



Help Yourself

Divorce in D.C.

Divorce is the legal way to end marriage. The spouse who begins the divorce process by filing papers in the court is the *plaintiff*; the other spouse is the *defendant*. A divorce is either *contested* or *uncontested*.

■ **Can I file for divorce in D.C.?** To be eligible for divorce in D.C., you must meet three requirements: *residency*, *proof of marriage* and *grounds*.

To meet the *residency* requirement, either you or your spouse must have lived in D.C. continuously for at least six months at the time you file your Complaint for Absolute Divorce.

To meet the *proof of marriage* requirement, the plaintiff must prove that there is a valid marriage before the court can grant a divorce. The plaintiff must bring an official copy of the marriage certificate: the original or a certified copy, not a photocopy. If you and your spouse married in D.C., you can obtain one at the Marriage Bureau located at D.C. Superior Court, 500 Indiana Avenue, NW, room 4485. If you have a *common law marriage*, there is no marriage certificate, so the plaintiff must prove the marriage through testimony of friends and family, or through documents, to prove that a common law marriage exists.

To meet the *grounds* requirement, you must prove that you and your spouse have been separated for a certain period of time. D.C. is a no-fault jurisdiction, which means there are only two grounds for divorce:

1. Six Months' Mutual and Voluntary Separation: you and your spouse have agreed mutually and voluntarily to separate and have been living apart, without cohabitation (sexual relations), for at least six months before the date you file for divorce;
 2. One Year Separation: Whether or not you agreed to separate, you and your spouse have been living separate and apart, without cohabitation (sexual relations), for at least one year before the date you file for divorce.
- You and your spouse can live separate and apart even if you are living in the same house or apartment. However, you will have to convince the court that you have shared "neither bed nor board" and that you have led separate

lives. This means that you had separate bedrooms, that you do not go out together as a couple, share meals, pay bills jointly, or otherwise act like a married couple.

■ **What is a legal separation? Do I need a legal separation to get divorced in DC?** You do not need to obtain a *legal separation* to file for divorce in D.C. A legal separation is a way for spouses to have a court order establishing custody, child support, alimony, and marital property division, without actually getting a divorce. Although the spouses live separate and apart, and these legal issues are resolved, they remain married to one another and are not free to remarry.

■ **Does it make a difference whether I am the plaintiff or the defendant?** In most cases, no. In a divorce case, the main difference is that if the divorce is uncontested, the plaintiff will have to go to court and testify at a brief hearing, while the defendant will probably not have to appear in court. If the divorce is contested and the parties do not reach a settlement agreement, there will be a trial that both parties should attend. At a trial the plaintiff presents his or her evidence first.

■ **What is the difference between *contested* and *uncontested* divorces?** A divorce is uncontested if both you and your spouse agree to the divorce and are in complete agreement about dividing your marital property (which includes assets and debts), the custody and support for any children, and whether or not one spouse will pay alimony to the other. A divorce is contested when you and your spouse cannot agree on any of these issues and are asking the court to decide, even if you both agree that you want the divorce. You may wish to read the information sheets *Child Support in D.C.*, *Alimony in D.C.*, and *Child Custody in D.C.*

■ **Can I get divorced now and figure everything else out later?** It depends. Once your divorce is final, you cannot go back to the court and ask the judge for alimony or marital property; if you want those issues addressed, you must handle them at the time

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of your divorce. However, you can go back to a court later and ask a judge to enter a custody or child support order. To see if D.C. is the right place for you to file for custody or child support, read the information sheets titled “Custody” and “Child Support.”

■ **What is marital property?** *Marital property* includes assets and debts that were acquired during the marriage. Assets might include homes and other real estate, money (bank accounts), personal property (such as furniture or cars), and retirement plan benefits. Debts might include loans, credit card debt, and taxes. In D.C. it does not matter whose name is on the property or debt, nor does it matter if only one spouse paid for the property.

Separate property is property one spouse owned before the marriage and kept separate all during the marriage. Separate property also includes any gifts or inheritances received during the marriage that were given to one spouse alone.

■ **What if my spouse and I disagree about which of our property is marital or about who gets what?** If either one of you requests the court to make the decision, the judge will decide what property is marital property, and divide and distribute the marital property “in a manner which is just and reasonable.” The law requires the judge to consider “all relevant factors” when dividing and distributing marital property.

■ **What if I want to change my name?** Either party can request a name change as long as the party is returning to a former name and is not doing so for a fraudulent purpose (such as to avoid debts).

■ **How do I get an uncontested divorce case started?** An uncontested divorce goes through the court system more quickly than a contested divorce. You and your spouse may file a Complaint for Absolute Divorce and a Consent Answer at the same time, and the plaintiff would not have to serve the papers on the defendant. See the information sheet *Uncontested Divorces in D.C.*

■ **How do I start a contested divorce case?** If you are starting the case, you are the plaintiff. You must file a Complaint for Absolute Divorce. You will also need to fill out a Summons, a Vital Statistics form and a Family Court cross-reference form. When you file the complaint, a date and time for the first court hearing (initial hearing) will be scheduled. That information will be provided to you and will be added to the papers that must be served on your spouse. After you file your complaint, you must get the papers

served on your spouse according to very specific legal requirements. See the information sheet *Serving Court Papers in D.C.: Divorce and Custody Cases* for more information about how court papers have to be served on the other party

If your spouse has started the case, you are the defendant. After you have been legally served with a copy of the complaint, you must file your answer within 20 days. After you file your answer, you must get a copy to your spouse.

Even if your case is contested, you may be able to resolve it without a trial. The Family Court offers a free mediation service through the Multi-Door Dispute Resolution Division (202-879-1549), which provides trained mediators who can work with you and your spouse to negotiate the terms of your divorce.

■ **When is the divorce final?** If the judge grants your divorce, you will get a copy of the divorce order immediately after the hearing or in the mail. Your divorce will be final 30 days after the date the divorce order is stamped by the Court as “entered on docket,” which could be a few days after your hearing. Either party may file an appeal within those 30 days and ask the court to *stay* (postpone) the divorce order. If the stay is granted, the order does not become final until the appeal is resolved. If the stay is denied, the order is remains in effect while the appeal is being decided. If you both agree that you do not want to appeal the judge’s order, you can file a Joint Waiver of Appeal, and then there will not be a 30-day waiting period and the order will be final immediately.

You can get the necessary pleadings (legal documents) at www.dcb.org/pleadings or at the D.C. Superior Court Family Court Central Intake Center (room JM-540), open Monday through Friday, 8:30 a.m. to 5:00 p.m.

■ **For more information**, you can visit the Family Court Self-Help Center, a free walk-in clinic located in the DC Superior Court, 500 Indiana Avenue, NW, in Room JM-570. The Center is open Monday through Friday, from 8:30 a.m. to 5:00 p.m. The Center can explain the process to you, help you complete the proper legal papers, and direct you to other free legal resources. Visit www.lawhelp.org/dc for more information, including how to contact free legal service providers, or call the D.C. Bar Legal Information Helpline at 202-626-3499 to listen to recorded messages about this issue.

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