
Amy Edwards

FAMILY LAW

Family Matters

e-Newsletter

November
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FAMILY LAW

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**Designated as a Board Certified Specialist in Family Law
by the North Carolina State Bar Board of Legal Specialization**

Welcome to another issue of *Family Matters* e-Newsletter. This monthly divorce e-Newsletter is brought to you by Amy Edwards Family Law and Divorce Magazine. We hope you will find the information and articles useful. If you wish to be removed from our mailing list, please reply with the subject "Remove" or use the unsubscribe feature at the end of this e-mail. Visit us online at www.GreenvilleLaw.us and for past issues visit [our archives](#).

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Web Site of the Month

[Pitt Community College
Small Business Center](#)

This is a good link for anyone who is in a business environment. Many of the classes are free. Available classes include things such as how to use Quickbooks or market with social media.

Tip of the Month

Passenger Safety

Especially if you have children, take time to learn about NC laws on air bag safety, truck

And Then There's Graduation. . .



And Then There's Graduation

By Amy A. Edwards

This article focuses on the long-term considerations of your relationship with your ex when you have a child together.

Parents who are not together tend to get wrapped up in the day-to-day disputes they have with each other. They argue about transportation, bedtimes, whether the new boyfriend or girlfriend is there when you are exchanging the kids and whether Susie didn't have the shoes you just bought her when you picked her up from her mom's house. These things are very annoying but if you are not careful, they can cause you to miss seeing the forest for the trees. We all focus on the trees, the here and now. But step back every now and then to consider the big picture of the forest, the long-term circumstances you may be creating by litigating or arguing over whether visitation should start at 5:30 on a Friday night, or 6:00 on a Friday night.

When I was preparing for graduation from law school, I remember asking a friend of mine why she wasn't going to march in the graduation ceremony. After all, it does cap off 12 years of education through high school, another 4 years as an undergraduate and another 3 years in law school. She told me that at her last graduation, her divorced parents got into a fist-fight. Yes, I said a fist-fight. Seriously. One of her parents might have been right, and one might have been wrong. I'll guarantee you she didn't care which parent it was. They both acted like idiots ruining one of the happiest days of her life. So she decided to skip another event that should have also been one of the happiest days of her life. Consider not only your kids, but your relationship with the other co-parent. Try your best to make it (or keep it) cordial. It will save all of you many

Legal Term of the Month

Civil Contempt

A court has the ability to punish someone who fails to comply with an order of the court, when he or she has the ability to comply with order and willfully chooses not to obey it. Punishment can include incarceration.

Legal Trivia

Did You Know?

Coroner are specifically authorized to serve subpoenas in NC

NC Gen. Stat. 1A-1, Rule 45 of the NC Rules of Civil Procedure.

Suggestions For Future Newsletter Topics

Is there a topic you would like to see featured in a future newsletter?

Click Reply and send us an e-mail with your suggestion.

Family Matters Archive



Past issues of Family Matters are now available from [our archive](#)

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years of drama.

If you and the other co-parent ruin things for your child now, don't be surprised if your child avoids both of you when he or she can manage to get away. . . fleeing as soon as graduation ends. Sadly, I see plenty of custody cases that never truly end until the child reaches the age of 18. And then there's graduation. You are stuck with each other as co-parents. Don't forget you may be stuck with each other for a few decades after graduation if you are co-grandparents.

Amy A. Edwards is an attorney licensed in North Carolina.

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Your Nest Egg: Retirement Benefits and Divorce



Your Nest Egg: Retirement and Divorce

By Amy A. Edwards

What Does "Retirement" Include?

Retirement benefits are often the most valuable asset a couple owns.

Pensions are essentially promises to pay the employee when the time arrives, based on a formula calculated on the years of employment and other factors. A defined contribution plan, like an IRA or 401(k), is an actual account containing various investments. It has an exact value at

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any given time. Retirement is intended to be used for income upon retirement, and there are severe tax penalties if you use or withdraw funds if you have not reached a certain age, on top of the funds being considered income.

Who Decides The Amount Each of Us Gets?

When a couple separates, they may choose to enter into a contract called a separation agreement, which usually resolves all of the marital property issues. Yet another way to finalize the property is through mediation or some other type of alternative dispute resolution. You or your spouse may file a lawsuit for equitable distribution and ask the court to make the decisions about who keeps what.

The Nuts & Bolts

In North Carolina, retirement must be classified, meaning it will be considered marital, separate or mixed (part separate and part marital) property. Next, a value must be agreed upon or ruled upon by the court. CPAs or other financial professionals will give expert opinions when disputed, such as the exact value of a pension plan when the person has not yet retired. The court will also rule on the plan value for funds earned before the marriage, if any, and the value based on any funds contributed after the separation. Matters become more complicated if there are required minimum distributions (RMDs) based on age after the separation, withdrawals after separation (thereby reducing the overall value), roll-overs or multiple companies managing the plan if the company has changed or been merged with other companies over the years.

How Are the Benefits Actually Divided?

When a pension must be divided, there is typically a court order directing the plan administrator to send two checks each month when the benefits are paid, one to you and one to your former spouse. This order is called a QDRO (qualified domestic relations order), or sometimes just a DRO, depending on whether the account is subject to a federal law called ERISA. For military accounts, a MPDO (military pension division order) is the type of court order that accomplishes a division of benefits. Done properly by your attorney, the division of benefits does not create a taxable event. Some retirement benefits, IRAs for example, are divided by a roll-over transferring a portion of the account to the other person's account and the process is completed.

Another consideration to take into account is how death benefits are assigned, and who any beneficiaries will be. If there are any outstanding loans against the account, the court or the parties must determine how that debt will be treated.

Amy Edwards is an attorney licensed in North Carolina.

This article is current as of November 2014.

All About Adoption - The Procedure



All About Adoption in North Carolina. Part One of Two: The Procedure.

By Amy A. Edwards

What Is It Legally?

Adoption permanently creates the relationship of parent(s) and child for all legal purposes, including inheritance, public benefits and any other rights or obligations, such as child support in the event the adoptive parents separate. Adoption also severs any and all relationship between a biological parent and their child. It legally creates new parents, treated as the biological parents.

How Do You Begin an Adoption?

In private adoptions, the biological parent(s) choose someone they know to adopt their child. People may also work with an adoption agency.

Adoptions through the state happen when a child who has been placed in the custody of the state is adopted, sometimes when the [child is a foster child](#).

Terminating Parental Rights

Parents may consent to an adoption. Otherwise, they have a constitutional right to the care and custody of a child unless a court rules they are unfit or they have acted in a manner inconsistent with their rights as parents. A lawsuit of this kind is called a proceeding to terminate parental rights, and is filed by the state or by an individual. If the court terminates parental rights, the child is cleared for adoption.

What Happens in the Courthouse?

The adoptive parents must file a petition to adopt. If they are married,

both spouses must sign the petition, and if the child is 12 or older, he or she must consent to be adopted. Adoptive parents must have a pre-placement assessment of their home, including state-wide and national criminal record check. The state or a licensed agency meets with them in the prospective home. Social workers perform the assessment and interview the adoptive family, touching on these subjects:

- Employment and/or careers to support a child
- Religious and cultural background
- Marital status and circumstances of any potential siblings of the minor
- Health and ability to physically care for a child
- Preparedness to become parents
- Criminal backgrounds

Do We Have to Go Through a Trial?

The adoption proceeding is uncontested if no third party files motions or appears in court to object to it. Uncontested adoptions do not require an actual hearing at the Courthouse. In our state, the clerk of court is given the authority to enter adoption decrees in uncontested cases. However, if the adoption is contested, the adoption case must go to a District Court judge. In Pitt County, upon request, the office of the clerk of court will hold a special ceremony for the adoption, allowing the new extended family to be present when the decree is officially signed.

Who Can Access Adoption Records?

Adoption records are sealed. Upon the entry of an adoption decree, a new birth certificate replaces the original one, reflecting the names of the new parents, and perhaps a new name for the minor child or adult being adopted. Besides specific court personnel, only the parties to the adoption will have access to the records.

What About Contact With Biological Parents?

In North Carolina, any agreements between the biological parent(s) and adoptive parents for visitation are not legally enforceable. In other words, visitation, letters and pictures, for example, are left completely to the discretion of the adoptive parents.

In any adoption, the person/people seeking the adoption must file a petition to adopt. If they are married, both spouses must sign the petition. If the minor child is aged 12 or older, he or she must provide consent to be adopted. Adoptive parents must have a pre-placement assessment of their home, which requires the state or a licensed agency to visit the prospective home and family. Social workers for the state (or for a private licensed agency) perform the assessment and interview the person or people seeking to adopt, touching on these subjects:

- Employment and/or careers to support a child
- Religious and cultural background

- Marital status and circumstances of any potential siblings of the minor
- Health and ability to physically care for a child
- Preparedness to become parents
- Criminal backgrounds

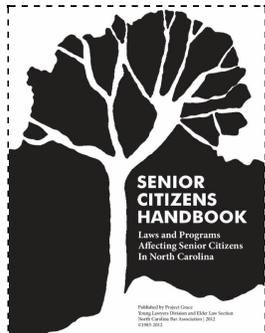
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See NC Gen. Stat. §48 *et seq.*

Amy A. Edwards is an attorney licensed in the state of NC.
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Senior Citizens Handbook: Free Download



Senior Citizens Handbook: Laws and Programs Affecting Senior Citizens in North Carolina 2012

Published by Project Grace, the NC Bar Association (Young Lawyers Division and Elder Law Section).

This is a fantastic free resource with over fifty pages including these topics:

Social Security, Retirement and Disability Benefits, Government Programs, Bank Accounts, Income Taxes, Health Care, Medicare and Medicare Advantage, Medicare Part D and Medigap Plans, Medicaid, Nursing Homes and Hospitals, Drugs, Advance Directives, Identity Theft, Age Discrimination, Housing, Abuse and Neglect, Powers of Attorney and Living Wills, Probate and Estate Administration, Trusts, Guardianship, Veterans Affairs and Where To Call For Help.

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Thank you for reading our newsletter.

Sincerely,

Amy A. Edwards

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