

ALTERNATIVES FOR TROUBLED MARRIAGES

I. COUNSELING

- A. Marriage Counseling
 - 1. Duty to consider as first option
 - 2. Harder than divorce/separation
 - 3. May not be realistic at this point
 - 4. Cannot be done by a lawyer
- B. Divorce Mediation: Counselors help structure the separation

II. "INFORMAL SEPARATION"

- A. N.C. law does not require paperwork for living apart/divorce
- B. Difficulties arise if children, joint debts, real estate, or other joint property

III. SEPARATION AGREEMENT

- A. Advantages: friendly settlement; comprehensive; no court; usually cheaper than court fight
- B. Disadvantages: can't force other spouse to sign; both must be in agreement; violation is not "contempt of court"
- C. Child custody and support may always be modified by court

IV. COURT ORDERS

- A. Child Support
- B. Child Custody
- C. Alimony
- D. Domestic Violence
- E. Divorce from Bed and Board
- F. (Enforcement...& Modification)

V. ABSOLUTE DIVORCE: Only ground used is one year living apart

VI. PROPERTY DIVISION (by separation agreement or court order)

- A. Presumed 50-50 is equitable ("fair")
- B. Factors used to decide unequal division
- C. What is separate (nonmarital) property: gifts, inheritances, pre-marriage property, business/professional licenses
- D. Property that can be divided: Real property (land and buildings), motor vehicles, furniture, bank accounts, vested and unvested retirement benefits, cash value of life insurance, business interests, etc.