



10. *Divorce*

Disclaimer

This section gives basic information about divorce. You should only file for a divorce on your own in certain situations. You should consult with an attorney before deciding to proceed on your own. If you have any of the common property shared with your spouse such as real estate, pensions, investments, and common debts and obligations, you may need to retain an attorney to protect your rights.

What is Divorce?

Pennsylvania Law defines divorce as the legal dissolution of marriage.

Divorce cases are often very emotional. You should try to keep this in mind when making decisions about your divorce. You may want the court to assess blame on the other spouse. However, courts are more concerned with outcomes. Filing a no-fault divorce rather than a fault divorce will often be an easier way to proceed and in your best interest to resolve your case.

Do I need an Attorney?

Divorce matters can be complicated. You should consult with an attorney if you wish to file or if you receive divorce papers filed against you. Generally, most legal aid offices do not handle divorce actions. There are some offices that assist with filing of Pro Se divorce cases in certain situations. If you reside in Northeastern or North Central Pennsylvania, please call North Penn Legal Services at 1-877-953-4250 to see what services may be available in your county.

If you and your spouse have been separated for a long time, you may be able to file the divorce papers on your own using self-help forms. You can call your local county to see what forms may be available to you.

What county should I file in?

If you want to file a divorce, you should file in the county where one or both spouses have lived for at least the past six months.

If you want to file in another county, you should consult with an attorney whether or not the county you propose is appropriate.

What are the different grounds for divorce in Pennsylvania?

In Pennsylvania, there are both fault-based divorce grounds and no-fault ones. The fault grounds include desertion, cruel and barbarous treatment, and adultery, among others. In most cases, you will need an attorney if you want to pursue a fault-based divorce because it will require a hearing and evidence.

The no-fault grounds for divorce include a one-or-more year separation of the parties, the institutionalization of one spouse, or the case where both parties agree to be divorced. These can often be undertaken with advice or assistance, so contact NPLS at 1-877-953-4250, or your local Lawyer Referral Service or Bar Association to seek help and direction.

Counseling

When the grounds for divorce are indignities (a form of fault-based divorce), the agreement of both parties, or a one-or-more year separation, the court can require up to 3 counseling sessions if either party requests it. However, if you have a PFA against your spouse, you cannot be required to attend counseling sessions so long as you object.

Can I ask for other relief in the Complaint beside the entry of a divorce?

In a divorce, you may request the following additional relief:

- 1) An Order establishing custody, partial custody or visitation rights of a child.
- 2) An Order establishing alimony. Alimony is a support payment from one spouse to a dependent spouse to assist them after the entry of the divorce.
- 3) An order for alimony pendente lite. Alimony Pendente lite is support payments paid from one spouse to the other while the divorce is pending.
- 4) An order for equitable distribution of marital property. Marital property is property acquired while the parties were married and living together. Spouses may also have claims to the increase in value of property even if the asset was acquired before the marriage.
- 5) An order for counsel fees and expenses. In some cases, the court can order reasonable counsel fees and expenses to be paid by one spouse to the dependent spouse.

It is important to know that as of January 1, 2019, alimony is no longer deductible to the payor or taxable to the payee. This new law ONLY applies to agreements or orders entered on or after January 1, 2019.

Other Interim Relief

- 1) **Spousal support**—similar to alimony pendent lite in that it provides support to a dependent spouse while the divorce is pending. However, spousal support claims can be requested in a divorce complaint but are filed through your county's domestic relations/support office. The duty to pay spousal support arises out of the marital relationship. A court can order alimony pendent lite and spousal support at the same time.
- 2) **Child support**— if not already filed, clients should also consider filing for a claim for child support. Like spousal support, you file for child support through your county's domestic relations/support office. The issue of child support is addressed in more detail in this handbook.

REMEMBER: This handbook is NOT intended for a guide for parties who have property subject to equitable distribution claims. These issues are very complicated and cannot be explained in a self-help handbook. You should consult with an attorney to protect your rights and any claims you may have to property. The handbook does not address divorce procedure, which varies from county to county. Check the insert for more county-specific information.

Can I retake my maiden name after my divorce is final?

At any time after the entry of a divorce decree, any person who is either a plaintiff or defendant in a divorce action may, at any time after the entry of a divorce decree, resume their prior last name by filing out a form giving notice that you wish to retake your maiden name.

You should be able to obtain the form at your local Prothonotary or Civil Clerk of Court located at your County's Courthouse. In most counties, there will be a minimal charge for filing this form.