

Chart 5: Property Division

Chart 5: Property Division, appeared in the Winter 2013 *Family Law Quarterly* (Vol. 46, No. 4), published by the ABA Section of Family Law. The chart summarizes state statutes addressing the equitable distribution of property at divorce in the fifty states and the District of Columbia as of January 2013.

STATE	Community Property	Only Marital/Community Property Divided	Statutory List of Factors	Nonmonetary Contributions	Economic Misconduct	Contribution to Education
Alabama ALA. CODE § 30-2-51		X		X ¹		X ¹
Alaska ALASKA STAT. § 25.24.160	X ²	X	X		X	
Arizona ARIZ. REV. STAT. ANN. § 25-211 ARIZ. REV. STAT. ANN. § 25-318	X				X	
Arkansas ARK. CODE ANN. § 9-12-315		X	X	X		
California CAL. FAM. CODE § 2550 thru § 2551 CAL. FAM. CODE § 2602 thru § 2604 CAL. FAM. CODE § 2622 (b) CAL. FAM. CODE § 2627 CAL. FAM. CODE § 2641	X	X ³			X	X
Colorado COLO. REV. STAT. § 14-10-113		X	X	X		
Connecticut CONN. GEN. STAT. § 46B-81			X	X ⁴	X ⁴	X ⁴
Delaware DEL. CODE ANN. TIT. 13 § 1513		X	X	X		
District of Columbia D.C. CODE § 16-910		X	X	X		X
Florida FLA. STAT. § 61.075		X	X	X	X	X
Georgia GA. CODE ANN. § 19-6-5		X	X ⁵	X		
Hawaii HAW. REV. STAT. § 580-47			X	X ⁴	X	X ⁴
Idaho IDAHO CODE ANN. § 32-712	X	X	X		X ⁶	X
Illinois 750 ILL. COMP. STAT. 5/503		X	X	X	X	X
Indiana IND. CODE § 31-15-7-4 IND. CODE § 31-15-7-5			X	X	X	
Iowa IOWA CODE § 598.21			X	X		X
Kansas KAN. STAT. ANN. § 23-2802			X		X	
Kentucky KY. REV. STAT. ANN. § 403.190		X	X	X		
Louisiana LA. REV. STAT. ANN. § 9:2801 LA. CIV. CODE ANN. ART. 121 LA. CIV. CODE ANN. ART. 2354 LA. CIV. CODE ANN. ART. 2369.3	X	X			X	X

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Survey of Equitable Distribution Statutes Updated Through December 2013

A Review of the Year in Family Law

STATE	Community Property	Only Marital/Community Property Divided	Statutory List of Factors	Nonmonetary Contributions	Economic Misconduct	Contribution to Education
Maine ME. REV. STAT. ANN. TIT. 19-A § 953		X	X	X		
Maryland MD. CODE ANN. FAM. LAW § 8-205		X	X	X		
Massachusetts MASS. GEN. LAWS CH. 208 § 34			X	X	X	
Michigan MICH. COMP. LAW § 552.18 MICH. COMP. LAW § 552.23 MICH. COMP. LAW § 552.401						X ⁷
Minnesota MINN. STAT. § 518.58		X	X	X	X	
Mississippi MISS. CODE ANN. § 93-5-23				X ⁸	X ⁸	X ⁸
Missouri MO. REV. STAT. § 452.330		X	X	X	X	X ⁹
Montana MONT. CODE ANN. § 40-4-202			X	X	X	
Nebraska NEB. REV. STAT. § 42-365		X ¹⁰	X	X		X
Nevada NEV. REV. STAT. § 125.150	X	X ¹¹			X ¹²	
New Hampshire N.H. REV. STAT. § 458:16-A		X	X	X	X	X
New Jersey N.J. STAT. ANN. § 2A:34-23 N.J. STAT. ANN. § 2A:34-23.1		X	X	X	X	X
New Mexico N.M. STAT. ANN. § 40-3-8 N.M. STAT. ANN. § 40-3-9 N.M. STAT. ANN. § 40-3-9.1 N.M. STAT. ANN. § 40-3-12 N.M. STAT. ANN. § 40-4-3 N.M. STAT. ANN. § 40-4-7	X	X ¹³				
New York N.Y. DOM. REL. § 236B(5)		X	X	X	X	X ¹⁴
North Carolina N.C. GEN. STAT. ANN. § 50-20		X	X	X	X	X
North Dakota N.D. CENTURY CODE ANN. § 14-05-24		X ¹⁵	X ¹⁶			
Ohio OHIO ST. § 3105.171		X ¹⁷	X	X	X	
Oklahoma OKLA. STAT. TIT. 43 § 121		X		X	X ¹⁵	
Oregon OR. REV. STAT. § 107.105				X		
Pennsylvania 23 PA. CONS. STAT. ANN. 3501 23 PA. CONS. STAT. ANN. 3502		X	X	X	X	X
Rhode Island R.I. GEN. LAWS § 15-5-16.1		X	X	X	X	X
South Carolina S.C. CODE ANN. § 20-3-620 S.C. CODE ANN. § 20-3-630		X	X	X	X	X
South Dakota S.D. CODIFIED LAWS § 25-4-44 S.D. CODIFIED LAWS § 25-4-45.1 S.D. CODIFIED LAWS § 25-4-55				X	X	

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STATE	Community Property	Only Marital/Community Property Divided	Statutory List of Factors	Nonmonetary Contributions	Economic Misconduct	Contribution to Education
Tennessee TENN. CODE ANN. § 36-4-121		X	X	X	X	X
Texas TEX. FAM. CODE. ANN. § 7	X	X			X	
Utah UTAH CODE ANN. § 30-3-5		X ¹⁸		X ¹⁹		
Vermont 15 VT. STAT. ANN. § 751			X	X	X	X
Virginia VA. CODE. ANN. § 20-107.3		X	X	X	X	X ¹⁴
Washington WASH. REV. CODE ANN. § 26.09.080	X		X			
West Virginia W. VA. CODE § 48-7-103			X	X	X	X
Wisconsin WIS. STAT. § 767.61		X	X	X	X	X
Wyoming WYO. STAT. ANN. § 20-2-114			X			X ²⁰

1. Case law establishes that the court may look at any factors in the particular case when making an equitable division of property.
2. Parties may contract to make some or all of their marital property community property.
3. Community property must be divided equally unless the parties agree otherwise.
4. Not specifically listed in statutory factors, but the court is authorized to consider all factors that are relevant to each specific case.
5. The alimony statutory factors also function as factors in dividing marital property.
6. See Estate of Hull v. Williams, 885 P.2d 1153 (Idaho Ct. App. 1994).
7. See Postema v. Postema, 189 Mich. App. 89, 471 N.W.2d 912 (1991).
8. By case law. See Ferguson v. Ferguson, 639 So. 2d 921 (Miss. 1994).
9. “[N]ot expressly listed in the statutory factors but the statutory factors are expressly nonexclusive and courts may consider contributions to education.” Reese v. Reese (In re Reese), 155 S.W.3d 862, 872 (Mo. Ct. App. 2005).
10. Noted in cases, but not specifically noted in the statute.
11. The court may make an unequal disposition of the community property if the court finds a compelling reason to do so and sets forth the reasons in writing. Also, if a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his or her contribution.
12. Although economic misconduct is not specifically listed as a factor to consider in dividing property, in various cases financial misconduct was a justification for unequal disposition of property.
13. Marital debt is divided in the same manner as marital property, except gambling debt that is considered separate.
14. Assuming education from factor 7, it is worded as “to the career or career potential of the other party.”
15. Not established by statute, but by case law.
16. Not established by statute, but case law states Ruff-Fischer guidelines need to be considered in determining equitable distribution of property in a divorce action.
17. However, separate (nonmarital) property of a spouse may be awarded to the other spouse “to facilitate, effectuate or supplement a division of marital property” or “to achieve equity between the spouses, if the court determines that a division of the marital property in kind or in money would be impractical or burdensome.” OHIO ST. § 3105.171(E).
18. Case law mandates property distribution of marital property. See Boyer v. Boyer, 259 P.3d 1063 (Ut. Ct. App. 2011).
19. By case law. See Dunn v. Dunn, 802 P.2d 1314 (Ut. Ct. App. 1990).
20. Considered in case law. See Grosskopf v. Grosskopf, 677 P.2d 814 (Wyo. 1984).

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