



The FindLaw Guide to Getting a Divorce

STARTING THE DIVORCE PROCESS

The FindLaw Guide to Getting a Divorce: Starting The Divorce Process

Deciding to get a divorce is a major decision that can affect your personal and financial well-being. If you are considering divorce, here is some information that can get you started.

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Introduction

Once you considered all the relevant factors and decided to file for divorce from your spouse, you will need to learn how it works, the different types of divorce available to you, and how to file for divorce. While divorce is an adversarial action by definition, generally pitting spouse against spouse, knowing the different options available to you can make the process easier. This is where FindLaw and its directory of attorneys can help you out.

Summary Divorce

A summary divorce is probably the easiest type of divorce for couples living in states that recognize this streamlined process. A summary divorce is usually advantageous because it is the fastest and cheapest way to end a marriage. In fact, some states

may not even require a court appearance, instead merely requiring that certain documents be filed with the court.

To be eligible for a summary divorce, couples typically need to be married for a relatively short time, have no children, and not have a significant amount of property interests. In addition, both spouses usually have to agree to give up any right to spousal support, and otherwise not have any major disagreements regarding the dissolution of the marriage.

Uncontested Divorce

If a summary divorce is not available, couples may use an uncontested divorce if they have no remaining disagreements regarding the basic divorce issues such as child-custody, property division, and spousal or child support.

Similar to a summary divorce, uncontested divorces usually have streamlined paperwork process in which property and child custody information is filed, along with a statement of the grounds for divorce and what the couple agreed to. If the other spouse agrees to the uncontested divorce, or fails to make an appearance, it can be granted by the court.

No Fault and Fault Divorce

For more complicated divorces, all states recognize no fault divorce and many states recognize fault-based divorce.

A no fault divorce refers to a type of divorce in which the spouse that is filing for divorce does not have to prove any fault on the part of the other spouse. All a spouse has to do is give any reason that a particular state honors for the divorce such as “irreconcilable differences.” Different states have different requirements for filing a no-fault divorce such as residency requirements and requiring that the couple live separately for a set period of time before divorcing.

Fault divorces are not as common and many states no longer recognize them. Typically, the spouses who requests the





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divorce asks it be granted based on some fault of the other spouse such as adultery, abandonment, or domestic battery. Benefits of a fault-based divorce are that spouses may divorce immediately and do not have to wait a specific period of time before filing.

Where to File for Divorce

State courts have power over divorce proceedings, so the spouse seeking a divorce files an initial document called a divorce “petition” or “complaint” with the appropriate court. In some states, the superior or circuit court will have a specific family court division where the divorce petition is filed and the case is heard. In other states, no specific family court division is designated, so the divorce petition is filed in the main civil division of the superior or circuit court.

Most states have a residency requirement for people who wish to file for divorce in the state’s court system.

Filing and Serving the Divorce Petition

The divorce petition is the legal document that is filed with the court. The petition informs the court of the filing spouse’s desire to end the marriage, and its filing with the court signifies the initiation of the divorce process. After filing, the divorce petition must be served on the petitioner’s spouse to notify him or her that the divorce process has begun.

The specific requirements and formats for a divorce petition vary from state to state, but petitions generally include type of divorce sought, information regarding the marriage, number of children, grounds for divorce, declaration or request as to how the petitioner would like to settle finances, property division, child custody, and other issues related to divorce.

STOP

Should I Talk to an Attorney?

If you are considering a divorce and need advice on the type of divorce to seek or the process to file for divorce, it is a good idea to contact a family law attorney. Divorce can be very complicated and as it deals with personal matters like your finances and children, having a good attorney on your side can be critical.

You can locate a family lawyer now by visiting www.findlaw.com and choosing among several quality-assured lawyers in your area.

For More Information

Regarding divorce and other family related issues, please visit our website at <http://family.findlaw.com/divorce>

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