

My Spouse Had an Affair. What Rights Do I Have?

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A question divorce attorneys are frequently asked is, “how will my spouse’s affair impact my divorce?” There are a few things to consider when dealing with adultery in divorce proceedings.

Grounds for Divorce. As of October 2023, adultery is no longer grounds for divorce in Maryland. In fact, Maryland has abolished its fault-based grounds for divorce and now only recognizes three no-fault grounds: 6-month separation, irreconcilable differences, and mutual consent.

Alimony. A judge will evaluate several factors when considering whether or not to award a party alimony, including the duration and amount. One of the factors is the *circumstances leading to the divorce*. This is where adultery comes into play. If your spouse had an affair, and financial support is necessary to maintain a reasonable standard of living or to become self-supporting, proving adultery could be an important factor in your alimony case.

Property Division. Similar to alimony, property division is a factor-based inquiry where fault, including adultery, is considered. The court will analyze a multitude of factors when determining how to divide marital property, so it is important to address each factor that is relevant to your claim, including your spouse’s affair.

Custody. Contrary to what most believe, adultery does not weigh heavily on a court’s decision about custody of minor children. It is often the case that someone can be a poor spouse but a good parent. However, suppose the adulterer is making poor judgment decisions about the children due to their extramarital affair (for example, taking the children to bars or leaving them unattended to spend time with a paramour). In that case, a court may weigh this behavior when determining parental fitness.

It is hard enough to face the reality of dissolving a marriage, but finding out your spouse is having an affair will make an already difficult situation almost impossible. The emotional aspect of adultery is one of the biggest hurdles to a successful, amicable divorce. That is why it is important to have an experienced, skilled attorney who can objectively evaluate each fact related to your case to help you achieve a favorable outcome.