

1. What do I do to start my divorce?

Divorce is hard to understand. You need a lawyer's help to get a divorce if you have children under 18, you own real estate, have retirement, 401K plans, or own other valuable property. In other cases, you may be able to get a divorce without a lawyer -- if you learn about how your county's courts work and if you get the right forms. (Many Internet forms and mail-order forms will not work in Tennessee.) Your lawyer will need to know the following about you and your spouse:

- Full name, including wife's maiden name;
- Address;
- Social Security number;
- Date & place of birth;
- Date & place of separation;
- Number of times married;
- Race;
- Name, birth date, and Social Security number of each child of the marriage;
- Where and with whom the children lived for the last five years.

LAET has programs to teach people how to get a simple divorce without a lawyer. If you think you have a "simple divorce" and want to find out about these programs, call an LAET office near you. They are listed on the back of this brochure.

In January 2001, a new Tennessee law went into effect for parents who are getting divorced. It is called the parenting plan. If there were any children born during the marriage, or adopted during the marriage, the parties must file a temporary parenting plan along with the divorce complaint. Parents will also have to take parenting classes. If the parties are unable to come to an agreement about the care and custody of their minor children, the court will order the parties into mediation. The court will

also order mediation for other contested issues such as the division of marital property.

2. What reasons can I use to get a divorce?

The reason you use for getting a divorce is called "grounds" for divorce. You will need to be prepared to tell your lawyer why you want the divorce. If you and your spouse just do not get along and you can agree on every issue in the divorce, then you can get an irreconcilable differences (ID) divorce; this is also called a "no fault" divorce. Neither of you will blame the other for anything. You must both sign an agreement that provides for custody of your children, child support, visitation, your debts, and your property (cars, furniture, house, etc.) before you can receive an "ID" divorce.

Many people file for a divorce on the grounds that their spouse is guilty of "inappropriate marital conduct." This can be any type of behavior by one spouse that hurts the other spouse either physically or mentally. There are various types of physical and mental abuse. If you have been abused, you should tell your lawyer. Try to remember the dates the abuse occurred and names of people that might have witnessed the abuse. You may need a restraining order or an Order of Protection to keep your spouse away from you. Other reasons for getting a divorce are: adultery, abandonment, non-support, alcoholism, drug abuse, or criminal activity by your spouse.

3. How much does a divorce cost?

You should ask your lawyer how much he/she charges for representation. The price may vary. If LAET represents you in your divorce, there will be no charge for the lawyer's work. To become a divorce client at LAET, you must 1) be financially eligible under the

federal income guidelines and 2) have the type of divorce case that will be accepted for representation.

There will be court costs in every divorce. If you are a poor person, you do not have to pay to file your divorce. You have the right to sign a Pauper's Oath and swear that you are poor. When the divorce is final the judge will decide who pays the costs.

4. Where is the divorce filed?

You can file the divorce in Tennessee in the county where you separated from your spouse or, in the county where your spouse lives. If you and your spouse separated in another state but you have lived in Tennessee for six months you can file for divorce in the county where you live. If your spouse has left Tennessee or is in prison, you can file in the county where you live.

5. What happens after the divorce is filed?

A sheriff or private process server must find your spouse and serve him/her a copy of the divorce papers. This is called "service of process." You will need to give your lawyer as much information as you can about how to find your spouse (address of home and work). If you do not know where your spouse is, your lawyer will discuss other possibilities for completing service of process.

Once your spouse has the divorce papers, he/she has 30 days to file an "Answer." This is a legal document that must be filed with the court. In the Answer, your spouse will admit or deny the claims you made in the divorce. Your spouse may file divorce papers against you when he/she files an Answer. This is called a "counterclaim." If your divorce becomes contested, your lawyer

may first try to reach an agreement with your spouse's lawyer and settle the divorce. If you cannot agree, you will have to attend mediation. Mediation is a meeting of both the wife and the husband, their attorneys, and a neutral person who is the mediator. The mediator's job is to talk to both wife and husband and see what, if any, issues can be agreed upon. If all issues are resolved you will not have to go to court for the judge to make the decisions. If you cannot agree on issues at mediation, you will have a hearing in court for the judge to decide the issues (custody, child support, visitation, alimony, who pays bills and who gets property).

If your spouse does not file an Answer or Counterclaim within 30 days of being served, your lawyer can ask the judge for a "default judgment." This means that the judge will give you the divorce and other things you have requested as you have requested as long as your requests are reasonable.

6. How long will it take to get my divorce?

The law requires in a divorce without children there be a 60 day waiting period from the time the divorce complaint is filed until the divorce hearing. If there are children of the marriage there has to be a 90 day waiting period from the time the complaint is filed until the hearing.

If you cannot find your spouse, you must publish notice of the divorce in a newspaper or post notice in public places for four weeks and then wait an additional 30 days before getting the divorce. Your lawyer will do this for you, but there will be a fee for the publication.

If your spouse fights the divorce and you cannot reach an agreement, you may have a trial. It may take several months (up to a year or more) to get your divorce.

7. Do I need witnesses to get a divorce?

If your divorce is contested and you have a trial, you will need witnesses to help tell the judge your side of the story.

If your divorce is an “ID” divorce and you and your spouse have signed an agreement, you will not need witnesses.

If you filed a “fault divorce” and your spouse did not respond, you will probably need two witnesses. One witness should be able to back-up your story about why you want the divorce. This witness can be a relative, friend or neighbor. They should know specific details about your situation. The other witness is a character witness. This witness should not be related to you. He/she should know you well enough that they can tell the judge that you are a truthful person and that you would tell the truth under oath.

8. Do I have to wait until the divorce is final to get custody, support or other help?

No, you do not have to wait. Your lawyer can ask the judge to give you temporary custody of your children and temporary child support until there is a final decision. If your spouse has abused you, you should talk to your lawyer about getting an order of protection. This will keep your spouse from coming around or bothering you. You can also get an order to keep your spouse from selling or hiding your property (car, furniture, etc.) until there is a final decision.

9. How long do I have to wait before I can remarry?

There is a 30-day appeal period after the final hearing during which you should not remarry.

Remember, these are only a few general questions and answers. Each divorce case is different, with important issues to be considered.



OFFICE HOURS AND LOCATIONS

Legal Aid of East Tennessee offices are open from 8:30 A.M. to 5:00 P.M. Monday through Friday.

Executive Director - David Yoder
(865)637-0484

Associate Director - Eric Miller

311 W. Walnut Street Johnson City, TN 37604 (423)928-8311 1(800)821-1312 Fax (423)928-9488	1001 W 2nd N. Street Morristown, TN 37814 (423)587-4850 1(800)821-1309 Fax (423)587-4857
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This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.



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DIVORCE IN TENNESSEE



LEGAL AID OF EAST TENNESSEE

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