**Same-Sex Divorce**

Since the law [legally went into effect in 2014](https://www.nbcchicago.com/blogs/ward-room/Illinois-Gay-Marriage-Vote-230660881.html), same-sex marriage has been recognized in the State of Illinois. But just like all couples, those in a same-sex marriage may find that over the years, issues arise that create a divide between them, leading to divorce.

While a party in a same-sex marriage who is seeking to dissolve the union will need to follow all of the same steps as an individual in an opposite-sex marriage would, same-sex couples may encounter unique issues in divorce.

**Child Custody**

Perhaps the most complicated issue in a same-sex divorce is that of child custody for couples who have children together. The issue can be even more complicated when one parent is the biological father/mother of the child, and the other has not yet legally adopted the child, raising questions about what the rights of the other parent are. Unfortunately, the Illinois Supreme Court’s decision in [In re: Parentage of Scarlett Z](http://www.illinoiscourts.gov/Opinions/SupremeCourt/2015/117904.pdf) set a precedent for the denial of parental rights to people who have not adopted their partners’ children.

**Property Division**

Another issue in a same-sex marriage is the issue of property division, specifically as it pertains to the issue of separate versus marital property and the fact that in Illinois, [only marital property (property acquired during the course of the marriage) is subject to equitable division](http://www.ilga.gov/legislation/ilcs/documents/075000050k503.htm). This issue is complicated by the fact that because same-sex marriage has only been legal for a handful of years, many married same-sex couples may have lived together--and acquired property together--for years, or even decades, before they were legally permitted to marry, but under the law, this property would be considered *separate*. It is very important to understand how cohabitating will affect your right to equitable division of property when compared with actually being in a civil union or marriage.

**Navigating a Same-Sex Divorce**

In addition to the issues above that are specific to same-sex couples, any couple who is going through a divorce will have a number of emotional and legal hurdles to overcome, including determining whether alimony/spousal maintenance will be paid by one person, whether or not a couple wants to continue co-parenting, who will keep the family house, and more. When couples are separating, it is highly encouraged that these decisions be made **by the couple** out of court through mediation or negotiation. Our experienced same-sex divorce lawyers in Illinois can guide you through working with your spouse to reach a divorce settlement that works.

In the event that compromise cannot be reached, we are also able to provide you with sound legal representation as you navigate the court system and bring your case before a judge.

**Contact Us Today**

Going through a divorce is difficult, and if you are in a same-sex marriage, you may face a myriad of additional questions and legal issues. To learn more about your rights and how to protect them when divorcing, contact our [knowledgeable Illinois family law and divorce lawyer](http://faylawfirm.com/contact-us/)s at Fay, Farrow & Associates, P.C. for a consultation.