

Date of separation in California divorce: Its importance and implications in your case.

So, what's the big deal with the date that my spouse and I separated?

Date of separation can be a huge factor in your divorce, especially when it comes to finances. From a property perspective, the actual date can mean the difference between an asset being considered community or separate. Separation date can also determine whether a marriage is considered long or short term.

Factors the court examines when arriving at an official date of separation

In California, a date of separation occurs when either spouse does not wish to continue the marriage and their actions align with final breakup behavior in the marital relationship. Separation doesn't occur in the event of a fight or argument, or even if one spouse temporarily moves out. The problems between the spouses must be severe enough to damage the marriage to the point that eliminating or repairing the issues isn't a possibility.

California family law courts typically look at each spouse's living situation and whether or not they are actually separated. More specifically, the court takes into consideration whether the spouses continue to physically live under the same roof, continue to portray themselves to the public (including family and friends) as married or separated, maintained joint finances and financial support of each other, tax filing statuses (joint, single, etc), frequency or lack of physical intimacy, and romantic relationships with outside individuals. In general, the courts want to ensure their private behavior is consistent with a couple who have had a final break in their relationship.

True facts & behaviors of the couple will guide the determination

When the date of separation is given to the court to decide, the facts drive everything. For example, if the couple continue to eat meals together at the family residence, keep a joint mailing address, attend social events or vacations together, and continue to behave like a married couple, nothing will sway the court in its decision when arriving at a date of separation.

More than one date of separation

We've experienced instances where a husband and wife state two different dates of separation. This usually happens when a couple separate from each other, reconcile for a period, and separate again. These types of cases are complicated because the decision has to be made whether there was only one true date of separation (usually the 2nd date), and whether there was more than one

instance of the two being separated from each other. These periods of true separation carry implications associated with [separate vs. community property](#). Assume that the couple “separated” for 2 months, but continued living together and carrying on with their normal daily routine aside from sleeping in different rooms. During this 2 month period, the husband bought himself a new car. They reconcile shortly after, and then a month later, have another separation leading to divorce. If it’s determined that there is only 1 date of separation (the 2nd date), the vehicle that the husband purchased would be considered community property. If it’s determined that there are actually 2 periods of separation, it could be argued that the husband’s new car is separate property and solely his.

The date of separation and long term vs. short term marriages

If the date of separation is a factor in [categorizing your marriage as long or short term](#), it’s strongly advised to contact a family law attorney as soon as possible. If [spousal support](#) is going to be a factor in your divorce, the difference between a long and short term marriage could be many thousands of dollars in spousal support. With long term marriages in California (10 years or more), spousal support may continue indefinitely until death or [the supported party remarries](#). With a short term marriage, usually less than 10 years, typical spousal support is ordered for half of the duration of the marriage. So, if you were married for 8 years, the typical order for spousal support is 4 years. You can see the difference. When the date of separation in your divorce case comes down to the difference between a long-term or short-term marriage in California, which may include determination of assets as community or separate, you must remain vigilant to ensure you gather all the facts. In these scenarios, an experienced family law attorney will be an essential resource to have on your side. Feel free to [contact our offices for a free consultation](#).