

New Jersey vs. California: A Divorce Law Comparison Through JLo and Ben's Separation

August 28, 2024

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Recent media coverage has been swirling with rumors surrounding Jennifer Lopez (JLo) and Ben Affleck's separation. On August 20, 2024, it was reported that JLo filed for divorce in California, where they both primarily reside, after just two years of marriage. While the separation was not unexpected, it came as a surprise that JLo and Ben did not have a prenuptial agreement prior to walking down the aisle in July 2022.

Without a prenuptial agreement, the earnings, profits, and assets acquired during the marriage are subject to division. In determining how marital property should be divided, courts will consider a variety of factors, which can differ depending on the state where the divorce is filed.

While their divorce is being filed in California, exploring how New Jersey would handle a similar situation offers an interesting perspective on the differences in divorce law across states. Unlike California, which is a community property state where marital assets are generally divided 50/50, New Jersey follows an "equitable distribution" model, meaning that marital property is divided in a manner deemed fair based on the circumstances — not necessarily equally.

Equitable Distribution in New Jersey

If this matter were pending in New Jersey, the allocation of marital assets between spouses would be governed by N.J.S.A. 2A:34-23.1, regardless of ownership. Unlike California, New Jersey is an equitable distribution state, meaning that marital property is not necessarily divided equally but, in a manner, deemed fair based on the circumstances.

In conducting an equitable distribution analysis, New Jersey courts follow a three-step process:

- **Identification:** The court first identifies the specific property and liabilities of each spouse that are subject to distribution.
- **Valuation:** The court then determines the value of this property.
- **Distribution:** Finally, the court analyzes and decides how to distribute the property fairly.

At Step 3, the court has broad discretion to determine the most equitable way to distribute marital assets, guided by the factors outlined in N.J.S.A. 2A:34-23.1. Among the 16 factors considered, the most important include:

- The length of the marriage.
- The economic circumstances of both parties.
- Each party's financial and non-financial contributions to the marriage.

- Additional factors such as the age and health of both parties, the standard of living established during the marriage, and the tax consequences of proposed distributions.

Considerations for High-Profile Divorces

For high-profile clients like JLo and Ben, a New Jersey court might consider a variety of assets when determining the distribution of their assets and liabilities. This list includes, but is not limited to:

- The earnings from films in which either party starred or was involved as a director/producer during the marriage. For Ben, this includes films such as *Air* and *Hypnotic*, *This Is Me... Now: A Love Story*, *Small Things Like These*, *Kiss The Future*, *The Greatest Love Story Never Told*, *The Instigators*, and *The Accountant 2*, while JLo's films include *Shotgun Wedding*, *The Mother*, *This Is Me... Now: A Love Story*, and *Atlas*^[1].
- The court would also take into account their Beverly Hills home,
- Promotional contracts, streaming dividends, and royalties earned during the marriage.

In certain circumstances, the appreciation of separate property may be considered a marital asset subject to equitable distribution. However, given the short duration of JLo and Ben's marriage, it is uncertain whether a New Jersey court would divide any increase in the value of their separate property or premarital assets. Typically, prenuptial agreements address this issue directly and provide protection against such outcomes.

How New Jersey Differs from Other States

It is important to note that each state's approach to divorce can differ significantly. For instance, New York, like New Jersey, is an equitable distribution state but has its own unique guidelines and considerations that could lead to different outcomes. These variations emphasize the importance of understanding the nuances of divorce law in your jurisdiction.

Protect Your Interests: Consult with a Family Law Attorney

High-profile cases like this often involve complex financial portfolios and unique challenges that require careful planning and attention. If you're concerned about protecting your assets or understanding how your property might be divided in a divorce, we strongly recommend consulting with a knowledgeable family law attorney licensed in your jurisdiction, as every case is unique and fact-specific.

If you would like to discuss your matter or have any questions, please contact us by email at emily.ingall@offitkurman.com and rhmoud@offitkurman.com or by phone at 929-476-0046 or 347-589-8528.

^[1] This list may not be all-encompassing and may not include unreleased projects.