



# TORII LEGAL ASSISTANCE

OFFICE OF THE STAFF JUDGE ADVOCATE



## TO THE LEFT—FAMILY LAW

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“To the left, to the left, everything you own in the box to the left” sings Beyoncé Giselle Knowles in “Irreplaceable.” For those of you who don’t know or remember the lyrics of this song, it is about a break up in a relationship. When the significant other (presumably the husband) arrives home he finds everything he owns in a box (to the left).

Leave it to a lawyer to look for the legal issues in a song, but this song inspired this article. It is no secret that marriages sometimes end badly. When this happens, the inclination may be to put everything in a box and say, “in the closet, that’s my stuff,” but it rarely works that way. Beyonce sings: “if I bought it, then please don’t touch,” This may sound reasonable, but that is not the law, at least not in most states. In most states, a gift is irrevocable. But Beyonce isn’t just singing about gifts. She is declaring that everything she bought is hers. This may be true if there was a prenuptial agreement, but even then, it would not be that simple.

Each state has different divorce laws. We have all heard of community property, but even in marital property states, just because you bought something, doesn’t make it yours (unless you bought it before your marriage). When considering divorce, it is important to know what the laws are in your state. Most states have “no fault” provisions. In the Beyonce song, there was some fault: “Oops, I bet you thought, that I didn't know, What did you think, I was puttin' you out for?” This fault is the reason the relationship failed and may be “grounds for divorce” in some states, but in those states, the misconduct must be proven, so most parties end up with a “no fault” divorce based on irreconcilable differences or irretrievable breakdown of the marriage. But, even in some no-fault jurisdictions, marital misconduct could be considered when dividing up property. In other states adultery is a bar to receiving alimony.

If you are planning to divorce, it is important to be reasonable when dividing property (including military pensions). The fastest way to stack up attorney fees is to argue over the pots and pans. I have had clients that were willing to give away the farm, but I have also had clients who wanted the whole farm. Everyone experiences divorce differently, but when it comes to dividing up property, just think about what is fair, and you will be on your way to an amicable divorce. So, don’t put everything in a box, don’t take away the keys, and don’t call a taxi. Just try your best in this upsetting time to fairly divide your assets.