When I walk into a clothing store I go straight to the back and look for the clearance rack before I look at anything else. My wife will tell you this. It is a personality trait.

This is not that.

Hiring the cheapest lawyer in town is the most expensive decision available to you, and it is expensive in a way you do not see until much later. Here is what actually happens. The low quote usually means one of three things. It means a volume practice, where the price works only because the work is standardized, and a case that will not standardize gets handled like one anyway. Or it means a lawyer who has not done many of these, so you are paying for their

education. Or it means a quote that was never real, and the number climbs once you are in and it is expensive to leave.

And the cost of a bad result does not show up on an invoice. It shows up in a parenting schedule you live with for twelve years. It shows up in a retirement account that got divided wrong and nobody caught it until you were sixty. It shows up in a mortgage you are still on for a house you do not own. Those are five and six figure mistakes that started as a two thousand dollar savings.

None of that is an argument for hiring whoever charges the most, and I would be suspicious of any lawyer who made that argument to you.

Here is the arithmetic people miss. The rate tells you what one hour costs. It tells you nothing at all about how many hours, and the second number is between five and forty times larger than the first. I have watched a firm at four hundred an hour finish a case for less than a firm at two-fifty, because the expensive one knew on day one which three fights were worth having. You are not shopping for a price. You are shopping for a total, and the only part of the total anybody will show you in a consultation is the part that matters least.

Shop the clearance rack for a winter coat. Not for this.

CHAPTER 4: WHAT DIVORCE COSTS AND WHY

There is a moment most clients have, and it lands somewhere around the second retainer replenishment. They are sitting with a statement, working backward through it, and at some point they hear themselves say out loud that they spent eleven thousand dollars on a boat.

Nobody decides to do that. What happens is that a divorce gets bought in twelve minute increments and gets paid for in lump sums, and there is no point in the middle where anybody stops, adds up what one particular argument has cost so far, and holds that number up next to the thing being argued about.

That number is knowable. It is just that in most offices nobody runs it, because running it is not billable and because clients do not ask.

So this chapter is that number, in advance, before you have spent it.

Why the meter runs

Abraham Lincoln is supposed to have written that a lawyer's time and advice are his stock in trade. That is the whole business in one sentence.

I do not have inventory. I do not have a product on a shelf. I have hours, and when they are gone they are gone. So if I accept representation on your case and I am working on your case, any instant I spend on it is billable. Reading your email is billable. Thinking about your case in the shower is not, but drafting the letter that came out of that thinking is. The same is true of every attorney who bills by the hour, whether or not they say it out loud.

I tell people this on the front end because it changes how they use me, and using me well saves them money. Save your questions up. Send one email on Friday with twenty questions instead of twenty emails with one question each. Bring your documents organized. Answer [discovery](#) completely the first time. None of that is me dodging you. It is me not charging you three times for the same task.

Where the money actually goes, month by month

No divorce bill I have ever sent spent evenly, and the shape is close enough to the same every time that you can plan against it.

The first two months are cheap and feel expensive. Drafting, filing, service, a first round of paper. You are paying a couple thousand dollars for documents you might have written yourself if you knew how, and this is the stretch where clients most often decide privately that they are being overcharged.

Months three through six are where the money is, and hardly any of it happens in a courtroom. This is the stretch where every fact in your case gets established three separate times. Once so

that I know it. Once in a form the other side cannot dispute. And once in a form a judge could accept if it came to that. The same bank account gets worked three different ways by three different people, and you are paying for all three passes, and not one of them produces a decision about anything. It is the least satisfying money in the case and it is the money that wins cases.

Somewhere around month seven or eight comes [mediation](#), which lands as one uncomfortable number on one day and is very often the best value in the entire file. See [Chapter 10](#).

After that the line does one of two things. It flattens out, because you settled and the rest is paperwork. Or it goes vertical, because a trial has to be built, and building one is a different order of expense than everything before it.

I lay it out this way for one reason. The expensive part is in the middle, and the middle is exactly when people stop reading their invoices.

The three-tier forecast

Here is how I explain it to a new client.

Tier one. The case settles early because both sides are reasonable and the facts are not complicated, and you get money back.

Now let me be honest with you about tier one, because I do not want to sell you something that rarely arrives. Tier one is uncommon. Sometimes the estimate lands exactly and you spend what we thought you would spend. More often what happens is that people are volatile at the beginning, and understandably so, and it takes a while before either side can sit down and agree to anything. The reasonable version of your spouse usually shows up eventually. It just does not show up in month one. So plan for tier two and be pleasantly surprised by tier one.

Tier two. The case goes to mediation and settles there. You spend roughly what you put down, maybe a little more. This is where most cases land.

Tier three. The case tries. Your retainer was the first of several payments, and this is where the numbers get uncomfortable.

Most divorces settle. That is not lawyer talk to soften you up, it is just what the numbers say. Plan your budget around tier two and treat a trial as the contingency it actually is.

Who pays for this

Start with the version of this that has an actual legal remedy attached to it.

Tennessee does not require you to have money in order to have a lawyer.

Where one spouse holds the accounts and the other does not, a court can order the moneyed spouse to fund the other side's representation, and it can do so while the case is still running

rather than at the end of it. The reasoning has nothing to do with generosity. A marriage in which one person can outspend the other into accepting whatever is offered does not produce a negotiation, and judges who have watched that happen are unsympathetic to the spouse doing it. What matters practically is timing, because this request belongs near the front of a case and gets weaker every month it waits. See [Chapter 18](#).

Past that, here is something clients are almost never told.

A divorce has thirty or forty points in it where two roads were open and one got taken. Almost none of them are dramatic. They are decisions about whether a hearing gets set this month or next, whether we write the order or let the other side write it, whether a letter gets answered at all. Each takes a lawyer about ninety seconds at a desk, alone, and together they build your entire bill.

Ask to be told about the forks. Not to make the calls, because making those calls is what you hired somebody to do. Just to know a fork was there and roughly what each road ran, so that the number at the end of the year is arithmetic you watched happen instead of a bill that arrived. A lawyer who will not do that is managing you rather than representing you.

One thing about timing, since we are on the subject of forks. A fee arrangement is a document that can be amended, and amending one is a normal piece of office business right up until there is a trial date on the calendar. After that it stops being a negotiation and becomes a problem, because a lawyer who is sixty days from trial cannot restructure anything and cannot leave either. Whatever you are going to ask about money, the calendar is what decides how the asking goes.

When a bill surprises you

A surprising invoice is almost always a scope change nobody announced.

Something entered the month that was not in the plan. Your spouse filed a motion. A deposition got set. An expert had to be retained on eleven days notice. The work was probably necessary and the number is probably right, and none of that helps you, because you were budgeting against a case that quietly stopped existing three weeks ago.

So the question to bring is not whether the hours are accurate. It is what changed. Asked that way you will have a useful answer in four minutes. Asked the other way you will get a defense of the invoice, which is the least interesting document either of you has ever read.

PART TWO: THE PROCESS

CHAPTER 5: GROUNDS, RESIDENCY, AND WHERE YOUR CASE GETS FILED

You need a reason, at least on paper

Tennessee requires a ground for divorce. Tennessee Code Annotated section 36-4-101 lists them, and the list is long and some of it is old. Adultery is on there. So is habitual drunkenness, conviction of a felony with confinement, willful desertion for a full year, cruel and inhuman treatment, and indignities that render the spouse's position intolerable. There is also a ground for two or more years of continuous separation where there are no minor children of the marriage.

And then there is the one almost everybody actually uses. [Irreconcilable differences](#).

Irreconcilable differences is not automatic

Here is the part people get wrong. Irreconcilable differences is a ground, but under Tennessee Code Annotated section 36-4-103 you cannot get a divorce on that ground unless you and your spouse have a written agreement resolving everything. Property, debt, support, and if you have children, a [permanent parenting plan](#).

So irreconcilable differences is not the easy way out of a fight. It is the paperwork you file when the fight is over.

If your spouse will not agree, you plead irreconcilable differences and you also plead a fault ground in the alternative, and then you litigate. If you settle later, and most people do, the fault ground goes away and the divorce is granted on irreconcilable differences. Pleading a fault ground is not an accusation you are stuck with. It is a door you leave open.

The waiting period

Once the [complaint](#) is filed, Tennessee makes you wait before the divorce can be heard. Sixty days if there are no minor children. Ninety days if there are.

The clock starts when the original complaint is filed. Not when you signed the agreement, not when you separated. The day it hits the clerk's office.

This is a floor, not a schedule. [Uncontested](#) cases sometimes finish shortly after the waiting period runs. Contested cases run a year or more. The waiting period has never once been the thing holding up a real fight.

Residency

Under Tennessee Code Annotated section 36-4-104, either you or your spouse must have lived in Tennessee for the six months before the complaint is filed. If the acts giving rise to the divorce happened while you lived in Tennessee, the rule is different, so this is a question to bring to a lawyer if your situation is not simple. Military members stationed in Tennessee for at least a year are presumed to be residents.

Which courthouse

Venue is governed by Tennessee Code Annotated section 36-4-105. Generally you file in the county where you both lived when you separated, or where the defendant lives if the defendant lives in Tennessee. If your spouse is out of state, you can file where you live.

In Shelby County, both Circuit Court and Chancery Court hear divorces. Which one you land in affects who your judge is, and the divisions differ in how they run a docket, what they expect on **motion** day, and how quickly they will set a trial. This is exactly the kind of local knowledge you are paying a local lawyer for.

Shelby County by itself makes up the 30th Judicial District. Our office also practices in Fayette and Tipton Counties, which sit in a different judicial district with their own judges and their own way of running a docket. DeSoto County across the state line is a different system entirely. That is Part Six.

Does it matter who files first?

Usually not much. The person who files is the plaintiff and the other is the defendant, and those labels do not carry the weight people think they do. No judge in Shelby County is going to hold it against you that your name came second on the pleading.

There are exceptions. Filing first triggers the automatic injunction (**next chapter**), which matters if you are worried about assets walking out the door. Filing first can lock in venue if there is a real question about which state or county the case belongs in. Filing first sets the clock running on deadlines, which matters if you need momentum.

What I will say is that indecision has a running cost that nobody itemizes. Debt keeps accruing on accounts you are still jointly liable for. The status quo hardens into the thing a judge will be reluctant to disturb. And you spend the months in the worst part of this, which is the part where nothing has started and nothing is settled. If you have already made the decision, the waiting is not protecting you from anything.

One thing about the complaint

Start with a rule of procedure, because it explains a document you are shortly going to find upsetting.

A court can only award relief that somebody actually requested in the pleadings. Whatever is not asked for is not on the table. If we leave a form of relief out of the complaint and it turns out fourteen months later that you needed it, it is not sitting there waiting on us to remember. So complaints get drafted wide and get narrowed later.

Which brings me to the Highland Quartet.

When I was a kid I used to go to the Highland Quartet to watch movies. A ticket was two dollars and fifty cents. A bucket of popcorn and a soda ran another two fifty. So I needed five dollars to go to the movies.

I asked my father for twenty every single time.

Twenty was ridiculous and we both knew it. He knew exactly what a ticket cost and he knew exactly what I needed, and I knew that he knew. Most of the time he handed me the five. But every now and then I would get loved, and he would peel off a ten, and I would walk out of that house with double what I actually needed because I had the nerve to ask for twenty.

That is a complaint. We ask for the twenty.

So when yours arrives, do not read it the way you read a letter. Nobody drafting that document was describing your marriage. They were holding doors open for a client who does not yet know which ones they will need to walk through.

Here is what to actually do with it. Sit down with the complaint and a pen and mark the paragraphs that describe something you genuinely care about. That list is going to be a great deal shorter than the document, and it is the list your lawyer will actually be working from.

CHAPTER 6: THE AUTOMATIC INJUNCTION

The moment a divorce [complaint](#) is filed and served in Tennessee, a court order goes into effect against both of you. Nobody has to ask for it. No judge has to sign anything extra. It is automatic, it is mutual, and it is found at Tennessee Code Annotated section 36-4-106(d).

You are now under a court order. Violating it is [contempt](#) of court, and contempt can mean fines, fee awards against you, and in serious cases jail.

Here is what it prohibits.

One. You cannot move, hide, spend down, borrow against, or transfer marital property without your spouse's consent or a court order. There is a carve-out for ordinary living expenses and the usual and customary expenses of a business. Groceries and the light bill are fine. Wiring forty thousand dollars to your brother is not.

Two. You cannot cancel, change, or let lapse any insurance policy covering either spouse or the children. Health, life, auto, homeowner's. You also cannot change the beneficiary. People violate this one by accident more than any other, usually during open enrollment. Call your lawyer before you touch anything at work in November.

Three. You cannot harass, threaten, assault, or abuse your spouse. You also cannot make disparaging remarks about your spouse to the children or to your spouse's employer. Read that last part twice. Calling your spouse's boss is a specific, named violation of a court order.

Four. You cannot hide, destroy, or alter evidence, and the statute specifically includes electronically stored information and hard drives. Do not delete the text thread. Do not wipe the laptop. Do not clear the browser history. Deleting evidence is worse than whatever was in the evidence, every single time.

Five. You cannot relocate the children out of Tennessee or more than fifty miles from the marital home without the other parent's permission or a court order. There is an exception where there is a well-founded fear of physical abuse.

[What this means practically](#)

It means the window for financial rearranging closed the day you got served. Anything you do after that is a violation and anything you did in the months before is going to get looked at anyway under the [dissipation](#) rules in [Chapter 13](#).

It also means the injunction protects you. If your spouse drops you from the health insurance, that is not just rude, it is contempt, and we have a remedy. Tell your lawyer immediately.

If you need to do something the injunction prohibits, and sometimes there are legitimate reasons, the answer is to get written consent or a court order first. Not to do it and explain later.

CHAPTER 7: THE ROADMAP

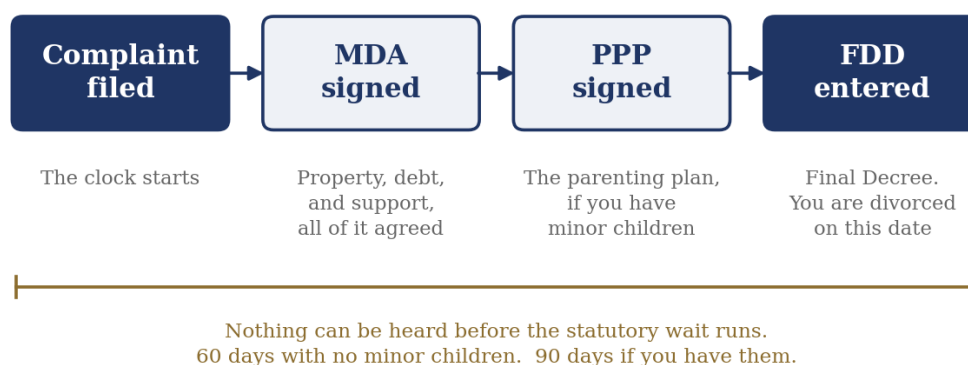
The version everybody wants

Almost every person who sits down across from me describes some version of this, usually in the first ten minutes. We are both adults. We already agree. Can we not just sign the papers and be done.

Yes. This is what that looks like.

THE UNCONTESTED ROUTE

What almost everyone wants. What very few can do from a standing start.



The uncontested route: complaint, MDA, parenting plan, final decree.

Four documents. The complaint that opens the case. The Marital Dissolution Agreement, which is the contract dividing everything you own and everything you owe. The Permanent Parenting Plan, if you have minor children. And the Final Decree of Divorce, the order that actually ends the marriage.

No discovery. No depositions. No motion day. No mediation, because there is nothing left to mediate. You wait out the statutory period and you are done. It is faster, it is dramatically cheaper, and it is better for your children than anything else in this book.

Now here is the honest part, and I would rather you hear it from me now than discover it in month four.

Very few people can actually do this out of the gate. Not because they are unreasonable and not because they picked the wrong lawyer. Because an MDA is not a handshake. It is a binding contract that has to resolve every asset, every debt, the house, the retirement accounts, the vehicles, the tax years, the health insurance, and support, in enough detail that a stranger could enforce it years from now. And a parenting plan has to specify a residential schedule, holidays,

decision-making authority, and a dispute resolution process, in writing, before either of you knows how any of it will feel.

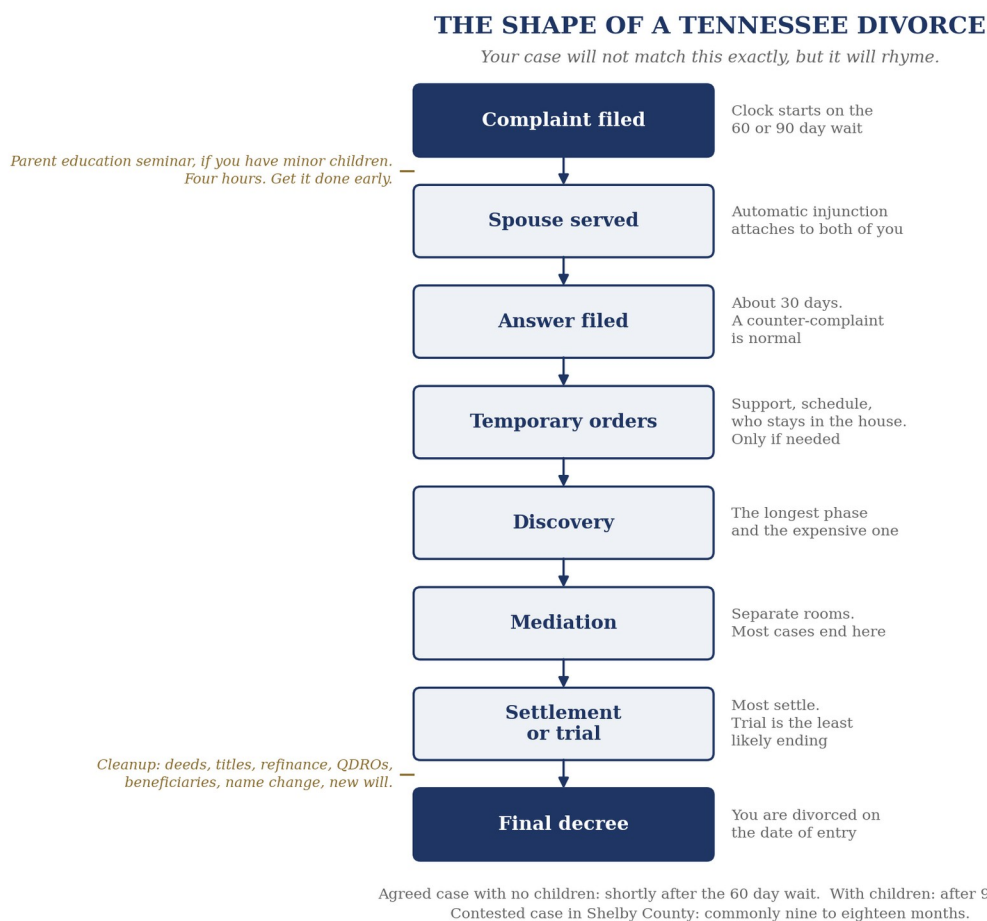
Couples who genuinely agree on the shape of it still discover that they never actually discussed the shape of it. They agreed to be agreeable. That is not the same document.

So most of the people who walk in describing this route end up somewhere in between. They agree on eighty percent, they fight about the rest for a while, and then they settle and sign the same four documents anyway, a few months and a few thousand dollars later than they hoped.

Which is fine. That is a normal, successful divorce. But it means you should understand the longer road too, because you may be on part of it.

The version most people get

Here is the full shape of a Tennessee divorce. Your case will not match this exactly, but it will rhyme.



The shape of a Tennessee divorce, from filing through final decree.

The complaint gets filed. Your lawyer drafts it, you review it, it goes to the clerk. Filing fee gets paid. The clock starts.

Your spouse gets served. A process server or the sheriff hands them the [complaint](#) and summons. Or, in an agreed case, your spouse signs a waiver of service and you skip this. The automatic injunction attaches.

Your spouse answers. Under the Tennessee Rules of Civil Procedure they generally have thirty days to file an [answer](#). They may also file a [counter-complaint](#), which is their own complaint against you. That is normal and not an escalation.

Temporary relief, if needed. If somebody needs support, exclusive use of the house, or a temporary parenting schedule while the case is pending, that gets filed as a [motion](#) and heard. See [Chapter 8](#).

Discovery. Both sides exchange information. Written questions, document requests, sometimes depositions. See [Chapter 9](#). This is usually the longest phase and the one where the bill grows.

The parenting seminar. If you have minor children, Tennessee Code Annotated section 36-6-408 requires each parent to attend a parent education seminar of at least four hours. It is educational, not counseling, and the children do not attend. In Shelby County the local rules give you sixty days from filing to get it done, and a court can decline to set your case for trial until you have. Your certificate gets filed. Get it out of the way early. Nobody has ever been glad they waited.

Mediation. Tennessee courts order mediation in contested divorces. See [Chapter 10](#).

Settlement or trial. Most cases settle, at [mediation](#) or on the courthouse steps. The ones that do not get tried.

The final decree. The judge signs, the clerk enters it, and you are divorced as of the date of entry. Not the date of the hearing. The date of entry.

Cleanup. Deeds get signed, retirement accounts get divided by separate order, names get changed, beneficiaries get updated. See [Chapter 35](#), and please do not skip that chapter.

[How long](#)

An agreed divorce with no children can be done not long after the sixty day waiting period. An agreed divorce with children, after ninety days.

A contested divorce in Shelby County commonly runs nine months to eighteen months. A hard-fought custody case with experts can run longer.

What makes it long is not the court. It is the number of disputed issues and how the other side behaves. Two reasonable people with a complicated estate finish faster than two angry people with a simple one.

CHAPTER 8: TEMPORARY ORDERS

Divorces take months. Life does not pause. So Tennessee courts can enter temporary orders that govern while the case is pending. Lawyers call this [pendente lite](#), which is Latin for while the suit is pending, and which nobody outside a courthouse has ever said out loud.

A temporary order can set who lives in the house, a temporary parenting schedule, temporary child support, temporary spousal support, who pays which bills, and who keeps which vehicle.

Two things to understand about temporary orders

First, they matter more than they sound like they should. A temporary parenting schedule that runs for a year becomes the status quo, and courts are cautious about disrupting a child's stable, working arrangement. The schedule you agree to in month two has a way of becoming the schedule you have in month fourteen. Do not agree to something temporary that you would not accept permanently, at least not without understanding that risk.

Second, they are not permanent and they are not a prediction. A temporary support number is set fast on limited information. It is not the judge telling you how the case comes out.

The Rule 14 affidavit

In Shelby County, financial disclosure in domestic cases runs through Rule 14 of the local rules of the 30th Judicial District, and the income and expense affidavit is the document that drives every support conversation you are going to have. It is a sworn statement of what you earn and what you spend.

The deadline is ten days. Both parties file a sworn financial affidavit at least ten days before any hearing that touches financial issues, unless the court waives it or the lawyers agree otherwise. That is not a lot of runway once a hearing gets set, which is why the gathering you did in [Chapter 2](#) pays for itself here. At trial your lawyer certifies to the court that the affidavits were exchanged.

Take it seriously. Three reasons.

It is sworn. Getting caught inflating your expenses or hiding income destroys your credibility for the whole case, and credibility is the only currency you cannot buy back.

It is the document the judge actually reads. In a crowded [motion](#) docket, that affidavit and the child support worksheet may be most of what the court sees before ruling.

It is going to be compared against your bank statements. Line by line, if the other side is any good. If your affidavit says you spend four hundred a month on groceries and your statements say eleven hundred, you are going to get asked about it.

Fill it out carefully, honestly, and completely. Worksheet 3 at the back of this guide is built to feed it.

The current form and the operative rule live in the [Local Rules of Practice for the 30th Judicial District](#), and the clerk also posts domestic forms on the [Shelby County forms page](#). Ask your lawyer for the current version and the current filing deadline rather than relying on a copy you found somewhere, because local rules do get amended and one you downloaded two years ago may not be the one the court wants today.

CHAPTER 9: DISCOVERY

Discovery is the formal exchange of information. It is where cases are actually won and lost, and it is where most of your money goes.

The tools

Interrogatories are written questions the other side must answer under oath. Where do you work, what do you earn, list every account, identify every witness.

Requests for production demand documents. Tax returns, statements, texts, photos, records.

Requests for admission ask the other side to admit or deny specific facts, which narrows what has to be proven at trial.

Subpoenas go to third parties. Banks, employers, schools, phone companies. If your spouse will not give it to us, we go get it from the source.

Depositions are sworn testimony in a conference room with a court reporter. See [Chapter 11](#).

Your job in discovery

Answer honestly and completely. All of it.

This is not Who Wants to Be a Millionaire. There is no fifty-fifty, there is no phone a friend, and there is no walking away with what you have already banked. You do not get a lifeline. You get one set of sworn answers with your name on them, and you live with those answers for the rest of the case.

I mean this as strategy, not as a lecture. A bad fact that comes out in your own discovery response is a bad fact. The same fact discovered later, after you failed to disclose it, is a lie, and a lie is a much bigger problem than the fact ever was. I would rather know about the girlfriend, the second account, and the gambling on day one and build a case around it than find out about it from opposing counsel in a deposition.

Be thorough the first time. Going back to gather documents three separate times costs you three times.

Be timely. Discovery has deadlines, and missing them can mean a [motion](#) to compel, which means fees, and can in extreme cases mean the court prohibiting you from using evidence at trial.

And do not destroy anything. Not the texts, not the emails, not the photos, not the social media posts, not the accounts. The automatic injunction prohibits it, and [spoliation](#) of evidence lets a judge assume the missing thing was bad for you.

Managing the cost

Discovery is where the bill grows fastest, so make deliberate choices.

Ask your lawyer what a given discovery step is going to cost and what it is likely to produce. Sometimes a two thousand dollar subpoena is the thing that wins the case. Sometimes it confirms something we already knew. Your lawyer should be able to tell you which one it is.

Organize your own documents before you hand them over. Every hour a paralegal spends sorting your shoebox is an hour on your bill. Scan things. Label them. There is a checklist at the back.

CHAPTER 10: MEDIATION

Tennessee courts order [mediation](#) in contested divorces. Tennessee Code Annotated section 36-4-131 directs it, subject to some exceptions, and Tennessee Supreme Court Rule 31 governs who is qualified to do it. A [Rule 31 Listed Family Mediator](#) has completed the Supreme Court's family mediation training and is listed by the Administrative Office of the Courts to mediate custody and divorce cases.

I am one. That means I sit as a neutral in other people's cases, and it also means I know what happens on the other side of that door.

What mediation actually is

A neutral third party helps you and your spouse try to settle. The mediator does not decide anything. The mediator has no power to order either of you to do a single thing.

In the mediations I attend and conduct, the parties are in separate rooms the entire time. You and your lawyer in one, your spouse and their lawyer in another, and the mediator walks back and forth. You may never see your spouse all day. That is normal and it is by design.

What it is like

It is long. Plan on most of a day. Bring food, a phone charger, and patience.

It is slow on purpose. The first few exchanges will feel like nothing is happening. Something is happening. Both sides are testing the shape of the room.

It is exhausting. Around hour six, when you are tired and hungry and just want to go home, you will be asked to make a significant decision. This is exactly why you did the work in [Chapter 2](#) and already know what matters most to you. Decide when you are fresh. Execute when you are tired.

Why it usually works

A settlement you build is a settlement you can live with. A judge's ruling is somebody else's idea of your life, imposed on you, and both of you are usually a little unhappy with it.

You also control the outcome. A judge is limited to what the law allows. You and your spouse can agree to things a court could never order. Creative parenting schedules, unusual property trades, a college funding arrangement. The room is bigger than the courtroom.

And it is cheaper. Vastly cheaper.

Confidentiality

What is said in mediation is confidential. Offers made there generally cannot be used against you later. What gets reported to the court is whether you attended and whether you settled. This is what makes real negotiation possible, because both sides can float ideas without those ideas becoming evidence.

The domestic violence exception

If there has been domestic or family violence, or there is an order of protection, mediation is handled differently under section 36-4-131. It can proceed only if the victim agrees to mediate, the mediator is certified or trained in domestic and family violence, and the victim can bring a support person of their own choosing. Courts can also waive mediation entirely.

If this applies to you, tell your lawyer before mediation is scheduled, not after.

If it does not settle

That is not a failure. Some cases mediate twice. Some cases settle two weeks later because mediation moved both sides closer without closing the gap. And some issues settle while others go to trial, which narrows the case and saves you money even without a full resolution.

CHAPTER 11: DEPOSITIONS, COURT, AND TRIAL

Depositions

A deposition is your sworn testimony, taken in a conference room, with a court reporter making a transcript. Opposing counsel asks the questions. Your lawyer is beside you. There is no judge.

Rules for being deposed, and these are the ones that actually matter.

One. Tell the truth. Always. Even when it hurts. Especially when it hurts.

Two. Say the smallest true thing. What sinks most people is not a lie, it is helpfulness. You want to be understood, so you explain. Every sentence past the accurate one is a new fact in the record and a new door for somebody to walk through. If yes is true, yes is finished. Your lawyer will tell you afterward that your best answers were your shortest ones, and you will not believe how short they were.

Three. If you do not know, say you do not know. If you do not remember, say you do not remember. Those are complete, acceptable, truthful answers. Guessing under oath creates a transcript you get beaten with later.

Four. Wait for the whole question. Then pause. The pause lets your lawyer object, and it keeps the transcript clean.

Five. Ask for clarification if a question is confusing or compound. You are not required to answer a question you do not understand.

Six. Never argue with opposing counsel. They may try to get you angry. An angry witness says things a calm witness does not.

Seven. Remember that a court reporter is typing. The room is casual, the lawyer across from you may be perfectly pleasant, and two hours in your guard comes down. It is not a chat. Every word becomes a transcript that gets read back to you in a courtroom, in a flat voice, at the worst possible moment.

If you need a break, ask for one. You are entitled to breaks.

Court appearances

Most of what happens in court in a divorce is motions, not trial. Short hearings, often on a crowded docket, where the judge decides one issue.

Get there early. Turn your phone all the way off, not on vibrate.

What to wear, and what to leave at home

The goal is to be the least interesting-looking person in the room. Conservative, covered, nothing tight, nothing short, nothing low, nothing anybody would describe afterward. If you find yourself wondering whether an outfit is too much, it is.

Now the part that actually costs people money, and almost nobody warns them about it.

A courtroom where your finances are being examined is not the place to wear your good jewelry.

I know you are proud of the Louis Vuitton bag. I know the Rolex was a gift, or you earned it, or you have had it for fifteen years and it is just your watch. None of that is the point. The point is that you are about to spend a morning telling a judge either that you cannot make ends meet, or that you cannot afford what your spouse is asking for, and the judge is looking at you while you say it.

Judges notice. Opposing counsel absolutely notices, and a good one will find a way to get it into the record. I have watched a lawyer ask a witness, pleasantly, what kind of watch that is, and then let the answer sit there.

So leave it in the drawer. The bag, the watch, the tennis bracelet, the diamond studs, the designer shoes with the red soles. Wear something plain. You can put all of it back on the second you get to the parking garage.

This is not about being dishonest. Nothing about your closet changes what your bank statements say. It is about not handing the other side a free argument that has nothing to do with the merits, on a day when the judge is forming an impression of you and has about ninety minutes to do it.

Sit still and keep your face neutral. Judges watch. When your spouse's lawyer says something outrageous about you, and they will, the judge is going to glance at you. The client who is calm looks like the reasonable one. The client who is shaking their head and mouthing words looks like exactly what the other side just described.

Do not speak unless you are asked a question. Address the judge as Your Honor. Say yes sir, yes ma'am.

Your phone may not get in the building

Shelby County lets you bring your cell phone into the courthouse. A lot of other courthouses do not, and that includes DeSoto County across the line in Mississippi. Some courthouses will not let a member of the public bring in any electronic device at all. No phone, no tablet, no laptop.

This matters more than it sounds, because a great deal of modern evidence lives on a phone. Text threads, photographs, call logs, screenshots, location history. If your evidence is on a device and the device cannot come inside, your evidence did not come to court.

Talk to your lawyer about this well before the hearing, not in the parking lot that morning. Attorneys are generally permitted to bring devices in, so we can arrange to carry your phone or your laptop into the building for you. Better still, get the material off the device and into a usable form ahead of time, printed or produced properly, so nothing turns on whether a deputy at the door is having a good day.

And clear the whole day, not the hour. Your ten o'clock may get called at ten, or the judge may take a long matter first and reach you after lunch. Tell your employer you are gone until five and be pleasantly surprised.

Trial

This is the part of the process the general public is most afraid of, and it is the part almost nobody has any accurate picture of, because what most people know about a trial they learned from television. So let me walk you through what actually happens in the room.

First, though, the most important fact about trials.

Very few divorces are tried. People who have spent eight months unable to be in the same room somehow arrive at terms in a hallway on a Tuesday. It happens constantly and it surprises everybody but the lawyers.

What usually does it is arithmetic, arriving late. A judge who has known your family for eight hours is going to decide who gets the retirement account, and which house your children wake up in on Christmas morning. Parents are supposed to make that second one. Something in most people refuses to hand it over once the moment is actually in front of them.

There is a second reason, less noble and just as effective. By the time a case reaches a courtroom both people have watched the money leave, and a settlement starts looking less like surrender and more like the only version where anybody keeps anything.

Some cases still have to be tried, and there are good reasons for that, which I will come to. If yours is one of them, here is the shape of the day.

One thing happens the day before, and it is worth knowing about because you will be asked to help with it. In Shelby County a contested divorce trial requires a written trial memorandum delivered to the judge at least twenty four hours ahead, filed and served at the same time. It runs through the case item by item: what you are asking for and why, the children's names and ages, whether you are seeking to be [primary residential parent](#), the schedule you want for the other parent, a child support figure with the worksheet attached, what should happen to the house and what it is worth, how the debts and the personal property get divided, and whether alimony is sought and in what form. It also certifies that the financial affidavits were exchanged.

That document is where a year of work gets reduced to a few pages, and the questions in it are the same questions you answered for yourself back in [Chapter 2](#) on a Sunday afternoon. The clients who did that exercise find this week much easier than the clients who did not.

Courtroom procedure, briefly

There is **no jury** in a Tennessee divorce. A judge hears the evidence and decides. That is called a bench trial, and it changes the feel of the room considerably. There is no performing for twelve strangers. There is one person who has read the file, has seen a thousand of these, and mostly wants counsel to get to the point.

The party who filed generally goes first. If you are the plaintiff, your lawyer presents your case first. If you are the defendant, you wait, and you listen to the other side's version of your marriage for a couple of hours before anybody says a word on your behalf. That is uncomfortable. Know it is coming.

There may be brief **opening statements**, though in a bench trial judges often dispense with them or cut them short. The judge has the pleadings and does not need a preview.

Then the first side calls its **witnesses**, one at a time. Every witness goes through the same cycle.

Direct examination. Your own lawyer questions you. These are open questions that invite you to explain in your own words. Tell the court about your work schedule. Describe a typical week with the children. Walk us through what happened on the night of the fourteenth. Lawyers sometimes call this calling for a narrative, and it means exactly what it sounds like: you talk, and your lawyer stays out of the way. This is your chance to tell your story in complete sentences and it is the only part of the day that is genuinely yours.

Cross examination. The other side's lawyer questions you next. The tone changes and so does the grammar. Cross is built on leading questions, which are questions with the answer already in them, designed for a yes or a no. You told this court you cannot afford four hundred a month, correct? But you took a trip to Destin in June, didn't you? The goal is not to let you explain. The goal is to pin down specific facts and to find daylight between what you said today and what you said in your deposition, your affidavit, or a text message eight months ago.

Do not fight it. Give the true answer to what was actually put to you, then wait. If a bare yes would leave a false impression, say so in one short sentence and let your lawyer repair the rest on redirect. Arguing with a cross examiner is how good witnesses turn into bad ones.

Redirect examination. Your lawyer gets you back and repairs whatever needs repairing. Redirect is limited to subjects that came up on cross, so it is narrow by design. This is where the Destin trip gets explained as the one week your mother paid for.

Recross. Sometimes the other side gets one more short pass, limited to what came up on redirect. Then the witness is excused.

That cycle runs for every single witness. You, your spouse, an expert if there is one, a teacher, a counselor, a neighbor, whoever is called. Direct, cross, redirect, sometimes recross. Once the first side has called everybody, they rest, and the whole process starts over with the other side putting on their proof.

After both sides rest there may be brief **rebuttal proof**, then **closing argument**, where the lawyers argue what the evidence showed and what the law requires.

Then you wait. Some judges rule from the bench that day. Many take it under advisement and issue a written ruling weeks later. Either way the lawyers then have to reduce the ruling to a final decree, get it approved, and get it entered, which takes more time still.

When a case should be tried

I have tried cases I would try again tomorrow, so let me be plain about when the courtroom is the right room.

Try it when a child's safety is genuinely at stake and the other parent will not move. Try it when your spouse has decided that no number exists that they will accept, because you cannot negotiate with somebody who is not negotiating. Try it when the dispute is a real legal question rather than a disagreement about money, because those need a ruling, and a compromise neither side believes in will be back in front of a judge within two years anyway.

Those are the cases where the risk is worth taking. Notice that none of them is about being right.

A note on why nobody will quote you a number

While we are here, this explains something that frustrates clients from the first meeting onward.

Ask what you will get at trial and any competent lawyer gives you a range instead of a figure. That is not evasion and it is not a lack of preparation. On most of what a divorce decides, the law hands the judge wide discretion deliberately, which means there is no single correct answer sitting there waiting to be found. Two capable judges can hear identical proof and land in different places, and both rulings are sound.

So the range is the honest answer, and it is also why settlement exists at all. A number you negotiated is a number you helped choose. A number a court hands down is one you agreed in advance to accept sight unseen. Neither is wrong. They are just different trades, and you should know which one you are making.

So price that risk honestly against whatever is on the table in front of you. Sometimes the answer is still trial. Make it a decision rather than a reflex.

CHAPTER 12: MYTHS AND MISCONCEPTIONS

“Tennessee is a fifty-fifty state.”

No. The governing word in Tennessee Code Annotated section 36-4-121 is equitable, and the statute hands the court a long list of factors to weigh: the length of the marriage, what each of you earns and can earn, what each of you contributed including as a homemaker, what each of you owns separately, and more. Run a thirty year marriage with one spouse out of the workforce through that list and an even split is not the obvious answer. Run a four year marriage between two earners through it and you may get something close to even. Nobody starts from a fraction. They start from the factors.

“Mothers always get custody.”

Not the law and has not been for a long time. Tennessee does not even use the word custody in the operative statutes anymore. It uses [primary residential parent](#) and [residential schedule](#), and the decision runs through the [best interest factors](#) in Tennessee Code Annotated section 36-6-106(a). Fathers get named primary residential parent regularly.

“The kids get to pick at twelve.”

No. A child twelve or older has their preference considered by the court, and a younger child’s preference may be considered. Considered is not decided. A judge weighs a child’s preference against everything else, and a fourteen-year-old who wants to live with the parent with no curfew is not going to carry the day on that basis.

“He cheated, so I get everything.”

No. Tennessee courts divide marital property without regard to marital fault. The statute says so explicitly. Fault can matter for alimony, and it can matter if the affair was funded with marital money, which is a [dissipation](#) argument. But adultery is not a financial jackpot and any lawyer who tells you it is has a fee agreement to sell you.

“I’ll just move out and figure it out later.”

Moving out has consequences for the temporary schedule, for who pays the mortgage, and for the status quo the court is looking at. It is sometimes exactly the right move. Talk to a lawyer first.

“If I don’t pay child support, I don’t have to see the kids” or the reverse, “if he doesn’t pay, he doesn’t see them.”

Wrong both directions. Parenting time and child support are separate obligations. You cannot withhold one because the other is not being met. Doing it is [contempt](#).

“My lawyer is friendly with the other lawyer, so I am getting sold out.”

Start with my card game, because it is the whole answer.

My friends and I play cards, and we are competitive to a degree our wives find tiresome. Not one time in my life have I looked across that table and thought, well, Tom is a good friend of mine, I ought to let him have this hand. If anything, knowing the man makes me want to take his money specifically.

That is the part people get backwards about lawyers who know each other.

Here is the setting. There are plenty of attorneys around here who will take a divorce, but only fifteen or twenty shops in this market do family law as their primary work. In a pool that small you face the same names for twenty years. I am on a first name basis with most of the family law bar in Shelby and DeSoto County, I have good working relationships with a number of them, and a few are genuinely my friends.

None of that changes what I do on your file, and here is the concrete reason. I know how those lawyers prepare. I know which ones will actually try a case and which ones have not tried one in six years. I know what a phone call from a particular office means and what it does not. You cannot buy that and I cannot get it from a stranger.

Now, there is something in this neighborhood you should genuinely worry about, and it is not friendliness. Worry about a lawyer who will not advocate. Worry about one who agrees with the other side too easily, or who cannot tell you what their plan is if the case does not settle. Those are real problems and they show up in cordial lawyers and rude ones at the same rate.

Because the reverse of your fear is also true. If your lawyer cannot be in a room with opposing counsel without it turning into a fight, you are the one paying for that fight, by the hour, and you will get nothing for the money.

“We agreed on everything, so we can use one lawyer.”

A lawyer represents one of you. Not both. That is not a technicality, it is an ethics rule. One of you can be represented and the other can be unrepresented and review the paperwork independently, which happens all the time in genuinely agreed cases. But nobody is representing both of you, and if somebody tells you they are, leave.

“We can just agree to that part between ourselves.”

Whatever the two of you work out privately, if it is not written into the documents the judge signs, it does not exist as far as any court is concerned. There is nothing to enforce. You would be asking a judge to order somebody to keep a promise that appears nowhere in the record.

People do this most often with the small stuff, the boat or the furniture or who pays for the trip in June, precisely because it feels too minor to bother the lawyers with. Then it stops being honored

around month four, and it is too small to sue over and too irritating to let go. Put it in the paperwork. All of it.

“Divorce takes years.”

Some do. Most do not. The ones that take years are usually taking years for a reason, and often the reason is a person.

PART THREE: THE MONEY

CHAPTER 13: PROPERTY AND DEBT DIVISION

In a divorce that is ultimately settled, you have two documents. One divides your property, your debts, and your assets. The other one deals with the children.

I generally refer to separating your property, your debts, and your assets as splitting up the pots and pans. She is going to keep this pot, I am going to keep this pan.

This chapter is about pots and pans.

Marital versus separate

Everything you own falls into one of two buckets.

Marital property is generally what the two of you acquired during the marriage, up through the date of the final divorce hearing. It does not matter whose name is on it. A 401(k) in your name alone, funded during the marriage, is marital property. So is the truck titled to your spouse.

Marital property also includes the increase in value of **separate property**, where both spouses substantially contributed to preserving or growing it. And it includes vested and unvested pension, retirement, and stock option benefits that accrued during the marriage.

Separate property is what you brought into the marriage, plus anything you received during the marriage by gift, inheritance, bequest, or devise. It also includes pain and suffering awards and victim compensation awards.

How separate property stops being separate

This is where people get surprised.

Commingleing. You inherit sixty thousand dollars and deposit it into the joint checking account, where it mixes with marital money and gets spent on marital things. That money can lose its separate character. Same inheritance parked in an account in your name alone, untouched, generally stays yours.

Transmutation. You owned the house before the marriage, then you add your spouse to the deed, refinance jointly, and use marital income to pay the mortgage and remodel the kitchen. That house may have transmuted into marital property. You treated it as marital, so the law may treat it as marital.

The lesson from both doctrines is the same. Separate property stays separate when you keep it separate. If you have an inheritance, a premarital account, or a family property interest, tell your

lawyer at the first meeting, and bring documents showing where it came from and what you did with it. Tracing is a document exercise. No documents, no tracing.

Fair, not identical

Tennessee Code Annotated section 36-4-121 requires the court to divide marital property equitably, in proportions the court deems just, and specifically **without regard to marital fault**.

The statute lists a set of factors, including the duration of the marriage; the age, health, earning capacity, and financial needs of each party; each party's contribution to acquiring, preserving, appreciating, or dissipating the property, including contribution as a homemaker; the value of each party's separate property; the economic circumstances of each party at the time the division takes effect; and the tax consequences of the division.

A long marriage with one spouse out of the workforce raising children often divides close to evenly, because homemaking is expressly a recognized contribution. A short marriage with two earners and separate finances may divide very differently.

Dissipation

Dissipation is wasteful spending of marital money for a purpose contrary to the marriage. Money spent on an affair. Gambling losses. Assets sold to a friend for far less than they were worth. It can be considered whether it happened before or after the **complaint** was filed.

If your spouse spent marital money that way, the court can account for it in the division. That is the real reason to read those credit card statements line by line rather than skimming the totals. A hotel in Nashville, a jewelry store in February, four thousand dollars to an account nobody can explain. Prove where it went and the value comes off the top before anything gets divided.

Debt

Debt gets divided too, and debt is where people get hurt after the divorce is over.

Understand the difference between the decree and the contract. The decree can order your spouse to pay the Chase card. It does not remove your name from the Chase account. If your spouse stops paying, Chase comes after you, and Chase is not a party to your divorce and does not care what a judge ordered.

So whenever it is possible, close joint accounts, refinance joint debt into one name, and get your name off things rather than relying on a promise. Where that is not possible, ask your lawyer about indemnification language and about security. Being able to sue your ex for breaching the decree is a remedy. It is a slow, expensive, unsatisfying remedy compared to just not being on the loan.

Valuation date

Marital property is generally valued as of a date near the final hearing, which means a volatile asset can change value while your case is pending. If your case involves a business, a large investment account, or real estate in a moving market, ask your lawyer about how valuation timing is being handled.

CHAPTER 14: THE HOUSE

The marital residence is usually the biggest asset, the biggest debt, and the biggest emotional attachment in the case. That combination causes more bad decisions than anything else on the balance sheet.

First, the two documents

Before we go any further, there is something about owning a house that most people have never had a reason to learn, and not knowing it costs people real money in divorces every year. There is no shame in not knowing it. You signed a stack of paper at a closing table years ago, somebody slid pages across at you, and you signed where the tabs were.

There are two separate documents, and they do two completely different things.

The deed says who owns the house. It is recorded with the county register. If your name is on the deed, you own an interest in that property. Take your name off the deed and you no longer own it.

The mortgage, or more precisely the promissory note it secures, says who owes the money. That is a contract between you and a lender. If your name is on that note, you are personally liable for the debt.

Those two documents have nothing to do with each other. You can own a house you do not owe on. You can owe on a house you do not own. And that second one is where people get hurt, because signing a deed does not touch the note.

Here is the mistake, and I see it constantly. The wife keeps the house. The decree says she gets the house and assumes the mortgage. The husband signs a quitclaim deed handing over his ownership. He walks out feeling finished.

He is still on the note.

He now has a mortgage on his credit report for a house he does not own, which will hurt his ability to buy his own place. If she stops paying, the lender calls him, and the lender does not care what a divorce decree says because the lender was never a party to your divorce. A judge can order your spouse to pay a debt. A judge cannot order a bank to release you from a contract you signed.

The only thing that gets your name off the note is the lender agreeing to release you, which in practice means a refinance or a sale.

The three options

Sell it and split the proceeds. Cleanest option. Nobody stays on anybody's mortgage. Everybody gets liquidity. Emotionally the hardest, especially with kids.

One of you keeps it and buys the other out. The keeping spouse pays the leaving spouse their share of the equity, usually with other assets or with cash from a refinance.

One of you stays for a defined period, then it sells. Common with children. The kids finish high school, then the house goes on the market. This requires careful drafting about who pays the mortgage, who pays for repairs, who gets the tax deductions, and what happens if the person living there stops paying.

The refinance problem

So the fix is to require a refinance within a set period, with a consequence if it does not happen, usually that the house goes on the market. Do not sign the quitclaim deed until the refinance closes. And before you agree to keep the house, get pre-qualified. Find out whether you can actually refinance on your income alone. A lot of people agree to keep a house they cannot afford and cannot refinance, and they are back in court eighteen months later.

Can you afford it?

Run the real number. Mortgage, taxes, insurance, HOA, utilities, and a realistic maintenance figure. Roofs cost what roofs cost whether or not you are divorced.

Then compare it to your actual post-divorce income, including support if you are receiving it, and remembering that support may end. Keeping a house you cannot carry is how people end up house poor and miserable in a home they fought to keep.

I have watched clients trade away retirement accounts to keep a house, then sell the house three years later anyway. The retirement account would have been worth more. Emotion drives that decision. Understand that going in, and if you still want the house, at least you chose it with your eyes open.

CHAPTER 15: RETIREMENT, PENSIONS, AND QDROS

People will argue about the house for four months and sign off on the retirement accounts in four minutes. That is usually backwards. The house comes with a mortgage against it and a market that sets its price. The 401(k) is a number sitting on a statement, and that number is frequently the biggest one in the case.

What is divisible

Vested and unvested pension, retirement, and stock option benefits that accrued during the marriage are [marital property](#) under Tennessee Code Annotated section 36-4-121. The portion earned before the marriage is generally separate.

So a pension somebody started at twenty-two who married at thirty and divorced at fifty has a marital portion covering twenty years of a twenty-eight year career. Figuring out that fraction is the work.

Not all accounts are the same

A dollar in a Roth IRA is not a dollar in a traditional 401(k). The traditional account has taxes owed on it that have not been paid yet. If you split accounts by face value without accounting for the tax character, one of you is getting a worse deal than the paperwork says.

Same problem comparing retirement money to house equity or to cash. Ask your lawyer to look at after-tax value, not just the statement balance.

QDROs

To divide most employer retirement plans, a separate court order is required. It is called a Qualified Domestic Relations Order, everybody calls it a [QDRO](#), and it is drafted separately from the decree and sent to the plan administrator for approval.

Three things about QDROs.

They cost extra. Usually a few hundred to a couple thousand dollars, often to a specialist who does nothing but this.

They take time. Drafting, approval by the plan administrator, entry by the court, then implementation by the plan. Months.

They get forgotten, and that is a disaster. A divorce finalizes, everybody moves on, and nobody sends the QDRO. Years later the participant retires, remarries, or dies, and the ex-spouse discovers the money is gone or the survivor benefit went to somebody else. This is the single most common expensive mistake in the whole post-divorce world.

If your case involves retirement division, put it in writing who is responsible for the QDRO, by when, and confirm in writing when it is done. Then confirm with the plan administrator that they have it. Do not assume.

Government plans, military retirement, and federal plans have their own rules and their own forms. Military retirement in particular has federal rules about how long you were married relative to the service member's years of service. If that is your situation, say so at the first meeting.

Survivor benefits

A pension has a survivor benefit, and whether you get one changes the value of your award enormously. If you are receiving a share of a pension, ask specifically about survivor benefits. Do not let this be an afterthought.

Social Security

Not divisible in a divorce, but worth knowing. If you were married at least ten years and meet the other requirements, you may be able to claim benefits based on your former spouse's record. That is a Social Security Administration question rather than a court question, but the ten year mark is worth knowing about before you finalize a divorce at nine years and eight months.

CHAPTER 16: BUSINESS INTERESTS

If you or your spouse owns a business, a professional practice, or a meaningful interest in a closely held company, your case is more complicated and more expensive than the average case. That is just true.

The problem

A business that is not publicly traded has no obvious value. Nobody publishes a price. So the value has to be established, usually by an expert, and reasonable experts disagree by large margins.

Three common approaches. Asset based, meaning what the business owns minus what it owes. Income based, meaning what it earns capitalized into a value. Market based, meaning what similar businesses have sold for. Which method applies depends on the business, and this is genuinely contested territory.

Goodwill

Business goodwill is generally treated as a divisible asset. Personal goodwill, meaning value that exists only because of the individual professional's reputation and skills and would walk out the door with them, is treated differently. In a solo professional practice, a large share of what looks like value is personal goodwill. This distinction is worth real money and it is a fight worth having.

What to expect

You are likely going to need a valuation expert, and possibly a forensic accountant if there is a question about whether the books reflect reality. Expect to pay thousands. Sometimes tens of thousands. Sometimes the two sides retain separate experts and each side's expert reaches a number the other side hates.

Sometimes the right answer is to agree on a joint neutral expert. It cuts the cost roughly in half and it removes the dueling-expert circus. It also means you are stuck with a number you did not choose. Talk to your lawyer about whether that trade makes sense in your case.

Your spouse is not the first person to think of this

Almost every client with a self-employed spouse arrives believing the same thing. That their spouse is the single smartest, sneakiest small business owner who has ever lived, that they have been quietly moving money around for years, and that nobody is ever going to catch them.

Let me take some of that off your shoulders.

Start with this. There is a meaningful difference between what a small business owner tells the IRS and what that same person tells their own divorce lawyer. The story gets a lot more honest once somebody realizes that understating income to save on taxes is about to be used to argue they cannot afford support. People talk themselves into a corner on that one about as often as they talk themselves out of it.

Then consider the audience. Judges in this district see small businesses constantly. Contractors, restaurants, trucking outfits, medical practices, salons, landscaping companies. They have heard the story about the truck that is really a business expense and the trip to Destin that was really a conference. It is not new information in that courtroom.

And consider your lawyer. Most attorneys are small business owners themselves. I run one. So if there is a trick for moving money through a closely held business, running personal expenses through it, deferring receivables until after the divorce, putting a girlfriend on payroll, or paying a relative for work that never happened, the odds are excellent that the lawyers in the room have seen it, figured out how it works, and in some cases tried a version of it on their own books.

We will find it. Bank statements, tax returns, merchant processing records, and a forensic accountant who does this for a living are hard to talk your way past.

So bring me your suspicions and bring me the specifics. Just do not walk in convinced you are beaten before we have looked.

The owner spouse's problem

If you own the business, understand what is coming. Your books are going to be examined. Personal expenses that ran through the company are going to be found, and every one of them is going to be added back to your income for support purposes. The truck, the phone, the meals, the trip that was mostly a vacation.

I say this without judgment because it is normal small business behavior. But it is going to come out, and it is far better to disclose it and explain it than to have opposing counsel present it as fraud.

CHAPTER 17: ALIMONY

Tennessee alimony is governed by Tennessee Code Annotated section 36-5-121, and Tennessee recognizes four types.

The four types

Rehabilitative alimony helps an economically disadvantaged spouse achieve, with reasonable effort, an earning capacity that allows a standard of living comparable to what they had during the marriage or to what the other spouse will have after. It is for the spouse who can get back on their feet with time and support. It is modifiable, and it can be converted to [alimony in futuro](#) if rehabilitation does not happen.

Transitional alimony helps a spouse adjust to the economic consequences of divorce where rehabilitation is not needed. It is a bridge, not a training program. It is generally not modifiable unless the decree says otherwise.

Alimony in futuro, also called periodic alimony, is long-term support for the spouse whose earning capacity is not going to become sufficient. It is modifiable on a showing of a substantial and material change in circumstances.

Alimony in solido is a definite total sum, which can be paid in installments over a fixed period. It functions more like a property award than like support. It is generally not modifiable and it does not terminate on death or remarriage. Attorney's fee awards are often made as alimony in solido.

The legislature's preference

This is the part that surprises people who have heard stories about permanent alimony.

The statute expresses a legislative preference for rehabilitation whenever possible. Long-term alimony in futuro is meant for cases where rehabilitation is not feasible.

The Tennessee Supreme Court drove that home in **Gonsewski v. Gonsewski, 350 S.W.3d 99 (Tenn. 2011)**, which reversed a long-term alimony award and made clear that an income disparity between spouses is not by itself enough to justify alimony in futuro. There has to be a reason rehabilitation will not work.

If you are the spouse hoping for lifetime support, understand that. If you are the spouse fearing lifetime support, understand that too.

The factors

The court weighs a list that includes the relative earning capacity, obligations, needs, and financial resources of each party; the relative education and training of each and whether more is

needed; the duration of the marriage; the age and mental condition of each party; the physical condition of each party; whether a party has custodial responsibilities making outside employment inappropriate; separate assets; the property division; the standard of living established during the marriage; each party's tangible and intangible contributions to the marriage, including as homemaker and to the other's education or career; the relative fault of the parties where the court has allocated fault; and other factors including tax consequences.

Two of those deserve a note. **Need and ability to pay** are the twin engines of the whole analysis. Everything else is context. And **fault does matter here**, unlike in property division where the statute excludes it.

Modification and termination

Alimony in futuro terminates on the death of either party or the remarriage of the recipient. If you remarry and keep cashing checks, you have a problem, and a repayment obligation, and possibly a fee award against you.

Cohabitation triggers a rebuttable presumption under section 36-5-121(f)(2)(B). If the recipient is living with a third person, the law presumes either that the third person is contributing to the recipient's support or that the recipient is supporting them, and that the need for the awarded amount has decreased. The court can then suspend all or part of the obligation. It is rebuttable, meaning the recipient gets to put on proof, but the burden has shifted.

Modification of alimony in futuro requires a substantial and material change in circumstances that was not anticipated at the time of the decree. Voluntarily quitting a good job to reduce your alimony is a well-worn path that judges recognize on sight.

One more recent development

In **Colley v. Colley**, decided by the Tennessee Supreme Court on April 29, 2025, the Court held that a former spouse who successfully defends against a petition to modify alimony can be a prevailing party entitled to attorney's fees under Tennessee Code Annotated section 36-5-103(c), even where the modification petition was voluntarily dismissed before any decision on the merits.

Practical translation. Filing a modification petition and then dropping it does not necessarily get you out of paying the other side's fees. Think before you file.

CHAPTER 18: ATTORNEY'S FEES

The American rule is that everybody pays their own lawyer. Family law has significant exceptions.

Fees as alimony in solido

In the divorce itself, a Tennessee court can award attorney's fees to an economically disadvantaged spouse as [alimony in solido](#), based on the same need and ability to pay analysis that governs alimony generally.

This matters enormously if your spouse controls the money. If you are the spouse with no access to funds, ask your lawyer about seeking fees early, including an interim award to fund the litigation itself. A spouse who can starve the other side of legal representation has an enormous and unfair advantage, and courts know it.

Fees under section 36-5-103(c)

Tennessee Code Annotated section 36-5-103(c) provides that a prevailing party may recover reasonable attorney's fees, in the court's discretion, from the non-prevailing party in [contempt](#) actions and in proceedings to enforce, alter, change, or modify a decree of alimony, child support, or a [permanent parenting plan](#), and in actions concerning custody or change of custody.

Read that carefully, because it covers most of what happens after your divorce is final. Enforcement, modification, custody disputes. If you file a post-decree action and lose, you can be ordered to pay the other side's lawyer.

That cuts both ways, and it is one of the better tools in family law. It gives the parent who is being dragged back into court over nothing a real remedy, and it makes the parent who wants to file over nothing think twice.

Fees as a property division factor

Separately, section 36-4-121 includes as a property division factor each party's total attorney's fees and expenses paid, whether from [marital property](#), [separate property](#), or borrowed funds, and the reasonableness and necessity of those fees. So a spouse who ran up enormous fees litigating things that did not need litigating may see that reflected in the division.

What this means for you

Do not assume the other side will pay your fees. Judges award fees in their discretion, and discretion means it may not happen.

But do tell your lawyer early if you cannot fund the case while your spouse can. There are remedies, and they work better when they are requested early rather than at the end.

CHAPTER 19: TAXES

I am not sure I ever took a tax law class in law school. I certainly tried not to. I made a point of avoiding the entire wing of the building where they taught it, and I have made peace with that decision.

So I am not your CPA and this chapter does not pretend otherwise. You should have one, and I will tell you when to call them. But there are four tax issues in nearly every divorce, and if you do not know they exist you cannot ask anybody about them.

One. Alimony is not deductible anymore

This is the biggest change in divorce taxation in decades and it still catches people out, including people reading older guides.

For any divorce or separation instrument **executed after December 31, 2018**, alimony is **not deductible by the person paying it** and **not included in the income of the person receiving it**. The Tax Cuts and Jobs Act made that change. The old regime, where the payor deducted and the recipient reported the income, is gone for new orders.

If you read that anywhere else, in a book, on a website, or from a well-meaning relative who got divorced in 2004, it is wrong now.

Why it matters. Under the old rules, alimony moved income from a higher tax bracket to a lower one, which created value out of thin air and made settlements easier. That is gone. A dollar of alimony now costs the payor a full after-tax dollar, and negotiations reflect it.

Two exceptions worth knowing. Orders executed on or before December 31, 2018 are grandfathered and keep the old treatment. And if a pre-2019 order is modified after 2018, the old treatment continues to apply **unless** the modification expressly states that the new rule applies. That is a drafting decision, and it needs to be made on purpose. If you are modifying an old alimony order, raise this with your lawyer and your accountant before anything gets signed.

Two. Who claims the children

The dependency exemption itself was reduced to zero by the same 2017 law, but the child tax credit and other child-related benefits still turn on who claims the child, and those are worth real money.

The default under federal law is that the custodial parent claims the child. Parents can allocate it differently by agreement, and Tennessee parenting plans commonly do, often alternating years or splitting children. When the non-custodial parent claims a child, IRS Form 8332 is generally required, signed by the custodial parent.

Two practical points. Get the allocation into the parenting plan explicitly, including who signs Form 8332 and by when. And remember that head of household filing status, the earned income credit, and the child and dependent care credit have their own rules that do not always follow the same allocation.

Three. Filing status

Your filing status for a tax year depends on your marital status on December 31 of that year. Divorced on December 30, you file as single or head of household for that whole year. Divorced on January 2, you were married for the entire prior year and you file either jointly or married filing separately.

This is worth actual money and it is worth talking about with your accountant, because it can sometimes affect whether it makes sense to push a final decree across a year boundary in either direction.

If you file jointly, understand that joint returns carry joint liability. Both of you are on the hook for the whole thing, including for what the other person did or did not report. If your spouse's tax reporting worries you, talk to your lawyer and a CPA about filing separately and about innocent spouse relief.

Four. Transfers between spouses

Property transfers between spouses incident to divorce are generally not taxable events at the time of transfer. But the recipient takes the transferor's basis, which means the tax bill rides along with the asset.

This is why two assets with the same number on the statement can be worth different amounts. A hundred thousand dollars in a bank account and a hundred thousand dollars of stock with a twenty thousand dollar basis are not the same asset. One of them has a capital gains bill attached.

There are also rules about the capital gains exclusion on the sale of a primary residence, and the timing of a sale relative to the divorce can matter.

The one rule

Do not sign a final settlement involving significant assets without running the tax consequences past a CPA. It is a few hundred dollars against decisions worth tens of thousands.

I say that as a man who walked the long way around that wing of the law school for three years.

CHAPTER 20: HEALTH INSURANCE

Health insurance ends at divorce, and this is the item that blindsides people most often.

While the case is pending, the automatic injunction in [Chapter 6](#) prohibits your spouse from dropping you from coverage. That protection ends when the divorce becomes final.

COBRA

Under federal law, divorce is a qualifying event that entitles a former spouse to continued coverage under the employee spouse's group health plan, generally for up to thirty-six months, if the employer is covered by [COBRA](#). Very small employers are exempt, and church plans have their own rules.

Two hard requirements.

Notice. The qualified beneficiary or the plan participant generally must notify the plan administrator of the divorce within sixty days of the divorce. Miss that window and the right can be lost. Calendar it. Do not assume your ex will handle it, and do not assume the employer will notice.

Cost. COBRA is not cheap. You pay the full premium, both the employee and employer share, plus an administrative fee of up to two percent. The number that used to come out of a paycheck at a hundred and forty dollars can be seven hundred dollars a month on COBRA. Budget for it before you agree to a support number, not after.

The alternatives

The health insurance marketplace treats divorce as a qualifying life event opening a special enrollment period. Depending on your post-divorce income, a marketplace plan with a subsidy may cost substantially less than COBRA. Run both numbers.

Your own employer's plan, if you have one, may allow enrollment as a result of the qualifying event.

Medicaid or TennCare may be available depending on income.

The children

Somebody has to insure the children, and the cost of the children's portion of the premium is a direct add-on to the child support calculation. It goes on the worksheet. See [Chapter 23](#).

Get the details into the parenting plan. Who carries it, who pays the premium, how uninsured medical expenses get divided, how reimbursement requests get made and within what deadline, and who provides insurance cards to whom. The vague provision that says the parties shall

divide uncovered medical expenses is a future fight. The specific provision that says receipts must be submitted within thirty days and reimbursed within thirty days after that is not.

Life insurance

If you are receiving alimony or child support, that income stream dies with the payor. Consider requiring life insurance securing the obligation, with you named as beneficiary or as trustee for the children, and with proof of coverage provided annually. This is standard, it is reasonable, and it is frequently forgotten.

PART FOUR: THE CHILDREN

CHAPTER 21: PARENTING PLANS AND THE BEST INTEREST FACTORS

Tennessee does not say custody anymore

The word custody still shows up in conversation and in some statutes, but the operative framework in Tennessee uses different language, and the language change was on purpose.

You will have a **primary residential parent**, defined in Tennessee Code Annotated section 36-6-402 as the parent with whom the child resides more than fifty percent of the time. The other parent is the **alternate residential parent**. You will have a **residential schedule** saying where the child is on which days. And you will have **decision-making authority** allocated between you, for education, non-emergency health care, religious upbringing, and extracurricular activities.

The point of the change was to move away from the idea that one parent wins the child and the other gets visitation. Both of you are parents afterward. The plan describes how.

You will still hear the word custody, and you will hear it from judges and from attorneys, including me. It is so ingrained in all of us that forty years of habit does not wash out because the statute changed. When you hear it in a courtroom, translate it in your head. What we mean is [primary residential parent](#) and [alternate residential parent](#), and what the order will actually say is PRP and ARP.

The permanent parenting plan

Under Tennessee Code Annotated section 36-6-404, every divorce involving a minor child must incorporate a [permanent parenting plan](#). There is a standardized statewide form developed by the Administrative Office of the Courts, and it is not optional paperwork. It is the document that governs your life for the next decade.

The blank form is public. You can pull it from the [Tennessee Administrative Office of the Courts parenting plan forms page](#). It is worth looking at early even though yours will be filled in by lawyers, because reading the blank version shows you the shape of every decision you are about to make and the questions the form will force you to answer.

It has to address a lot. The [residential schedule](#), day to day and for holidays and school breaks. Decision-making authority. A dispute resolution process for disagreements that come up later. Child support. A requirement that the support obligor provide income information annually. Transportation and exchange logistics.

Read every line of yours before you sign it. I mean every line. Clients skim the schedule, agree, and then discover in year three that the plan is silent about who gets the child on the Monday holiday after a weekend, or that spring break is defined by a school calendar that changed. Every ambiguity in a parenting plan is a fight waiting to happen, and post-decree fights cost money and, under section 36-5-103(c), can cost you the other side's fees.

The best interest factors

Everything runs through Tennessee Code Annotated section 36-6-106(a). As of July 1, 2026, there are eighteen enumerated considerations. In substance, the court weighs:

1. The strength, nature, and stability of the child's relationship with each parent, including whether one parent has performed the majority of parenting responsibilities.
2. Each parent's past and potential future performance of parenting responsibilities, including the willingness and ability of each to facilitate and encourage a close and continuing relationship between the child and the other parent.
3. Refusal to attend a court-ordered parent education seminar, which may be considered as a lack of good faith.
4. The disposition of each parent to provide food, clothing, medical care, education, and other necessary care.
5. The degree to which a parent has been the primary caregiver.
6. The love, affection, and emotional ties existing between each parent and the child.
7. The emotional needs and developmental level of the child.
8. The moral, physical, mental, and emotional fitness of each parent as it relates to their ability to parent.
9. The child's interaction and interrelationships with siblings, other relatives and step-relatives, and mentors.
10. The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment.
11. Evidence of physical or emotional abuse to the child, to the other parent, or to any other person.
12. The character and behavior of any other person who resides in or frequents the home.
13. The reasonable preference of a child twelve years of age or older, with a younger child's preference heard in the court's discretion.
14. Each parent's employment schedule, and the court may make accommodations consistent with those schedules.
15. A history of reduced or restricted parenting time.
16. Failure to pay court-ordered child support.
17. Added effective July 1, 2026: **"Without creating any presumption as to parenting time, the extent to which the parenting schedule proposed or ordered provides each**

parent with meaningful opportunities to participate in the child’s life, consistent with the child’s best interest.”

18. Any other factors deemed relevant by the court.

Read that disclaimer again

The legislature wrote “without creating any presumption as to parenting time” directly into the statute. That was deliberate.

Tennessee has **no presumption of equal parenting time**. There is no 50/50 starting point. Bills proposing one were introduced repeatedly and were narrowed into factors instead after opposition from the family law bar. HB 1131, which would have created a genuine 50/50 presumption, died in House Judiciary in April 2025.

What Tennessee does have is a directive in section 36-6-106(a) that courts order an arrangement permitting both parents to enjoy **the maximum participation possible** in the child’s life, consistent with the **best interest factors**, the parents’ locations, and the child’s need for stability.

That is a real directive and it does work in favor of meaningful time for both parents. It is not a presumption, and anybody telling you Tennessee starts at half and half is telling you something the statute specifically says it does not do.

In practice, what determines the maximum participation possible is usually work schedules. Not affection, not effort, not who wants it more. If one parent works nights, or drives a route, or is on call every third week, or works a rotation that puts them out of town half the month, that reality shapes the schedule more than anything either parent argues about in a courtroom. The statute now lists employment schedules as its own best interest factor, and it lets the court make accommodations around them.

So be clear-eyed about your own schedule before you ask for time you cannot actually cover. A schedule you cannot keep gets modified, and a modification hearing is not where you want to be explaining why.

If your case is in Mississippi, this answer is now completely different. See [Chapter 34](#).

What actually persuades a court

After a lot of years watching this, the factors that move judges most reliably are these.

Who has actually been doing the parenting. Not who says they will. Who has been going to the appointments, packing the lunches, knowing the teacher’s name. This is why the parent who has been disengaged and suddenly becomes Father of the Year the week after being served does not get the credit they expect.

Which parent supports the child's relationship with the other parent. This factor is enormous and it is the one clients underestimate most. A parent who badmouths, who blocks, who schedules over the other parent's time, who uses the child as a messenger, is doing more damage to their own case than to their ex. Judges see it constantly and they hate it.

Stability. Courts are conservative about disrupting an arrangement that is working.

Whether the concerns you are raising are about the child or about your spouse. This is the hard one. A lot of what people bring me is genuinely about the marriage rather than about parenting. Courts do not make moral judgments the way they did fifty years ago. Your spouse being a bad husband does not make him a bad father, and a judge is going to separate those two things even when you cannot.

CHAPTER 22: RESIDENTIAL SCHEDULES

The [residential schedule](#) is the actual calendar. This is the part your children will experience.

Common structures

Every other weekend plus a midweek evening. The traditional schedule, roughly 80 overnights a year for the [alternate residential parent](#). Still common, especially with long distances or difficult work schedules.

Extended every other weekend, Thursday through Monday, which adds overnights and cuts the number of exchanges.

Week on, week off. Equal time, one exchange a week, usually Friday or Sunday. Works well for older children, requires parents who live close and can communicate.

2-2-3 or 2-2-5-5. Equal or near-equal schedules that keep both parents in contact more frequently. Better for young children who do not do well with long gaps. More exchanges, which means more contact between parents, which is a problem if the parents cannot be civil.

Nesting, where the children stay in the house and the parents rotate in and out. Sometimes used short term. Expensive and hard on the adults.

There is no right answer. The right schedule depends on the children's ages, the distance between homes, both parents' work schedules, and honestly on how well the two of you can deal with each other.

The things people forget to specify

Get all of this in writing.

Holidays, alternating by year, and defined by actual times. Not "Christmas," but "December 24 at noon until December 25 at noon in even years."

School breaks. Fall, winter, spring. Defined by the school calendar of a named school district, so it does not shift when somebody changes schools. Fall and spring break need their own paragraph, immediately below, because this is where good plans quietly go wrong.

Summer. Whether the schedule changes, how many weeks each parent gets, how much notice is required for vacation selection, and who picks first in which years.

The fall break and spring break trap

This one confuses clients, and I will be honest, it confuses a fair number of attorneys who do not handle these every week.

Fall break and spring break belong to the same school year. Fall break lands in October. Spring break lands the following March. Same school year for the child, two different calendar years on the plan.

So a plan that alternates these by calendar year without thinking it through can stack both breaks of a single school year onto one parent, and hand the other parent neither.

Watch how that happens. Suppose the plan gives Mom fall break in even years and spring break in odd years. In the child's sixth grade year, fall break is October of an even year, so Mom has it. Spring break is March of the following year, which is odd, so Mom has that too. Mom got both breaks of the sixth grade year. Then in seventh grade the pattern flips and Mom gets neither. That is not alternating. That is a swing.

The fix is to keep both breaks on the same parity. One parent takes fall break and spring break in odd numbered years, the other takes both in even numbered years. Because fall and spring of any one school year always sit in opposite calendar years, matching the parity automatically splits each school year down the middle. Every year, each parent gets one break. Nobody gets two, nobody gets none.

Say it in the plan in terms of the school year, name the school district whose calendar controls, and you never have this argument.

Extended vacation time. If you want to take the children to Hawaii for ten days, your schedule has to permit ten consecutive days. A lot of standard schedules do not, and nobody notices until somebody books flights.

Birthdays. The child's and the parents'.

Mother's Day and Father's Day. These should always go to the respective parent regardless of whose weekend it is. It is standard and it prevents an annual argument.

Exchange location and times. Curbside, a public place, the school. Who transports which direction. What the grace period is for being late.

Right of first refusal. If a parent is going to be away from the children for more than a set number of hours, does the other parent get offered the time first? This is worth thinking about carefully. It gives the other parent more time, and it also gives them a window into your schedule and a new thing to fight about. It cuts both ways.

Communication. How the two of you communicate about the children, and how each parent communicates with the children during the other's time. Tennessee Code Annotated section 36-6-101 was amended in 2024 to include a right to unimpeded video conferencing with the children, at least twice weekly. Get the details into the plan.

Notice for travel, including out of state and out of country, and how passports are handled.

The dispute resolution process. The plan has to name one. Most name [mediation](#) before anybody can file.

One piece of advice about designing this

Design for the parents you are going to be, not the parents you are today.

Right now you are in the worst period of your relationship with this person. In four years you are probably going to be two people who cooperate reasonably well about a teenager's basketball schedule. Most people get there.

But build the plan for the bad version. Specific dates, specific times, specific procedures. If the two of you get along, you will ignore the plan and work things out by text, which is what most functional co-parents do. If you do not get along, the plan is the only thing standing between you and a courtroom.

Specificity is a gift to your future self.

CHAPTER 23: CHILD SUPPORT

Tennessee child support runs on the Tennessee Child Support Guidelines, found at Tennessee Comp. R. & Regs. 1240-02-04. The current version took effect **October 1, 2021**.

The Income Shares model

Tennessee uses an Income Shares model. The idea is that a child should receive roughly the same proportion of parental income they would have received if the parents lived together.

Here is how the calculation runs.

Both parents' gross income is determined. Adjustments are made to reach each parent's Adjusted Gross Income. The two are combined. That combined figure is looked up on the Child Support Schedule to produce the **Basic Child Support Obligation**. Each parent is responsible for a share of that obligation proportional to their share of the combined income. Add-ons are applied. The parenting time adjustment is applied. One parent ends up owing the other a number.

Your lawyer will run it on a worksheet. Ask to see the worksheet, and ask to see it run with different assumptions, because small changes in inputs move the number.

The state publishes the calculator and the worksheet at the [Tennessee Department of Human Services child support calculator page](#). Run your own numbers before you come see me. You will follow the conversation better, and every so often you will catch something.

Gross income is broad

Gross income includes essentially everything before taxes and deductions. Wages, salaries, commissions, bonuses, overtime, self-employment income, pensions, Social Security benefits, workers' compensation, unemployment, and more.

Excluded are child support received for other children, means-tested public assistance like TANF, SNAP, and SSI, and the child's own income.

If you are self-employed or own a business, expect scrutiny. Personal expenses run through the business get added back. See [Chapter 16](#).

If a parent is voluntarily unemployed or underemployed, the court can impute income based on earning capacity. Quitting your job to reduce child support does not work and it damages your credibility on everything else.

The parenting time adjustment

The standard schedule assumes the [alternate residential parent](#) has 80 days a year. If that parent has 92 days or more, the obligation is reduced on a sliding scale. If that parent has 68 days or fewer, the obligation is increased.

This is why parenting time and child support get entangled in negotiation, and it is worth naming out loud. Some parents ask for more days to lower support. Some resist giving days for the same reason. Judges are not stupid and they can usually tell which conversation they are actually having.

The add-ons

Three things go on the worksheet in addition to the basic obligation.

The child's portion of health insurance premiums. If the policy covers others, the premium gets prorated.

Work-related childcare, meaning childcare reasonably necessary for a parent's employment, education, or vocational training, averaged to a monthly figure.

Uninsured medical expenses. These are not built into the basic obligation. They are the joint responsibility of both parents, prorated by income percentage. Get the reimbursement mechanics into the plan. See [Chapter 20](#).

High income cases

This is where a lot of outdated information circulates, so pay attention to the numbers.

The Child Support Schedule runs up to **\$28,250 in combined monthly Adjusted Gross Income**. Above that, the schedule provides a base amount plus a percentage of the income in excess of \$28,250. Those percentages are 6.81% for one child, 7.22% for two, 7.77% for three, 8.05% for four, and 8.66% for five or more children.

At the top of the schedule, the basic obligation figures are \$2,231 for one child, \$2,803 for two, \$2,954 for three, \$3,294 for four, and \$3,624 for five or more, before the parenting time adjustment and before add-ons.

You will find Memphis law firm websites still citing a \$10,000 per month cap. That figure is from a prior version of the guidelines and it has been wrong since 2021.

To get support above what the formula produces, a party has to seek an upward deviation and prove the child's actual needs exceed the formula amount. Argument is not proof. You need evidence of what the child's life actually costs.

Deviations

A court can deviate from the guideline amount, but it has to say so in writing, and the order must state the presumptive guideline amount that would have applied, the specific reasons for deviating, and how applying the guidelines would be unjust or inappropriate and how the deviation serves the child's best interest.

Recognized **grounds** include extraordinary educational expenses, extraordinary medical needs, special activities, and travel costs for exercising parenting time.

Private school tuition

Private school tuition is **not** an automatic add-on. It is a deviation, treated as an extraordinary educational expense under the rules, which can cover tuition, room and board, lab fees, books, and other reasonable and necessary expenses, with scholarships and grants factored in. It has to be appropriate to the parents' financial abilities and to the child's lifestyle.

Practically, a court is far more likely to order continued private school tuition where the child has been in that school, where the parents have historically paid for it, and where the parents can afford it. A parent who wants to move a child into private school for the first time during a divorce is fighting uphill.

How long it lasts

Tennessee child support generally continues until the child turns eighteen **and** graduates high school, or until the class the child was a member of when they turned eighteen graduates, whichever is later. Effective April 27, 2026, Tennessee clarified that support continues through high school graduation but terminates with the child's original graduating class, capped at age nineteen.

There is a separate provision for a severely disabled child living under a parent's care and supervision, where support can continue past majority if the court finds it is in the child's best interest.

Support is per child, but it does not simply drop by a third when one of three children ages out. It gets recalculated for the remaining children. Somebody has to file to make that happen. It is not automatic.

Modification

To modify child support, you need a **significant variance**, which is at least a fifteen percent difference between the current ordered amount and what the guidelines would produce today on current figures. There is a separate minimum order provision of one hundred dollars per month with limited exceptions, which is a different rule and should not be confused with the variance threshold.

Two practical notes. Support does not adjust itself when your income changes. If you lose your job, file promptly, because in most circumstances modification is effective from the filing date and not retroactive to when your income actually dropped. And if you have a great year, expect the other parent to file. That is how the system is designed. Your children benefit from your good year.

CHAPTER 24: WHEN A PARENT WON'T FOLLOW THE PLAN

A parenting plan is a court order. Violating it is [contempt](#).

What to do

Document everything. Dates, times, what happened, in a contemporaneous log. Not a diary of your feelings. A log of facts. On March 3 the exchange was scheduled for 6:00 p.m. and he arrived at 7:40 p.m. with no notice. That is useful. He is always late is not.

Keep your communications clean. Assume a judge will read every text you send. Write like a judge is reading it, because one might be. Short, factual, about the children, no editorializing. Co-parenting apps that create a permanent record are worth considering, and courts sometimes order them.

Follow the plan yourself, exactly. Even when they do not. Especially when they do not. The parent with clean hands has all the leverage. The moment you retaliate, the case becomes about both of you, and you have given away the only advantage you had.

Do not withhold the children over money and do not withhold money over the children. Parenting time and support are separate obligations. Self-help is contempt.

Tell your lawyer early. A pattern documented over months is a case. A single incident you call about the day it happens is usually not worth filing over, and your lawyer can tell you which one you have.

What the court can do

Find the violating parent in contempt. Award make-up parenting time. Modify the plan. Award attorney's fees under section 36-5-103(c). In serious and repeated cases, order jail.

What the court will probably actually do the first time

Let me set your expectations, because clients walk in expecting the hammer and are disappointed when it does not fall.

Think about your own child and a messy bedroom.

You walk past, you look in, you tell them to pick it up. You come back five minutes later and nothing has moved. Now you raise your voice. You come back a third time and it is still sitting there, and now there is a real blow up and somebody is grounded and a phone is getting taken away. The consequences stacked because the behavior kept going.

But run it differently. You walk past, you tell them to pick up the room, and they look you dead in the eye and flip you off. You are not doing the three step escalation. You went straight to the blow up, and you were right to.

Judges work the same way. A first infraction that looks like carelessness, or a misunderstanding, or one bad weekend, generally draws a warning and an instruction to knock it off. The second one draws something with teeth. By the third, a judge who has now spent three hearings on the same problem is done being patient, and that is when fee awards and make-up time and real consequences show up.

But if the very first violation is flagrant, if it is contemptuous on its face, if a parent simply refuses to hand over the children or takes them out of state or ignores the order entirely, the court can and does come down hard immediately. Nobody is entitled to three free ones.

So two things follow from that. Do not expect the world to end over a first offense by your co-parent, because it usually will not. And do not treat your own first offense as a freebie, because whether it is depends entirely on how it looks.

The honest part

Enforcement is slow and it costs money, and the remedy is often less satisfying than the effort. That is a real limitation of the system and I would rather you hear it from me now.

Which is the argument for spending the effort on a clear, specific, airtight plan on the front end. An ambiguous plan gives a difficult person room to operate. A specific one does not.

CHAPTER 25: RELOCATION

If you have a parenting plan and you want to move, or your co-parent wants to move, this chapter matters enormously. It is also the area where outdated advice is most dangerous, because Tennessee rewrote this statute effective **July 1, 2018**, and the change was fundamental.

What the old law did

Under the pre-2018 version of Tennessee Code Annotated section 36-6-108, the first question was whether the parents were actually spending substantially equal intervals of time with the child.

If they were not, the parent with the majority of the time got a **presumption in favor of the move**. The objecting parent had to prove the relocation had no reasonable purpose, or posed a specific serious threat of harm to the child, or was motivated by vindictiveness. That was a hard burden, and majority-time parents usually won.

What the law does now

That threshold test and that presumption are gone.

Now, if a parent objects, the court applies a straight best interest analysis with **no presumption for or against relocation**, regardless of how the parenting time was divided. The statute lists factors including the nature and quality of the child's relationship with each parent, siblings, and other significant persons; the child's age, developmental stage, and needs and the likely impact of the move; the feasibility of preserving the relationship with the non-relocating parent given the logistics and financial circumstances; the child's preference if of sufficient age and maturity; whether the relocating parent has a pattern of promoting or thwarting the relationship with the other parent; whether the relocation will enhance the general quality of life for both the relocating parent and the child; each parent's reasons for seeking or opposing the move; and any other factor relevant under section 36-6-106(a).

The practical consequence is that relocation cases got much harder to predict, and that any book, blog post, or lawyer telling you about the substantially equal intervals test is working from a version of the law that has been dead since 2018.

The procedure

Notice. The relocating parent must send written notice by registered or certified mail **at least sixty days before the move**, unless there are exigent circumstances excusing it. The notice must state the intent to move, the location of the new residence, the reasons for the move, and a statement that the other parent may file a petition in opposition within thirty days of receipt.

Objection. The other parent has **thirty days** from receipt to file a petition opposing the relocation. If nobody objects in time, the relocating parent may move.

Both of those deadlines are real. Miss the sixty day notice and you have violated the statute and possibly the automatic injunction. Miss the thirty day objection window and you may have lost your ability to contest the move at all.

If you are thinking about moving, or you just received a notice, call a lawyer this week. Not next month.

One more thing

The automatic injunction in [Chapter 6](#) already prohibits relocating the children out of Tennessee or more than fifty miles from the marital home while the divorce is pending. This chapter is about post-decree relocation. During the case, the answer is simpler. You cannot.

CHAPTER 26: GRANDPARENTS AND THIRD PARTIES

Tennessee grandparent visitation is governed by Tennessee Code Annotated sections 36-6-306 and 36-6-307, and it is narrower than most families expect.

The constitutional backdrop

In **Troxel v. Granville, 530 U.S. 57 (2000)**, the United States Supreme Court held that fit parents have a fundamental constitutional right to direct the upbringing of their children, and that a court cannot simply substitute a judge's view of best interest for a fit parent's decision about who sees the child.

Tennessee's statute is built to survive Troxel, which is why it has a threshold you have to clear before best interest is even reached.

The two step framework

Step one. The gateway. A court can only hold a hearing if specific circumstances exist. These include the death of a parent, the parents being divorced, legally separated, or never married to each other, a parent being missing for six months or more, another state having ordered grandparent visitation, the child having lived with the grandparent for twelve months or more before being removed, or a significant existing relationship of twelve months or more having been severed or severely curtailed by the parent. The custodial parent must also be opposing or severely reducing visitation.

Step two. Substantial harm. Before ordering any visitation, the court must find a **danger of substantial harm** to the child from the loss or severe reduction of the relationship. That can be shown where the relationship was so significant that losing it is likely to cause severe emotional harm, or where the grandparent was a primary caregiver, or where there is other direct and substantial harm. The statute defines a significant existing relationship with specific time thresholds.

Only after substantial harm is established does the court reach best interest, which section 36-6-307 addresses with its own factor list.

What this means practically

Courts give great deference to a fit parent's decision to limit grandparent contact. Grandparents lose these cases regularly, and they lose them not because judges do not value grandparents but because the constitutional bar is deliberately high.

Where grandparents do win is where they were functionally raising the child, or where a parent has died and the surviving parent cut off the deceased parent's family, and there is a real, documented, long-standing relationship.

One update worth knowing. Effective April 11, 2024, section 36-6-306(c) was amended to require that court-ordered visitation be **sufficient contact to reasonably permit a strong and meaningful relationship** with the child. That closes off the practice of granting technically-compliant but meaningless token visitation.

If you are a grandparent considering this, get a real evaluation of your facts before you spend money. If you are a parent facing a petition, do not assume you will lose.

CHAPTER 27: MODIFYING A PARENTING PLAN

Life changes. Plans can change with it, but not easily and not automatically.

Two different standards

To change the primary residential parent you generally must show a **material change in circumstances** affecting the child's best interest, and then that the change of primary residential parent is in the child's best interest. This is a real burden. Courts value stability and are reluctant to move a child who is doing fine.

To change the residential schedule without changing the [primary residential parent](#), the standard is lower. A material change in circumstances is still required, but the threshold is a lesser one, reflecting that adjusting a schedule is less disruptive than moving a child's home.

Ask your lawyer which one you are asking for, because it changes what you have to prove.

What counts as a material change

A parent's relocation. A significant change in a parent's work schedule. The child's needs changing with age. A parent's substance abuse, mental health crisis, or incarceration. A dangerous person in the home. A persistent failure to follow the existing plan.

What generally does not count. Your ex has a new partner and you do not like them. Your ex is not parenting the way you would. The children complained about a rule at the other house. Ordinary friction.

The honest advice

Most people who want to modify a parenting plan want to modify it for reasons a court will not act on. That is not me being dismissive. It is me telling you what the standard is before you spend fifteen thousand dollars discovering it.

Two more things to weigh. Under section 36-5-103(c), if you file and lose, you can be ordered to pay the other parent's attorney's fees. And a modification action reopens everything, which means the other parent can counter-petition for changes you never wanted on the table.

Get an honest read on your facts before you file. A good lawyer will tell you when you do not have it, and that conversation is worth what it costs.

PART FIVE: YOUR CONDUCT, YOUR EVIDENCE, AND YOUR JUDGMENT

CHAPTER 28: THE RULES

This is the chapter clients quote back to me years later. These are not moral instructions. I am not your pastor. These are practical rules based on watching people damage their own cases, and every one of them exists because somebody learned it the hard way.

Rule one. Do not date, and if you are going to date anyway, here are the rules.

A new relationship does three things to a divorce file, and none of them have anything to do with morality.

It creates a person. That person has a name, an address, and a phone, and all three are discoverable. They can be deposed. They can be subpoenaed. Your children can be asked about them. Somebody who had nothing to do with your marriage is now going to spend a Tuesday afternoon in a conference room answering questions about you under oath, and how that goes is entirely outside your control.

It creates a paper trail. Dinners, hotels, gifts, and gas all leave records, and those records sit on statements the other side is entitled to read line by line.

And it hands your spouse something to be furious about at the exact moment you need them calm enough to sign something. A case about a retirement account becomes a case about your girlfriend, and cases about girlfriends do not settle in one mediation.

Fault is real too. Tennessee still counts it among the alimony factors and a judge weighing support does not stop being a person when your conduct comes up. But fault is the part everybody worries about, and the discovery is the part that actually runs up the bill.

The question I get every single time is whether any of this changes because the marriage has been over for a year, or because they left first, or because they have been living with somebody since the spring. None of that touches the deposition. None of it touches the mediation. It may well change what a judge does with it, and that is a real conversation. Bring me the fact and let me tell you what it is worth. Do not decide on your own that it cancels the rule.

Now, I have been doing this long enough to know that some of you are going to date anyway. So here are your rules.

Do not spend money on them. Not dinner, not gifts, not trips, not a phone line. Marital money spent on a romantic partner is **dissipation**, and if your spouse can prove it, the value comes off the top before anything gets divided. If she bought some guy a Rolex for Valentine's Day with

marital funds and we find it, you get the value of that Rolex off the top. It works the same in reverse.

You have the greatest built-in excuse in the world here. You literally cannot take somebody to dinner and pay for it. Use it.

Do not have them around your children. Not a sleepover, not a weekend, not an introduction. Not until the case is over and probably not for a while after. This is the one that shows up in a best interest analysis and the one that upsets a judge.

Do not post about it. See rule four.

Do not lie about it in discovery. If you are asked under oath, tell the truth. Getting caught in the lie is a hundred times worse than the affair.

Rule two. Watch your money.

No large purchases. No large transfers. No new debt. No closing or opening accounts without talking to your lawyer.

Keep paying the regular bills the way you have been paying them. Changing the pattern, in either direction, gets noticed.

Save every receipt for anything unusual. If you had a legitimate reason to spend four thousand dollars, you want the documentation before anybody asks.

Rule three. Do not move out without advice.

Moving out can affect the temporary parenting schedule, who pays the mortgage, and what the court sees as the status quo. Sometimes it is exactly right. Sometimes it costs you the house and half your parenting time.

If there is violence in the house, leave. Go now, and read [Chapter 32](#). The rest of this rule does not apply to you.

Rule four. Social media.

Stop posting. That is the simplest version and it is the version I recommend.

If you will not stop, then understand this. Everything you post is evidence. Everything your friends post about you is evidence. Everything you post in a private group is evidence, because private is not a legal concept in this context and somebody in that group knows your spouse.

Do not post about the case. Do not post about your spouse. Do not post about your lawyer or the judge. Do not post pictures of the vacation you took while telling the court you cannot afford support. Do not post pictures of a party while a substance abuse allegation is pending.

And do not delete things. That is the trap. Once a case is filed, deleting posts is destruction of evidence, and it violates the automatic injunction in [Chapter 6](#). Set the account to private, stop adding to it, and leave what is there alone.

Take the same advice about dating apps. A profile is a document.

Rule five. Assume every communication is exhibit A.

Every text, every email, every voicemail to your spouse. Assume it gets read out loud in a courtroom by somebody trying to make you look bad.

So write accordingly. Short. Factual. About logistics and children. No name calling, no history, no jabs, no you always and no you never.

Here is the practical trick. When your spouse sends you something designed to provoke you, and they will, wait an hour before answering. Then answer only the part that has a logistical question in it and ignore the rest. The nastiest text thread in the world looks great for you if every message on your side is two calm sentences about pickup times.

Rule six. Do not talk about the case.

Not to the children. Ever. Not the reasons, not the money, not what their mother's lawyer said. Children who get updates on the litigation are being harmed, judges know it, and the parent doing it is usually the parent who thinks they are being honest.

Not to your spouse's family. Not to mutual friends. Not to your spouse's employer, which the automatic injunction specifically prohibits.

Not on the phone from jail, if that ever applies, because those calls are recorded.

Talk to your lawyer. Talk to your therapist. Talk to one trusted friend who is not connected to your spouse. That is the list.

Rule seven. Be the reasonable one.

This is not about being a pushover. It is strategy.

Family law gives judges enormous discretion, and judges are human beings forming impressions about which of the two people in front of them is being reasonable. The parent who accommodates a schedule change, who communicates civilly, who does not run to court over everything, builds credibility. And credibility is what you spend later, on the issue that actually matters to you.

Save your fights. You do not get many.

Rule eight. Do not use the children.

No making them choose. No showing them documents. No telling them a schedule before it has been decided. No sending a message through them, including a message you think is neutral, because there is no such thing from where they are standing. And no questions about the other house, which is the one people do without noticing they are doing it. A child who learns that coming home means an interview stops telling you things, and by the time you need them to tell you something real, that habit is a year old.

Every judge in Shelby County has seen this and every judge hates it. It is the fastest way to convert a case about property into a case about your parenting.

Rule nine. Give it hours, not days.

A divorce will take every hour you hand it, and I do not mean that as a figure of speech. Leave the whole evening open for it and it fills the whole evening. Then it fills the drive to work. Then it fills the part of Saturday you were going to spend with your children.

So put it in a box. Pick two evenings a week and an hour on the weekend. That is when you pull documents, answer my office, update your log, and think about your case. Outside those hours it waits. Almost nothing in a divorce is genuinely urgent on a Tuesday night, and the handful of things that are will arrive as a phone call from me.

Two people benefit from this and neither of them is your lawyer. The first is your children, who are keeping a running count of how much of you this thing is taking. The second is you, eleven months from now, on the afternoon somebody slides a proposal across a table at you, because how that afternoon goes depends on whether there is anything left of you by then.

One legal note while we are here. If you are seeing a counselor, and plenty of people in this process should be, tell your lawyer you are going. Treatment records can become discoverable if you put your own mental health at issue in a custody case. That is not a reason to stop going. It is a reason for us to handle it on purpose rather than to learn about it from a request for production.

CHAPTER 29: EVIDENCE

What actually helps

Documents. Bank statements, tax returns, pay stubs, credit card statements, deeds, titles, retirement statements. Boring, verifiable, and worth more than any testimony.

Contemporaneous records. A log kept at the time is far stronger than a memory reconstructed later. Note the date, the time, what happened, and who was present. Facts, not conclusions.

Text and email threads, complete. Not the one screenshot that helps you. The whole thread, in context, because the other side will produce the context anyway and you want to be the one who brought it.

Photographs and video with metadata intact. Original files, not screenshots of screenshots.

Third party witnesses. Teachers, coaches, doctors, neighbors. People with no stake in the outcome are worth ten times what your mother is worth as a witness, and I say that with affection for your mother.

School and medical records. Obtained lawfully, through the proper channel or by subpoena.

What hurts more than it helps

Recordings you made illegally. See the next chapter. This can be a felony.

Your own long narrative. A twelve-page timeline of everything your spouse ever did is useful to your lawyer as background and is not evidence. Courts do not have the patience and it makes you look obsessed.

Anything from the children. Do not record your child. Do not interview your child. Do not send your child in with a phone. Courts see this as manipulation and it will hurt you far more than whatever the child said would have helped.

Hearsay. What your sister heard from your spouse's coworker generally does not come in.

Evidence of things courts do not care about. This is the hard one. Your spouse's new relationship, their spending on themselves, their personality, their parenting choices you disagree with. Courts do not make moral judgments the way they used to. Bring your lawyer the facts that map to a legal standard, and let your lawyer tell you which ones those are.

Preservation

The moment you think a divorce is coming, stop deleting things. Texts, emails, photos, social media, browser history, financial records, voicemails.

Back up your phone. Export the text threads. Do it now, because phones break and cloud accounts get closed and carriers do not keep message content long.

And again, once the case is filed, the automatic injunction makes destruction of evidence a violation of a court order, and [spoliation](#) lets a court assume the missing evidence was bad for you. Whatever is on that phone, it is better than the inference a judge will draw if you wipe it.

CHAPTER 30: RECORDING, SNOOPING, AND SPYWARE

This is the chapter that keeps people out of jail, so read it before you do something you cannot undo.

Recording conversations

Tennessee is a one-party consent state. Under Tennessee Code Annotated section 39-13-601, it is generally lawful to record a conversation you are a party to. If you are on the call, you can record the call.

It is a **crime** to intercept a conversation you are not part of. Putting a recorder in a room to capture your spouse talking to somebody else is a violation of section 39-13-601, punished under section 39-13-602 as a **Class D felony**, which under Tennessee's sentencing statute carries two to twelve years and a fine up to five thousand dollars. Section 39-13-603 also creates a civil cause of action, so the person you recorded can sue you.

There is a parental monitoring carve-out for monitoring your minor child's internet use on a device you own. There is **no** spousal exception. Being married to somebody does not give you the right to intercept their communications, and courts have rejected that argument repeatedly.

Federal law adds another layer. The federal Wiretap Act, 18 U.S.C. section 2511, prohibits intentional interception of wire, oral, and electronic communications, and most federal circuits have rejected the interspousal exception people try to claim.

If your case crosses into Mississippi or involves a party in another state, check that state's law. Some states require all parties to consent.

Reading email and accessing accounts

The federal Stored Communications Act, 18 U.S.C. sections 2701 and following, makes it unlawful to access stored electronic communications without authorization. That covers logging into your spouse's email, their cloud storage, or their social media without permission.

Knowing the password is not the same as having authorization. This is the mistake people make. Your spouse told you their password four years ago so you could check a flight. That is not standing consent to read their email in 2026.

Spyware and tracking

Installing monitoring software on your spouse's phone or computer. GPS trackers on a car titled to them. Keyloggers. Camera apps. Location sharing they do not know about.

These range from civilly actionable to felonious depending on what was installed, on whose device, and what it captured. And the consumer spyware industry has an atrocious security

record, with major products breached repeatedly, which means the data you collected and your identity as the purchaser can end up in a public leak.

Two things that are legal and still hurt you

Recording a conversation you are part of is lawful in Tennessee. That does not make every recording a good idea.

Holding your phone up in somebody's face in the middle of an argument is a bad look.

Even when the recording captures exactly what you hoped it would capture. A judge watching that video does not see a careful person documenting misconduct. A judge sees somebody who decided, in the middle of a fight in front of their own children, that the most important thing happening was building a case. And the person on the other end of that camera usually looks like the one being provoked, because you provoked them.

Recording your children is worse. Sitting a child down and asking them questions about the other parent, on video, is the single fastest way to convert a case about the other parent into a case about you. And it never sounds the way the parent thought it sounded. On the recording you can hear the prompting. You can hear the leading question. You can hear the child looking to the parent for the right answer, and then giving it. What the parent thought was the child finally telling the truth reads on playback as a child being coached, and once a judge hears that, everything else you have said about that child gets discounted.

I have seen a parent lose a custody position they should have won on the strength of a recording they made themselves and volunteered into evidence.

The point is this. Evidence you were sure would be your strongest can be the thing that beats you, and how you got it matters as much as what is on it. Before you start recording anything, call your lawyer and ask.

Why this backfires even when it works

Say you get the recording. Say it proves exactly what you thought.

Now you walk into court with evidence obtained by committing a crime. The evidence may be excluded. Your lawyer may have ethical obligations that limit what can be done with it. You may face criminal exposure and a civil suit. And you have handed your spouse's lawyer the best possible distraction from whatever the recording showed, because the case is now about what you did.

I have watched a client with a genuinely strong custody position hand it away by installing an app on a phone.

The line

You can look at what is yours and what is jointly yours. Joint account statements. Mail addressed to both of you. Documents in shared spaces of the home. A shared computer you both use.

You cannot break into what is theirs. Their individual accounts, their phone, their separate email, their private devices.

When you are not sure which side of the line you are on, call your lawyer before you do it, not after. This is a five minute phone call that prevents a felony.

CHAPTER 31: HOW NOT TO USE AI IN YOUR DIVORCE

This chapter did not exist in any divorce guide five years ago. It is now one of the most important chapters in this book, because artificial intelligence is doing more damage to family law cases than any technology since text messaging.

Let me start with the sentence that matters most.

The chatbot does not know it is wrong, and it will not tell you when it is.

Mistake one. Do not let AI write your legal documents.

AI language models generate text that looks like legal writing. Confident, formatted, full of case citations. Some of those cases do not exist.

This is not a rare glitch. Legal scholar Damien Charlotin maintains a public database tracking court decisions where a judge found reliance on AI-fabricated content. As of September 2026 it documented over two thousand cases worldwide, including more than a hundred and twenty in family law specifically. The database is public and it grows every week.

It started with **Mata v. Avianca, Inc.**, where in June 2023 a federal judge in New York sanctioned two lawyers who submitted a brief citing six cases ChatGPT invented. They were fined and required to write letters to the real judges whose names had been attached to fake opinions.

It has gotten worse, and it has reached Tennessee. In **Whiting v. City of Athens**, decided March 13, 2026, the Sixth Circuit Court of Appeals sanctioned two Knoxville attorneys whose briefs contained more than two dozen fabricated citations. The court ordered them to pay the other side's attorney's fees, imposed double costs, and levied a fifteen thousand dollar punitive fine on each attorney individually. The court's language is worth quoting, because it applies to you as much as to a lawyer: no filing "should contain any citations, whether provided by generative AI or any other source," that the person filing has not personally read and verified.

And here is the one that should stop you cold, because it is a divorce case. In **Shahid v. Esaam**, decided by the Georgia Court of Appeals on June 30, 2025, a husband's attorney filed a brief in a divorce dispute in which **eleven of fifteen citations were to cases that did not exist**. It got worse. The trial court's own order relied on two of the fictitious cases. The appellate court vacated the order, sent the case back, and fined the attorney.

Think about what that means. A family's divorce was decided by an order built partly on cases that were never written, by a court that had no reason to think the citations were fake.

If a licensed attorney can be fined fifteen thousand dollars for this, consider what happens to you. Pro se litigants now make up the larger share of documented AI hallucination cases, over

eleven hundred of them in Charlotin's database compared to eight hundred involving lawyers. Judges are often more forgiving of an unrepresented person than of a lawyer, because you did not take an oath of candor to the court. But that leniency does not extend to your case. Once the fake authority is stripped out of your [motion](#), there is usually nothing left, and you lose.

Mistake two. Do not talk to a chatbot about anything you would not say in a deposition.

There is **no legal privilege** for your conversations with an AI chatbot. None.

That is no longer just my opinion, and here is the case.

In **United States v. Heppner**, Judge Jed Rakoff of the Southern District of New York ruled from the bench on February 10, 2026 and issued a written opinion on February 17. It is a criminal fraud prosecution, not a divorce, and I will come back to why that does not save you. The defendant had learned he was under investigation. He took what his lawyer had told him, worked through it with an AI assistant, generated roughly thirty one documents laying out possible defense strategies, and handed the results to his attorney. The government moved to get all of it. He claimed attorney-client privilege.

He lost on every element. The AI is not a lawyer, and privilege covers communications with a licensed professional who owes you fiduciary duties. He had no reasonable expectation of confidentiality, because the provider's own privacy policy says it may use inputs and disclose data. And he was not seeking legal advice from the AI, which is what the privilege is for. The court rejected work product protection too, because the documents were not prepared by counsel or at counsel's direction.

The judge did leave one door open. He suggested the answer might be different if your lawyer directs the use of the tool, so that it functions as the lawyer's agent. That is the nuance the internet summaries drop, and it is the only version of this that protects you, which is why it belongs in a conversation with your attorney rather than in your own browser at midnight.

Now, why a criminal fraud case governs your divorce. Nothing in that reasoning depends on the kind of case. It depends on what the tool is and what the provider's terms say. Neither of those changes when the caption says divorce.

The companies say the same thing. In July 2025, OpenAI's chief executive said publicly that "there's no legal confidentiality for users' conversations" with ChatGPT, that if you talk to a therapist or a lawyer or a doctor there is legal privilege for it, and that his company "haven't figured that out yet" for AI. He said OpenAI would be legally required to produce those conversations if subpoenaed.

That is the company that makes the product telling you the product has no privilege.

Then it stopped being theoretical. In litigation between The New York Times and OpenAI, a federal magistrate judge ordered OpenAI to preserve ChatGPT output logs, and in November

2025 ordered the production of **twenty million anonymized user conversations**. In January 2026 the district judge affirmed that order, holding that ordinary ChatGPT users are non-parties whose privacy objection did not defeat production.

Twenty million conversations, produced in a lawsuit that had nothing to do with any of those users.

So understand what you are creating when you type into that box. Every one of these is a record:

“How do I hide money before a divorce.” “Can my wife find out about an offshore account.” “How do I make my husband look like an unfit parent.” “What do I say so it looks like I make less money.” “How do I get out of paying alimony.”

Your spouse’s attorney can serve [discovery](#) asking whether you have used AI tools, what you asked, and for the export of your conversation history. Most services let you download your entire chat history in one file. If you have been using an AI as your co-conspirator, you have written your own cross-examination.

Mistake three. Do not use AI as your therapist.

Divorce is lonely and it is three in the morning and the chatbot is right there and it is endlessly patient. I understand the appeal completely.

But here is the difference. When you talk to a licensed therapist, that conversation is protected by an evidentiary privilege. It is not absolute, and in custody cases it can be pierced if you put your mental health at issue, which is a conversation to have with your lawyer. But the protection exists and it is real.

When you type the same words into a chatbot, you have none of that. You have a text file on somebody’s server that can be subpoenaed, produced, and read out loud.

The things people tell an AI at three in the morning are the exact things that hurt worst in a custody case. Doubts about their own parenting. Rage at their spouse. Thoughts about the children they would never say out loud. Substance use. Despair.

Talk to a human being who has a license and a privilege. If cost is the barrier, tell your lawyer, because there are options.

Mistake four. Do not fabricate evidence with AI, and be ready for the possibility that somebody else did.

AI can now generate convincing audio and video. This has already reached family courts. In a widely reported United Kingdom custody case, a father was accused of making violent threats based on an audio recording. The recording had been manipulated to insert words he never said. His lawyer caught it by examining the file’s metadata.

Two directions on this.

Do not do it. Fabricating evidence is fraud on the court. It is criminal. It will end your case and possibly your freedom. There is no version of this that works.

And if evidence appears that you know is false, do not just say it is fake. Tell your lawyer immediately and preserve everything. Authentication rules require the party offering evidence to show it is what they claim it is, under Rule 901 of the Tennessee Rules of Evidence and its federal counterpart. There is a proposed federal rule addressing AI-generated evidence specifically, though as of the spring of 2026 it had not been published for comment and the advisory committee had scheduled further study. So for now the fight happens under existing authentication law, and it happens through metadata, forensic examination, and chain of custody. Original files. Not screenshots.

Mistake five. Do not trust AI to tell you what the law is.

Everything in [Chapter 25](#) about the 2018 relocation rewrite applies here. AI models are trained on a large body of text that includes a great deal of outdated law, and they cannot reliably tell you which parts are current.

Ask a chatbot about Tennessee relocation and there is a real chance you get the pre-2018 substantially equal intervals framework, because that test was written about extensively for fourteen years and the current test has only existed since 2018.

Ask about alimony taxes and you may get the pre-2019 deduction rule, because that was the law for seventy years and has been dead since 2019.

Ask about the Tennessee child support cap and you will probably get ten thousand dollars a month, because that number is all over the internet and it has been wrong since October 2021.

There is a second-order version of this problem worth naming, and it showed up while I was writing this chapter.

A federal court has now ruled on almost exactly the question this chapter is about, and I will get to the case in a moment. What is worth noticing first is what happened to it afterward. Within weeks the internet filled up with confident summaries of that ruling on pages that look like law firm content, and the summaries flatten it. A narrow criminal ruling gets restated as a sweeping rule about divorce cases. The one real limitation the judge wrote into the opinion, which is the part a client would actually want to know, disappears entirely.

That is the environment you are researching in. Not only invented cases. Real cases, described wrong, in a confident voice, on a website with a law firm's logo at the top.

Where AI is actually useful

I am not a technophobe. I run a heavily automated practice and I use these tools every day. Here is the line.

AI is safe when you already own the input and the output is organizational.

Sorting your own bank statements into a spreadsheet. Building a timeline from your own calendar and your own records. Summarizing a long email thread you are a party to. Making a list of questions to ask your lawyer. Drafting a household budget for your post-divorce life. Explaining what a term like [alimony in solido](#) means so you can follow the conversation in my office. Turning your rambling four-page account of what happened into an organized one page your lawyer can read in three minutes, which genuinely saves you money.

AI is dangerous the moment the input becomes a request for legal strategy or the output gets treated as legal advice, as evidence, or as a court filing.

That is the whole rule. Use it to organize what you know. Do not use it to decide what to do.

Lawyer Bill's rule on this

Do not type anything into an AI that you would not want printed out, handed to your spouse's attorney, and read into the record.

If you have already been using AI to strategize about your divorce, tell your lawyer. Today. Not because you are in trouble, but because we need to know what is out there before somebody else finds it. I would much rather hear it from you in my office than read it in a discovery response.

CHAPTER 32: DOMESTIC VIOLENCE AND SAFETY

If you are in danger right now, stop reading and call 911.

The Tennessee statewide domestic violence helpline and the National Domestic Violence Hotline are both available around the clock, and the national hotline number is 1-800-799-7233. The Shelby County courts have a process for orders of protection and there are advocates who help people through it at no cost.

Orders of protection

An order of protection is a court order restricting contact by an abuser. In Tennessee you can seek one against a spouse, a former spouse, someone you live with or have lived with, someone you dated, or a relative.

The process moves in two steps. You petition, and if the court finds an immediate danger it can issue an **ex parte** order the same day, meaning without the other person present. Then a hearing is set, usually within about fifteen days, where both sides appear and the court decides whether to extend the order.

An order of protection can require the abuser to stay away from you, your home, your workplace, and your children's school. It can grant you exclusive use of the residence, award temporary custody and support, and prohibit firearm possession.

Tennessee also has lifetime orders of protection available in certain cases involving qualifying convictions, and that provision has been expanded twice recently, in 2024 and again in May 2026 to include qualifying out of state felony convictions.

Where the order of protection actually gets heard

An order of protection starts as its own case, but it does not necessarily stay in its own court.

If a divorce is pending, the divorce court hears the order of protection. So if you file a petition downtown at 201 Poplar and your spouse files for divorce the next day, your order of protection gets transferred to the divorce court and the divorce judge takes it up. And if the divorce is already on file when the abuse happens, we do not go start a separate case. We ask the divorce court for the order of protection directly.

That consolidation is generally a good thing. One judge sees the whole picture, the protective order and the parenting schedule and the temporary support all get decided by somebody who knows the history, and you are not telling your story twice in two buildings. But it means the timing of who files what, and where, has consequences worth talking through with your lawyer.

How it interacts with the rest of your divorce

An order of protection and a divorce affect each other significantly.

It changes the [mediation](#) analysis under Tennessee Code Annotated section 36-4-131. Mediation can proceed only if you agree to it, only with a mediator certified or trained in domestic and family violence, and you may bring a support person of your own choosing. The court can also waive mediation entirely.

It matters in the parenting analysis, because evidence of physical or emotional abuse is an express best interest factor under section 36-6-106(a), and the domestic abuse definitions in that statute were expanded effective July 1, 2025.

And it can affect who stays in the house and what the temporary orders look like.

If you are being accused

False allegations happen. So do true ones, and courts have to sort them out.

If you have been served with a petition, take it seriously. Get a lawyer immediately. Do not contact the petitioner for any reason, including through friends, family, or your children, and including to ask why they did this. Any contact can be a violation and a criminal charge.

Go to the hearing. Do not default. An order of protection on your record affects firearm rights, some professional licenses, and your custody case.

Safety planning

If you are planning to leave, plan the leaving.

Get your documents out first. Identification, birth certificates, Social Security cards, passports, financial records, immigration papers if applicable, and copies of everything in [Chapter 2](#). Take them somewhere safe outside the house.

Set aside money in an account your spouse cannot access or monitor.

Assume your devices are compromised. Change passwords from a device your spouse has never touched. Check for location sharing on your phone and in your car. Check whether your accounts are linked to a family plan somebody else administers.

Tell someone at work, so building security knows.

And tell your lawyer everything, including the parts that are embarrassing. It is privileged, and I have heard it before.

CHAPTER 33: THE COST BENEFIT ANALYSIS

Sometimes the smartest thing you can do is write a check for money you do not owe.

I know how that sounds. Stay with me, because this is the single most valuable habit of thinking I can hand you, and the clients who learn it finish this process with more money and more of their life intact than the clients who do not.

The arithmetic nobody does

Every disputed item in your divorce has two numbers attached to it. What the item is worth, and what it costs to fight about it.

People only ever look at the first number.

So here is what happens. Your spouse claims the bedroom furniture, which you say is yours because your grandmother gave it to you. You are right. It is [separate property](#), it is worth about four thousand dollars, and you can prove it.

Now the second number. Proving it means your lawyer drafts [discovery](#), reviews the responses, takes a deposition of your spouse, subpoenas whatever documents exist, prepares an exhibit, and puts on proof at a hearing. Their lawyer does the same. Call it fifteen hours of your attorney's time before anybody walks into a courtroom.

You just spent more than the furniture is worth to win the furniture. And you might lose, because a judge who has heard eleven cases that day may not be as impressed by your grandmother as you are.

That is not a reason to roll over on everything. It is a reason to ask the second question before you commit to the fight.

The three questions

Before you dig in on anything, ask yourself these.

What is it actually worth, in dollars, today? Not what you paid. Not what it should be worth. What a stranger would pay for it this afternoon.

What will it cost to win it? Ask your lawyer directly and make them give you a number. Attorney time, expert fees, court reporter, the day off work, the second day off work when it gets continued.

What happens to everything else while I am fighting about this? This is the one people miss. Every fight consumes attention, goodwill, and credibility. Spend three months at war over the furniture and you have poisoned the negotiation on the retirement account, which is worth two hundred times more.

Buying peace is a legitimate purchase

There is a category of expense in every divorce that I would describe as buying your way out of a fight, and there is nothing weak about it.

Your spouse insists you owe them six thousand dollars for something. You do not owe it. You could prove you do not owe it. Proving it costs nine thousand dollars, takes four months, and keeps a person who is currently unreasonable in your life for that entire stretch.

Write the six thousand dollar check. You did not lose. You bought a resolution for three thousand dollars less than the alternative, you bought back four months of your life, and you took away the leverage your spouse was using to hold up everything else.

I have had clients pay money they clearly did not owe and describe it later as the best financial decision of the whole case. I have also had clients spend forty thousand dollars proving a point worth eight, and every one of them told me afterward that they would not do it again.

The word principle is expensive

At some point in most cases a client tells me it is not about the money, it is about the principle.

I understand that completely and I am not going to talk you out of your principles. But I want you to know what principles cost, because you are the one buying.

The honest version is that principle is usually anger wearing a nicer suit. The furniture is not really about the furniture. It is about the fact that your spouse is taking something else from you and this is the piece you feel like you can hold onto. That is human and it is real. It is also a very expensive way to process a feeling, and a therapist bills a fraction of what I do.

So when you catch yourself saying it is the principle, that is your signal to run the three questions above. If the numbers still say fight, then fight, and I will fight it with you. Just make sure you decided rather than reacted.

When you should absolutely not pay

The analysis runs the other way sometimes, and these are the situations where I will tell you to spend the money.

Anything involving your children's safety. There is no cost benefit analysis on a real safety issue. None.

Anything that repeats. A one time payment is a one time cost. A support number, a parenting schedule, a decision-making allocation, and an alimony term are obligations that run for years. Overpaying by two hundred dollars a month for twelve years is nearly thirty thousand dollars, and it is worth spending real money to get right.

Anything that sets the pattern. If your spouse learns in month two that manufacturing a dispute makes you write a check, you will be receiving manufactured disputes for the next decade. Sometimes you spend money on a small fight specifically so the next nine do not happen. That is not emotion. That is deterrence, and it is a legitimate strategic reason to litigate something that is not worth its face value.

Anything where the number is genuinely large. The math changes when the asset is the retirement account or the business. A fight that costs fifteen thousand to win two hundred thousand is not a close question.

Anything you cannot fix later. Property division is final. Custody can be modified. Know which kind of decision you are making.

How to use your lawyer on this

Ask me what it costs. Every time. Before you tell me to go do it.

A good lawyer should be able to tell you, roughly, what a given fight costs and what your realistic chances are, and should tell you when a fight is not worth having even though it means less work for them. If your lawyer never talks you out of anything, you have a problem.

And then decide. It is your money and it is your life, and my job is analysis, not advocacy for one choice over another. I will give you the numbers and the odds and my honest read. You pick. Just pick with a calculator in your hand instead of a knot in your stomach.

PART SIX: MISSISSIPPI, LIFE AFTER, AND DEFINITIONS

CHAPTER 34: IF YOUR CASE IS IN MISSISSIPPI

I am licensed in Mississippi as well as Tennessee, and a real slice of my practice sits in DeSoto County. If you live in Southaven, Olive Branch, Hernando, or Horn Lake, this is your chapter, and almost everything you just read changes.

Do not assume Mississippi is Tennessee with different scenery. It is a genuinely different system.

You file in Chancery Court

Mississippi divorces go to Chancery Court, which is a court of equity. Not circuit court.

Venue is governed by Miss. Code Ann. section 93-5-11, and residency by section 93-5-5, which requires that one party has been an actual bona fide resident of Mississippi for six months before filing. Mississippi courts will dismiss a case, with costs, if residency was manufactured just to file there.

One local point that trips people up. **DeSoto and Tate Counties are in the Third Chancery Court District. Tunica County is in the Seventh.** Different districts, different judges. People assume the three run together because they are neighbors. They do not.

The big one. Mississippi has no unilateral no-fault divorce.

This is the single most important structural difference and it surprises almost every Tennessee client who crosses the line.

Mississippi has fault **grounds** under Miss. Code Ann. section 93-5-1, twelve of them, including adultery, habitual cruel and inhuman treatment, habitual drunkenness, desertion for a year, and others.

And it has **irreconcilable differences** under section 93-5-2. But an irreconcilable differences divorce in Mississippi **requires your spouse's consent**. Both of you have to agree to be divorced. If custody, support, or property are contested, you can still use the irreconcilable differences ground only if you both separately consent in writing to let the chancellor decide those specific issues.

If your spouse simply refuses, there is no irreconcilable differences divorce. You must prove a fault ground, and most of them require clear and convincing evidence.

Read that again, because the consequence is large. **In Mississippi, an unwilling spouse can force you to a fault trial.** Tennessee has no equivalent obstacle. A Tennessee spouse who will

not agree still ends up divorced; the fight is about the terms. A Mississippi spouse who will not agree can make you prove why.

The 2017 legislature helped somewhat by adding spousal domestic abuse as a distinct species of habitual cruel and inhuman treatment, which eliminated the historical corroboration requirement for that ground and allows a chancellor to grant the divorce on credibility alone. Efforts to add a broader irretrievable breakdown ground have been introduced and have not passed.

There is also a sixty day waiting period after filing before an irreconcilable differences [complaint](#) can be heard, and no divorce is entered until custody, support, and property are all either agreed or adjudicated.

Mississippi now presumes 50/50 custody. Tennessee does not.

This changed on **July 1, 2026**, and it is the biggest development in Mississippi family law in years.

House Bill 1662, signed April 8, 2026, amended Miss. Code Ann. section 93-5-24 to create a **rebuttable presumption that joint custody and equally shared parenting time is in the best interest of the child**. The presumption is rebuttable by a preponderance of the evidence.

Exceptions and rebuttal grounds include the existing family violence presumption in section 93-5-24, a parent being a registered sex offender, a parent being in the custody of the Department of Corrections, the parents agreeing to a different arrangement, and other relevant factors the court finds material. A chancellor deviating from the presumption has to document the reasons.

The bill also adds a support method for equal time arrangements, calculating each parent as an obligor and ordering the higher earner to pay the difference.

Set that against what you read in [Chapter 21](#), where Tennessee's legislature wrote "without creating any presumption as to parenting time" directly into its newest best interest factor. Two states, twenty minutes apart, in opposite directions in the same year.

If your custody case is in DeSoto County, this is now the starting point, and any advice you received before July 2026 needs revisiting.

The Albright factors still apply

Mississippi custody has always run on the factors from **Albright v. Albright, 437 So. 2d 1003 (Miss. 1983)**:

1. The age, health, and sex of the child.
2. Which parent had the continuity of care prior to the separation.
3. Which parent has the best parenting skills, and the willingness and capacity to provide primary child care.

4. The employment of each parent and the responsibilities of that employment.
5. The physical and mental health and age of the parents.
6. The emotional ties of parent and child.
7. The moral fitness of the parents.
8. The home, school, and community record of the child.
9. The preference of the child, if the child is of sufficient age.
10. The stability of the home environment and employment of each parent.
11. Any other factors relevant to the parent-child relationship.

Albright also holds that marital fault should not be used as a sanction in a custody award, and that financial circumstances, religion, and lifestyle differences should not be the sole basis for a custody decision.

The new statutory presumption does not repeal Albright. It sits in front of it. The presumption is the starting point, and the Albright analysis is where the rebuttal fight happens. Exactly how those two interact once the presumption is rebutted is going to be worked out by the appellate courts over the next few years, and if your case is in that window, you are in genuinely unsettled territory.

Mississippi also has a natural parent presumption from **Sellers v. Sellers**, protecting a fit natural parent against third party custody claims absent clear and convincing evidence of abandonment, detrimental immoral conduct, or unfitness.

Mississippi has no mandatory standardized parenting plan comparable to Tennessee's. Custody and visitation terms go into the judgment, often through the parties' agreement.

Child support is calculated completely differently

Tennessee uses Income Shares, combining both parents' incomes. Mississippi uses a straight percentage of the paying parent's adjusted gross income under Miss. Code Ann. section 43-19-101.

One child, fourteen percent. Two children, twenty percent. Three, twenty-two percent. Four, twenty-four percent. Five or more, twenty-six percent.

The guideline presumption applies where adjusted gross income falls between ten thousand and one hundred thousand dollars a year. Outside that range the court has to make a written finding about whether applying the percentages is reasonable.

And Mississippi child support generally runs to age twenty-one, not eighteen. Under Miss. Code Ann. section 93-11-65, twenty-one is the age of majority for support purposes, with earlier termination for marriage, full time military service, a qualifying felony conviction, or in some circumstances discontinuing full time school enrollment after eighteen.

That is a three year difference from Tennessee on every case. Over a decade of support, it is a large number.

Property division is judge-made law

Tennessee has a property division statute with a factor list. Mississippi has no property division statute at all. It is entirely case law.

The controlling case is **Ferguson v. Ferguson, 639 So. 2d 921 (Miss. 1994)**, which lists factors including substantial contribution to the accumulation of the property; the degree to which each spouse expended, withdrew, or disposed of marital assets; the market and emotional value of the assets; the value of [separate property](#); the tax and other consequences of the distribution; the extent to which property division can eliminate periodic payments and future friction; the needs of the parties for financial security; and other equitable factors.

Its companion case, **Hemsley v. Hemsley, 639 So. 2d 909 (Miss. 1994)**, defines [marital property](#) as any and all property acquired or accumulated during the marriage, and presumes both spouses' contributions, economic or domestic, are of equal value.

Alimony runs on Armstrong

Mississippi alimony is governed by **Armstrong v. Armstrong, 618 So. 2d 1278 (Miss. 1993)**, weighing the income and expenses of the parties; their health and earning capacities; the needs of each; the obligations and assets of each; the length of the marriage; the presence of minor children requiring child care; the age of the parties; the standard of living during the marriage and after; the tax consequences; fault or misconduct; wasteful [dissipation](#) of assets; and other just and equitable factors.

Mississippi recognizes periodic, lump sum, and [rehabilitative alimony](#). Note that **fault is an express factor** in the Mississippi alimony analysis, and Mississippi's fault-based structure means fault is often already in the case.

The 8.05 financial statement

Mississippi's counterpart to the Shelby County income and expense affidavit is the **Rule 8.05 financial statement**, under the Uniform Chancery Court Rules. It requires gross monthly income from all sources, deductions and net pay, monthly living expenses, real estate with values and mortgage balances, vehicles, personal property, accounts, investments, insurance, all liabilities, employment history, and the prior year's complete state and federal returns with all schedules and W-2s.

It is required in essentially every domestic case involving financial issues. Failing to file it without just cause is [contempt](#), and filing a materially false one is a fraud on the court. Ask your lawyer for the current form and the current timing requirement.

The short version

If you live in DeSoto County and you are comparing notes with a friend in Memphis, understand that you are in different systems. Different court, different grounds, a consent requirement your friend does not have, a custody presumption your friend does not have, support running three years longer, no property statute, and a different financial disclosure form.

And if there is a genuine question about which state your case belongs in, raise it at the first meeting. That decision is worth more than most of the fights that follow it.

CHAPTER 35: AFTER THE DIVORCE

The decree is entered. You are divorced. You are not done.

This is the chapter people skip and then call me about in three years. Work through this list in the first ninety days.

The paperwork that transfers things

Deeds. If real estate changed hands, somebody has to prepare and record a deed. Confirm it was recorded. Get a copy.

Vehicle titles. Signed over and transferred at the county clerk.

Refinances. If somebody was supposed to refinance a mortgage or a car loan, calendar the deadline and confirm it happened. Remember [Chapter 14](#). The deed and the note are different documents.

QDROs. Retirement division requires a separate order. Confirm it was drafted, entered, sent to the plan administrator, accepted, and implemented. Then confirm again with the plan itself. This is the most commonly dropped ball in the entire post-divorce world and the consequences show up decades later.

Account separation. Close joint accounts. Remove authorized users. Open your own.

The paperwork nobody tells you about

Beneficiary designations. Life insurance, retirement accounts, IRAs, annuities, payable on death accounts, HSAs.

Understand this clearly. Your divorce decree does **not** automatically change a beneficiary designation on a retirement account governed by federal law. If your ex-spouse is still named on your 401(k) and you die, there is a very real chance your ex-spouse receives it, whatever your decree or your will says. This has produced a lot of litigation and a lot of furious second spouses.

Change every designation. Then get written confirmation from each institution. Do not assume the phone call worked.

Your will. Divorce affects some provisions in favor of a former spouse by statute, but relying on partial statutory fixes is not an estate plan. Make a new will. If you have minor children, name a guardian, and think hard about whether you want assets going to a minor outright or into a trust.

Powers of attorney and health care directives. If your ex-spouse holds your financial power of attorney or your health care power of attorney, revoke it and execute new documents. Today.

Insurance. New health coverage per [Chapter 20](#). Auto and homeowner's policies split. Life insurance in place if the decree requires it, with proof of coverage.

Name change

If your decree restored a former name, you have to actually do it. Social Security first, then the driver's license, then passport, then banks, then employer, then everything else. Get certified copies of your decree from the clerk. Get more than you think you need.

Taxes

Talk to a CPA before the first post-divorce filing. Filing status, who claims the children, Form 8332, the treatment of any support, and the basis of anything you received. See [Chapter 19](#).

Co-parenting

Set up a communication method and stick to it. Many people use a co-parenting app that keeps a permanent record, which is useful both for keeping things civil and for documentation if things go sideways.

Calendar everything from the parenting plan. Holidays, breaks, notice deadlines for summer vacation selection, exchange times. Put it in a shared calendar so nobody has to reconstruct the plan every December.

Follow the plan exactly for the first year, even when you both would rather be flexible. Establishing that both of you honor the order builds the trust that lets you be flexible later.

If something goes wrong

Modification of support requires a [significant variance](#), covered in [Chapter 23](#). Modification of a parenting plan requires a material change in circumstances, covered in [Chapter 27](#). Enforcement runs through [contempt](#), covered in [Chapter 24](#), and section 36-5-103(c) allows fee awards to the prevailing party.

Here is the part that decides these cases. Courts fix patterns and they are slow to do much about incidents, so your job after an order is entered is to build a record that shows which one you have got. Write down every exchange that does not happen the way the plan says, with the date and what was said. Move your communications into writing so the record makes itself. Then bring me twelve entries instead of one story, because twelve entries is a case and one story is a bad Tuesday.

And the part that is not legal advice

The people who do best after a divorce are the ones who stop relitigating it in their heads.

That takes time and it is not the same timeline for everybody. But at some point the case is over, and the question stops being who was right and starts being what you are building. I have had clients come back years later to do a will or close on a house, and the ones who are doing well are almost never the ones who won the most. They are the ones who moved on the soonest.

Nobody rules on that part. There is no order anywhere that sets the date you are finished being divorced. You set it, and most people set it a good deal later than they had to.

GLOSSARY

Alimony in futuro. Long-term or indefinite spousal support, for cases where the disadvantaged spouse cannot be rehabilitated to a comparable standard of living. Modifiable. Terminates on death or the recipient's remarriage.

Alimony in solido. A definite total sum of spousal support, payable at once or in installments over a fixed period. Generally not modifiable and does not terminate on death or remarriage. Often used for attorney's fee awards.

Alternate residential parent. The parent with whom the child resides fifty percent of the time or less.

Answer. The written response to a complaint, generally due within thirty days of service.

Basic Child Support Obligation. The figure drawn from the Tennessee Child Support Schedule based on the parents' combined adjusted gross income, before add-ons and the parenting time adjustment.

Best interest factors. The list in Tennessee Code Annotated section 36-6-106(a) that governs parenting decisions. Eighteen enumerated considerations as of July 1, 2026.

COBRA. Federal law allowing a former spouse to continue on the employee spouse's group health plan, generally up to thirty-six months, at full cost plus a fee. Notice is required within sixty days of the divorce.

Complaint. The document that starts a divorce, stating the grounds and what relief is requested.

Contempt. Violating a court order. Can be civil or criminal, and can result in fines, fee awards, make-up parenting time, or jail.

Counter-complaint. The defendant's own complaint against the plaintiff, filed in the same case.

Discovery. The formal exchange of information before trial. Interrogatories, requests for production, requests for admission, subpoenas, depositions.

Dissipation. Wasteful spending of marital assets for a purpose contrary to the marriage. Considered in property division.

Final Decree of Divorce, or FDD. The order that actually ends the marriage. You are divorced as of the date it is entered by the clerk, not the date of the hearing.

Equitable distribution. Dividing marital property fairly, which does not necessarily mean equally. Tennessee's standard under section 36-4-121.

Ex parte. An order entered without the other party present, generally only in emergencies. Followed by a hearing where both sides appear.

Grounds. The legal reason for the divorce.

Interrogatories. Written questions the other party must answer under oath.

Irreconcilable differences. Tennessee's no-fault ground. Requires a complete written agreement resolving all issues.

Marital property. Generally, property acquired by either spouse during the marriage, regardless of whose name is on it.

Marital Dissolution Agreement, or MDA. The written contract resolving property, debt, and support. It is the agreement that dissolves the marriage, which is worth thinking about for a second.

Mediation. A settlement process run by a trained neutral who cannot decide anything and can only help the two sides reach agreement. Ordered in contested Tennessee divorces.

Motion. A request for the court to do something before final judgment.

Pendente lite. Latin for while the suit is pending. Refers to temporary orders.

Permanent parenting plan. The required court-approved document governing residential time, decision-making, support, and dispute resolution for minor children.

Primary residential parent. The parent with whom the child resides more than fifty percent of the time.

QDRO. Qualified Domestic Relations Order. The separate order required to divide most employer retirement plans.

Rehabilitative alimony. Support to help a spouse achieve, with reasonable effort, an earning capacity permitting a comparable standard of living. Tennessee's preferred form.

Residential schedule. The calendar in the parenting plan specifying where the child is on which days.

Rule 31 Listed Family Mediator. A mediator who has completed the Tennessee Supreme Court's family mediation training and is listed by the Administrative Office of the Courts to mediate family cases.

Separate property. Property owned before the marriage, or received during the marriage by gift, inheritance, bequest, or devise.

Service of process. Formal delivery of the complaint and summons.

Significant variance. The fifteen percent difference between current ordered child support and a current guideline calculation that permits modification.

Spoliation. Destruction of evidence. Permits a court to infer the missing evidence was unfavorable.

Transitional alimony. Support to help a spouse adjust to the economic consequences of divorce where rehabilitation is not needed. Generally not modifiable.

Transmutation. Separate property becoming marital property because the parties treated it as marital.

Uncontested. A case where the parties agree on everything. It does not mean nobody was upset.

Venue. Which county the case is properly filed in.

ABOUT THE AUTHOR



William W. “Bill” Jones IV has practiced law since 2002. He is a Memphis family law attorney and a Rule 31 Listed Family Mediator, licensed in Tennessee (BPR 022869) and Mississippi (BPR 100707), and a Super Lawyers selectee every consecutive year from 2014 through 2026.

His practice covers divorce, custody, post-judgment matters, juvenile defense, business disputes, probate, and estate planning. He works in Shelby, Tipton, and Fayette Counties in Tennessee, and in DeSoto, Tate, and Tunica Counties in Mississippi, which is the reason this book covers both sides of the state line.

As a Rule 31 Listed Family Mediator he also sits as the neutral in other lawyers’ cases, which is a useful thing for a client to know about the person representing them. It means he has spent a great many days watching what actually moves a case toward settlement and what only makes people angrier, from the one seat in the room that has no side.

From 2006 through 2021 he was a featured guest on Ask Lawyer Bill, a weekly segment on the popular Drake and Zeke morning show. Fifteen years of answering listener questions on the air is where a lot of people around here first heard the name, and it is a decent part of why this book sounds the way it does.

He and his wife live in the Mid-South, where he serves as an elder at his church and on the Olive Branch, Mississippi Planning Commission.

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If you want to talk

Consultations are by appointment. Before you come in, fill out the blank forms at the back of this guide and bring them. You will get more out of the hour and it will cost you less.

Bring your questions on paper, because that room is disorienting and people go blank in it. Bring your documents. Bring your honest version of the facts, including the parts you would rather not say out loud, because I have heard them before and I cannot help you with a fact I do not know about.

And have two or three consults before you decide. I mean that.

APPENDIX: BLANK FORMS

Four blank forms come with this guide, bound in at the back. Print them, fill them in, and bring them with you.

Form 1. Document Gathering Checklist. The most valuable page in the packet. Check the box when you have a copy, note where you are keeping it, and keep it somewhere outside the house.

Form 2. Marital Balance Sheet. Everything you own and everything you owe, including what you believe is separate property. List all of it. Whether a thing is marital or separate is a legal question and your attorney answers it, not you.

Form 3. Income and Expense Worksheet. This is the information a Tennessee Rule 14 affidavit, or a Mississippi 8.05 statement, is going to ask you for. In Shelby County that affidavit is due ten days before any hearing on financial issues, which is not much time to assemble it from scratch. Use real numbers off real statements.

Form 4. Parenting Plan Worksheet. Who has actually been doing the parenting, the schedule you are asking for, decision-making, exchanges, and support.

What these are, and what they are not

Nothing in the packet calculates anything, and that is deliberate. The numbers matter. The arithmetic is your attorney's problem, and it gets run on the actual forms.

These are also **not court forms and they are not for filing**. They are organizing tools to get you moving. The documents an attorney's office prepares for court will look different, will be formatted to the requirements of your particular county, and will be the versions that matter. Do not file anything out of this packet.

If you want the real forms, they are public and the links are in the Resources section on the next page. The blank statewide Permanent Parenting Plan Order comes from the Administrative Office of the Courts. The Shelby County income and expense affidavit lives in the local rules for the 30th Judicial District.

How to use them

Fill them out before your first consultation with anybody, including me.

Every blank you fill in is a question nobody has to ask you at an hourly rate. Estimates are fine, and marking a number as a guess is fine. What is not fine is leaving a line empty because you were not sure, because a number somebody corrects beats a blank nobody noticed.

And keep the packet somewhere your spouse cannot reach once you have filled it in. Not the shared computer, not the family cloud account, not the email you both know the password to. See [Chapter 30](#).

RESOURCES

These are the official sources. Go to them directly rather than to whatever a search engine puts first, because a lot of what ranks well is out of date or is trying to sell you something.

Tennessee child support calculator and worksheet. The Department of Human Services publishes the official calculator. Run your own numbers before your consult.

<https://www.tn.gov/humanservices/for-families/child-support-services/child-support-guidelines/child-support-calculator-and-worksheet-1.html>

Tennessee parenting plan forms. The Administrative Office of the Courts publishes the blank statewide Permanent Parenting Plan Order. Yours will be filled in by lawyers, but reading the blank form shows you every decision that is coming. <https://tncourts.gov/programs/parenting-plan/forms>

Shelby County local rules, 30th Judicial District. The rules governing domestic relations practice here. Rule 14 is the divorce rule: the financial affidavit, the parent seminar deadline, and the trial memorandum. <https://www.shelbycountyttn.gov/2471/Local-Rules-of-Practice-pdf>

Shelby County court forms. <https://www.shelbycountyttn.gov/342/Forms-Documents>

The Jones Law Firm. 901-761-5353, bill@midsouthdivorce.com <https://midsouthdivorce.com>

A note on the first two. Court forms and state calculators change. If a link has moved by the time you read this, search the agency's own site rather than trusting a copy hosted somewhere else. Third party sites host old versions of official forms for years.

A LAST WORD

I said at the front of this that I was not going to lie to you anywhere in this book, so here is the closing honest part.

Nothing in these pages will make your divorce easy. That is not on offer. What it can do is put you in the room with some idea of what the room is for.

You are going to have days in the next year where you handle this badly. Everybody does. What matters is the pattern, not the worst afternoon.

Be the reasonable one. Keep your paperwork clean. Do not use your children as a weapon or a witness or a support system. Save your fights for the things that will still matter in five years, and there are fewer of those than it feels like right now.

And when it is over, let it be over.

A year from now the file is closed, somebody else's case is the one being called in that courtroom, and yours is a folder in a drawer. What your life actually looks like by then is not in the folder.

Come see me if you need me.

Bill Jones The Jones Law Firm 901-761-5353 midsouthdivorce.com

This guide is general legal information about Tennessee and Mississippi law. It is not legal advice, it does not create an attorney-client relationship, and it is not a substitute for consulting a lawyer about your own facts. The law described here was current as of the fall of 2026 and changes regularly. Judges apply the law with discretion, and outcomes vary. Talk to a licensed attorney before you act on anything you read here.

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This guide was written for this book. Where it states what the law is, it quotes or paraphrases published Tennessee and Mississippi statutes, court rules, and reported decisions, and it cites them so you can go read them yourself. Statutory language is quoted as the legislature wrote it, because that is the point of quoting a statute.

You are welcome to download this guide, print it, and give it to anyone who needs it, provided you pass it along complete and unaltered with this notice and the author's name intact. That permission does not extend to reproducing it in whole or in part in any other publication, to republishing it under another name or another firm's branding, to selling it, to stripping the attribution, or to using it as source text for a derivative work. Those uses require written permission, which is available by asking.

If you are another attorney and you would like to hand this to your own clients, call me. The answer is usually yes.



Blank Client Forms

Attachment to The Mid-South Divorce Guide

The Jones Law Firm | William W. "Bill" Jones IV

What these are, and what they are not.

These are blank working documents. Print them, fill them in by hand or on screen, and bring them to your consultation. Every blank you fill in here is a question nobody has to ask you at an hourly rate.

Nothing in this packet calculates anything. That is on purpose. The numbers matter more than the arithmetic, and your attorney will run the actual calculations on the actual forms.

These are not court forms and they are not for filing. They are organizing tools to get you started. The documents your attorney's office prepares for the court will look different, will be formatted to the requirements of your county, and will be the operative versions. Do not file anything from this packet.

Estimates are fine. Write your best guess and mark it as a guess. Do not leave a line blank because you are not sure; a number somebody corrects beats a blank nobody noticed.

This packet is confidential once you fill it in. Do not email it to your spouse, do not leave it on a shared computer, and do not store it in a cloud account your spouse can reach.

What's in here

- Form 1 Document Gathering Checklist
- Form 2 Marital Balance Sheet
- Form 3 Income and Expense Worksheet
- Form 4 Parenting Plan Worksheet

FORM 1 DOCUMENT GATHERING CHECKLIST

Check the box when you have a copy. Note where the copy is stored.

Get copies of what you have a lawful right to see. Do not guess a password to obtain any of it.

Income

Federal tax returns, last 3 years *all schedules, W-2s, 1099s*

State tax returns, last 3 years

Your pay stubs, last 3 months

Spouse's pay stubs, last 3 months

Bonus, commission, or RSU statements

Business tax returns and K-1s

Social Security, pension, or disability statements

Accounts and Investments

Checking account statements, last 12 months

Savings account statements, last 12 months

Credit card statements, last 12 months *read these line by line*

Brokerage and investment statements

401(k), 403(b), IRA, and pension statements

Stock option or equity grant documents

Crypto or digital asset records

Property and Debt

Deed to any real estate

Mortgage statements and payoff amounts

Most recent property tax assessments

Vehicle titles and loan statements

Appraisals for home, business, jewelry, art

Loan documents and promissory notes

Your credit report, all three bureaus

Insurance and Personal

Health insurance card and plan summary

Life insurance policies and beneficiary designations

Auto and homeowner's policies

Marriage certificate

Prenuptial or postnuptial agreement

Prior court orders involving you or the children

Children's birth certificates and Social Security cards

Documents tracing any inheritance or premarital property

Where are your copies stored?

Somewhere outside the marital home is the right answer.

Location:

FORM 2 MARITAL BALANCE SHEET

List everything, including what you believe is separate property.
M = marital, S = separate, ? = not sure. When in doubt mark ?. That call is your attorney's.

Real Estate

Address	Titled To	Value	Loan Balance	Equity	M / S / ?

Vehicles, Boats, Trailers

Year / Make / Model	Titled To	Value	Loan Balance	Equity	M / S / ?

Bank and Investment Accounts

Institution	Type	Last 4	Whose Name	Balance	M / S / ?

Retirement Accounts and Pensions

Note when the plan started. The portion earned before the marriage is generally separate.

Institution / Plan	Type	Whose Name	Plan Start	Balance	M / S / ?

Business Interests

Business Name	Entity Type	% Owned	Whose Name	Value

Other Property

Jewelry, art, collections, firearms, equipment, timeshares, memberships, inheritances received.

Description	Where It Is	Value	M / S / ?

Debts

Whose name is on the ACCOUNT matters more than who a decree says should pay it.

Creditor	Type	Whose Name	Balance	Monthly Pmt.	M / S / ?

Totals

Total assets \$ _____ Total debts \$ _____
Net marital estate \$ _____

Anything unusual in the last 24 months?

Large withdrawals, transfers to relatives, property sold below value, new accounts, gifts to a third party.

FORM 3 INCOME AND EXPENSE WORKSHEET

*This is the information a Tennessee Rule 14 affidavit or a Mississippi 8.05 statement will ask for.
Use real numbers from real statements. When it is eventually filed, it is sworn testimony.*

Monthly Income, gross, before taxes

Your gross wages / salary \$ _____	Spouse's gross \$ _____
Overtime, monthly average \$ _____	Spouse's \$ _____
Bonus / commission, monthly avg. \$ _____	Spouse's \$ _____
Self-employment income \$ _____	Spouse's \$ _____
Rental income \$ _____	Spouse's \$ _____
Pension / retirement / SS \$ _____	Spouse's \$ _____
Investment / interest income \$ _____	Spouse's \$ _____
Other \$ _____	Spouse's \$ _____
TOTAL GROSS MONTHLY \$ _____	Spouse's total \$ _____

Deductions from Your Pay

Federal withholding \$ _____	State / local tax \$ _____
Social Security & Medicare \$ _____	Health insurance premium \$ _____
Retirement contribution \$ _____	Other \$ _____
NET MONTHLY TAKE-HOME \$ _____	

Housing

Rent or mortgage \$ _____	Second mortgage / HELOC \$ _____
Property taxes, if separate \$ _____	Homeowner's / renter's ins. \$ _____
HOA dues \$ _____	Maintenance and repairs \$ _____
Electricity \$ _____	Gas / heating \$ _____
Water and sewer \$ _____	Trash \$ _____
Internet \$ _____	Phone, all lines \$ _____
Streaming / cable \$ _____	Lawn / pest / cleaning \$ _____

Transportation

Car payment(s) \$ _____	Auto insurance \$ _____
Fuel \$ _____	Maintenance and repairs \$ _____
Tags and registration, monthly \$ _____	Parking / transit \$ _____

Food and Household

Groceries \$ _____
Household supplies \$ _____
Clothing \$ _____

Meals out \$ _____
Personal care \$ _____
Pet expenses \$ _____

Medical

Health ins., if not payroll \$ _____
Prescriptions \$ _____

Dental / vision \$ _____
Out-of-pocket medical \$ _____

Children

Childcare / daycare \$ _____
School fees, supplies, lunch \$ _____
Children's clothing \$ _____
Tutoring / lessons \$ _____

School tuition \$ _____
Activities and sports \$ _____
Children's medical \$ _____
Other \$ _____

Debt Payments and Other

Credit cards, minimums \$ _____
Personal / other loans \$ _____
Support paid, prior order \$ _____
Savings, outside payroll \$ _____

Student loans \$ _____
Life insurance \$ _____
Charitable giving \$ _____
Other \$ _____

Totals

TOTAL MONTHLY EXPENSES \$ _____
SURPLUS OR SHORTFALL \$ _____

TOTAL NET INCOME \$ _____

A shortfall is normal and it is useful. It is the number that supports a request for support.

FORM 4 PARENTING PLAN WORKSHEET

A preparation worksheet, not the official form. Tennessee requires the statewide Permanent Parenting Plan Order from the Administrative Office of the Courts; this is to help you think it through first.

The Children

Full Name	Date of Birth	School / Grade	Lives With Now	Special Needs?

Who Has Been Doing What

Answer honestly. Courts weigh who has actually been parenting, not who says they will.

Who takes them to school and picks them up? _____

Who schedules and attends medical and dental appointments? _____

Who handles homework and school communication? _____

Who arranges childcare? _____

Who takes them to activities and practices? _____

Who stays home when a child is sick? _____

Residential Schedule

Ordinary week you are asking for:

Summer:

Fall break and spring break:

Winter break and Christmas:

Thanksgiving, Easter, other holidays:

Birthdays, Mother's Day, Father's Day:

Decision-Making Authority

Joint, or one parent. Mark each one.

Education _____

Non-emergency health care _____

Religious upbringing _____

Extracurricular activities _____

Exchanges and Communication

Exchange location and times:

Who transports which direction:

How the two of you will communicate about the children:

Phone or video contact during the other parent's time:

Support and Insurance

Who carries health insurance _____

Monthly premium for the children \$ _____

Work-related childcare, monthly \$ _____

Who claims the children on taxes _____

How uninsured medical expenses get divided and reimbursed:

Safety Concerns

Facts and dates, not conclusions. If you are in danger, call 911.