

Law Offices of Thomas G. Harrison FAQs

Do I need a lawyer for my divorce or custody case?

The answer depends. Generally, if you have no children or assets to which you and your spouse are arguing about, you can probably file your case as a pro se litigant. Simple fill in the blank forms are available at the Circuit Court in your county that permit you to represent yourself when there is agreement and/or no real dispute between you and your spouse. These forms are available at the MD Judiciary Website (see the link on our home page).

If you are seeking only child support and, you already have custody, or the other parent is not contesting custody, you can obtain assistance from the Office of Child Support Enforcement in your county. The services are provided free by the Office of the State's Attorney and, other than the initial application fee, they will assist with the establishment and collection of your child support. They will not, however, assist with the Establishment and/or modification of custody.

On the other hand, if you own a home, have children and no ability to reach resolution by agreement, or are in need of child support, a custody determinations, spousal support, etc., you should probably hire an attorney. At a minimum, it is a prudent to at least meet with an attorney to discuss your situation, and learn your rights and options.

Retaining a divorce attorney is a very personal decision. Be sure to find an attorney who has experience and is well versed in the area of domestic relations. It is not for the faint of heart, as attorneys who regularly practice in the areas of divorce and custody know, it is an area of concentration that requires experience, judgment and knowledge. Do not trust your legal needs to someone who "dabbles in domestic." You want an attorney with experience and judgment you can trust.

How is custody decided?

Custody decisions are based upon what is known as the "best interests of the child." Some of the factors considered in the evaluation by the courts include such things as:

- 1) the fitness of the parents;
- 2) the character and reputation of the parties;
- 3) the desire of the natural parents and the content of any agreement between them;
- 4) the potentiality of maintaining natural family relations;
- 5) The preference of the child, at least when the child is of sufficient age and capacity to form a rational judgment;
- 6) Any material opportunities affecting the future life of the child;
- 7) the age, health and sex of the child;
- 8) the suitability of the residences of the parents, and whether the non-custodial parent will have adequate opportunities for visitation;
- 9) How long the child has been separated from a natural parent who is seeking custody, if applicable;
- 10) The effect of any prior abandonment or surrender of custody of the child.

Mo. Co vs. Sanders

How is child support determined?

Child support is determined by the MD Child Support Guidelines. In essence, each parent's gross monthly income is factored into the calculation and depending upon the number of children, is adjusted

accordingly. Day care expenses, health insurance and medical needs and other expenses such as private school also factor into the calculation of the child support.

What is the difference between joint legal and sole legal custody?

Joint legal custody means that both parents participate in the important decisions involving their child or children and will make those decisions together. Such things as religious training, private vs. public schooling, health care related decisions, other than minor bumps and bruises, that require medical treatment. Joint legal is appropriate when two parents can effectively communicate and cooperate, despite the fact that they may no longer be together, or even like one another.

Sole legal custody means that the primary custodial parent will be responsible for the major decisions. This occurs in high conflict cases or in those cases where the non-custodial parent has no role and little interest in the minor children. Day to day decisions are still made by the non-custodial parent when the child is in their care.

Chapter 7 Bankruptcy

I heard it is more difficult to file for bankruptcy. What do I need to know in before I file?

Under the Federal Bankruptcy Reform Act of 2005 the bankruptcy laws were changed to add three (3) new requirements. The first is what is known as the "means test." This requires each person who intends to file a Chapter 7 case be pre-qualified by their attorney to determine if they are under the "means test" income figures before they can file a Chapter 7 case. If you earn more than the means tested amount, you may be required to file a Chapter 13 case.

The second requirement is that every filer must also complete and receive a certificate of consumer credit counseling from one of the providers approved by the office of the U.S. Trustee's office. This must be done within the 180 day prior to the filing and is generally completed on line via the Internet or by telephone.

The third requirement is that every filer must complete and obtain a certificate of completion of a course in financial management. Again this is usually completed on line via the Internet or by telephone interview, however is done after you have filed your bankruptcy case. Our office will provide you with a list of the credit and financial management providers and answer any questions you may have regarding the new requirements.

What do I need to bring to my attorney for a consultation?

You will need your last two years income tax returns and no less than 60 days of pay stubs. If married and filing a joint petition, you would need pay stubs for both spouses.

What are the means test income amounts?

They are based upon your household size and are adjusted periodically to account for inflation and various factors such as what part of the country you live in, costs of living, etc. These will be discussed and provided to you during your initial consultation.

What is a Chapter 13 bankruptcy?

Under a Chapter 13 bankruptcy you and your attorney will submit a repayment plan to the bankruptcy court. In CH 13, you pay some of your debts over a period of time, generally five years, and the remaining balance that is not paid at the conclusion of your repayment plan is discharged.

Auto Accidents

What should I do if I am injured in an auto accident?

If you are in an auto accident be sure to obtain the insurance information from the at fault driver. Do not discuss your case with the at fault driver's insurance company. Notify your own insurance carrier of the accident and request claim forms for your own personal injury protection coverage (PIP) or medical payments (Med Pay) coverage of your auto policy.

What is PIP and Med Pay?

Personal Injury Protection and Med Pay are coverage that you should carry as part of your own auto insurance. These benefits are used to pay your out of pocket expenses, most wages and other related costs such as prescriptions and other necessary medical expenses.

Will my premiums increase if I use my own PIP or Med Pay?

No. PIP and/or Med Pay benefits are included and paid for as part of your auto insurance and are "no fault" benefits to which you are entitled, should the need arise. Most people have PIP and/or Med Pay of \$2,500.00. You can obtain higher coverage limits if you elect to pay additional premiums.

What if the at fault driver has no insurance or insufficient coverage to compensate me for my injuries?

Every insurance policy in Maryland provides what is known as "uninsured" or "under insured" motorist coverage. If someone causes injuries to you where there is no insurance and/or inadequate coverage, you are allowed to submit a claim to your own insurance carrier for compensation up to the limits of your own uninsured/under insured coverage. It is a good idea to have significant coverage for yourself as the minimum coverage limits required under Maryland Law may not be sufficient for a serious accident to compensate you for injuries for the uninsured/under insured at fault driver.

What do I need to bring to discuss my case with my attorney?

Bring your own insurance policy and insurance card, health insurance card, and any medical bills you have incurred as a result of the accident.

Do I have to pay for my attorney?

No. Auto accident cases are generally handled on a contingency. Meaning, you do not pay unless you recover from the at fault driver.

What are the fees for auto accident cases?

Most attorneys will charge 33% of any recovery if your case is settled out of court, 40% once a law suit is filed and 45% of any recovery should an appeal be filed from a judgment in your favor and the appeal is successful.

Criminal Cases

Do I need a lawyer for my criminal case?

Yes. For most criminal cases, even if you are guilty of the charges, it is a good idea to hire an attorney. An attorney can answer all of your questions, make sure the charges are proper, and look for deficiencies and possible technicalities that will benefit the outcome of your criminal case. Additionally, an attorney can assist with presentation of mitigating factors for the court to consider in efforts to obtain a more favorable outcome.

I have been stopped to DUI/DWI. Should I take the breath test?

It is generally a good idea to take the breath test, as the refusal to do so will result in administrative penalties with the MVA for refusal to take the test.

What should I do if I am charged with DUI/DWI?

Consult with an attorney and consider enrollment in an alcohol education program. Even if you are not a problem drinker or alcoholic, the courts view this as a positive step in acknowledging the mistake you may have made in drinking and driving.

If I am stopped for a traffic violation and the officer asks for my permission to search my car, should I agree?

No. The reality is even if you say no, the officer will probably search your vehicle. Once you consent, you effectively waive all of your search and seizure rights. At least if you refuse, you and your attorney will have an opportunity to address the illegal search and seizure when you get to court, and can potentially have any illegally seized evidence suppressed..

For other questions or concerns, please schedule an appointment to discuss your situation in more detail.