

RETIREMENT IN A NUTSHELL

You've worked hard your entire adult life and have diligently saved money for retirement. It's a good nest egg and a good start to a great retirement. Along comes a divorce. My retirement is safe from division because I worked and earned that money, right? That money's mine, right? Wrong! Regardless of what state you live in, your retirement is subject to division.

How does it get divided? Usually, if you accrued retirement before marriage, your ex won't be entitled to that amount. Your ex-spouse will only be entitled to a percentage (usually 50%) of the amount of retirement you earned during the marriage. Moreover, your ex-spouse will not be entitled any retirement money you save after the divorce. If you look at it as a timeline of your entire working career, your ex is only entitled to that amount you earned while married on that timeline.

How do I figure out what my ex will get? Your first step is to contact the plan administrator for your employer's retirement plans and explain that you are getting a divorce and need information about your retirement. You'll want to know how much money was in the plan on the date of marriage as well as how much is in the plan on the date of divorce. You will also need to ask what type of plan or plans you have with the company whether it is a defined benefit plan such as a pension or a defined contribution plan such as a 401(k).

It's always a good idea to ask your company's plan administrator if they have a packet of information they can send you that includes forms for the court order that will be required to split the retirement account. If you are dividing retirement in a divorce, you will need a separate order for the judge to sign in addition to your divorce decree that orders your employer to separate your retirement account into two accounts. Many employers have the forms that they prefer you use. This order is called a Qualified Domestic Relations Order (QDRO).

Once the court signs the QDRO and sends it to your employer, your employer will divide the retirement account into two separate accounts. Your ex-spouse's account will be his or her own account and treated separately. Your ex-spouse will not receive the money outright in cash as some plans won't allow it. Other plans such as 401(k)'s will let your ex-spouse take money out of the account, but only with a hefty penalty and taxes.

If all of this seems unpalatable, then you might consider trading out another asset, such as all of the equity in the marital home, in exchange for you keeping your retirement intact. This is especially true if your ex really needs cash today rather than waiting possibly years to earn any benefit from your retirement. All it takes is a little creativity and working with the understanding that everything is negotiable.