

# Q

## Is the conduct of my spouse relevant in a divorce proceeding?

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The Jaskot Team

In today's day and age, the conduct of divorcing spouses is generally not relevant to the outcome of divorce proceedings.

Divorces are now treated as "no fault" proceedings, where moral or ethical judgments have no place where a spouse only requests a divorce. Whereas in decades past, a divorce would only be granted if a

party could prove adultery or some form of emotional or physical cruelty, today most divorces are granted on the basis of separation for a period of one year or more. Even if a party could prove adultery, it will usually take up to a year from the date of separation to get before a trial judge to provide such proof, making the point moot.

When it comes to addressing custody and access issues, the Court may take into consideration the past (and present) conduct of a person, but only if it is relevant to the ability of that person to act as a parent. For example, conduct such as chronic drug use will be relevant if the conduct directly



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and negatively affects the children. The Court will take this into consideration when fashioning a parenting schedule to ensure that the children are protected. Only in very rare and egregious circumstances will the Court make an Order for no contact between the parent and the children.

As far as financial issues are concerned, the conduct of a spouse is rarely a consideration, except in circumstances where their conduct can be directly connected to deliberate misuse of family money leading up to the separation, or where a spouse is intentionally underemployed or unemployed and is not meeting their obligation to support themselves and their children.

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