

Divorce: Tennessee Law



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Divorce is hard to understand. You may need a lawyer's help to get a divorce if:

- you have children under 18;
- you own real estate;
- have retirement or 401K plans; or
- own other valuable property.

Many internet forms and mail order forms will not work in Tennessee.

GROUNDS FOR DIVORCE

The reason you use for getting a divorce is called "grounds" for divorce.

- Irreconcilable differences (ID) (no fault) – you and your spouse cannot get along anymore. You must agree on all issues.
- Inappropriate marital conduct – some examples are adultery, drug abuse, abandonment, domestic violence, etc.

WHERE IS THE DIVORCE FILED?

You can file the divorce in Tennessee in the county where you separated from your spouse or 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.

WHAT HAPPENS AFTER THE DIVORCE IS FILED?

Your spouse must be served with the divorce papers. If you do not know where your spouse is, your lawyer will discuss other possibilities for completing service of process. If there are minor children of this marriage, you and your spouse must attend a parenting class.

You must file a "proposed parenting plan" with your divorce papers.

After your spouse has been served with the divorce papers, your spouse has 30 days to file an "answer" with the court. If your spouse does not file an answer within 30 days, you can ask the judge for a "default judgment". This means that the judge will give you the divorce.

If your spouse files an answer with the court, 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 spouse files a counterclaim, you will also need to file an answer to the spouse's counter-claim.

If your divorce is contested, you or your lawyer may first try to reach an agreement with your spouse or your spouse's lawyer and settle the divorce. If you cannot agree, you will have to attend mediation.

Mediation is a meeting of both spouses, their attorneys, and a neutral person who is the mediator. The mediator's job is to talk to both spouses and see what, if any, issues can be agreed upon.

If all issues are resolved, you will have a hearing in court for the judge to approve your agreement. If you cannot agree on issues at mediation, you will have a hearing in court for the judge to decide the issues (shared parenting, child support, alimony, who pays bills, and who gets property).

If you have an order of protection, you may not have to attend mediation.

HOW LONG WILL IT TAKE TO GET MY DIVORCE?

After you file your paperwork, you must wait at least:

- 60 days if no minor children
- 90 days with minor children

If you do not have minor children, there is a 60 day waiting period from the time the divorce complaint is filed until the divorce hearing. If there are minor children of the marriage, there is a 90 day waiting period from the time the complaint is filed until the hearing can be conducted.

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.

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 irreconcilable differences 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.

COSTS

There are two parts to the costs of a divorce; what your lawyer charges and court costs. If you cannot afford the costs of filing a divorce, you may fill out a form called an Affidavit of Indigency at the Clerk's office. If the affidavit is approved by the court, you can file your divorce papers without paying any filing fees when you file the divorce. When the divorce is final, the judge will decide who pays the court costs.

HOW LONG DO I HAVE TO WAIT BEFORE I CAN REMARRY?

There is a 30-day appeal period after the final order is filed with the clerk.

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

LAET'S OFFICES ARE OPEN MONDAY THROUGH FRIDAY FROM 8:30 AM TO 5:00 PM

GENERAL OFFICES

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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.

