
DIVORCE WITH CHILDREN

Can I file for divorce in Ohio?

You must be a resident of Ohio for at least six months in order to file for divorce in Ohio.

Can I file for divorce if I am pregnant (or my wife is pregnant)?

No. A court cannot order a divorce when you or your spouse is pregnant. You will have to wait to file for divorce until after your child is born.

My spouse and I are still living together. Can I still file for divorce?

Yes but until a divorce is filed you do not have many enforceable legal rights while you live in the same household. You cannot seek child support. Your spouses' income will be included if you seek public benefits. Without a court order you cannot force your spouse to leave your residence or pay household debts.

Where should I file for divorce?

A divorce is filed in the Court of Common Pleas, Domestic Relations Division in the county where you live. You must have lived in the county at least 90 days immediately before filing the divorce. See Domestic Relations Resource Guide Information Sheet.

What issues will the court decide in the divorce?

- » How to divide all of your money
- » How to divide all of your property
- » Who will be responsible for your debts
- » Who will have custody of the children
- » Whether one of you will pay child support
- » Whether one of you will pay spousal support
- » Any other issue you may have which needs to be decided

Can my spouse take or use our joint property after we separate?

You should be careful to protect any joint assets you have. Joint assets include joint bank accounts, credit accounts, cars and household goods. If your spouse is a joint owner of any of these items, your spouse can use them. Only a court order can limit your spouse's use of joint assets.

What property is considered marital property?

Marital property is usually property that the couple got while they were married. It can be cash, wages, bank accounts, real estate, cars, personal property, household goods, stocks and bonds, pensions and retirement accounts. Property either spouse owned before the marriage is usually not considered marital property.

How is marital property divided in a divorce?

The court is required to divide all marital property equally between the two spouses. If the court does not divide the property equally they must explain in writing why they believe dividing it equally would not be fair.

Will I be awarded spousal support (alimony)?

A court may give spousal support to one spouse but only if the judge believes it is necessary after the marital property has been divided. The court may consider a number of factors when deciding whether a spouse needs spousal support. Certain factors may be considered by the court when deciding whether to award spousal support. These include the age, length of the marriage, the health of the parties and the abilities of the parties to work. There are other factors the court can also consider. The younger the parties are and the shorter the marriage the less likely it is spousal support will be ordered.

Who has custody of our children if no divorce has been filed?

When two parents are married they both have equal custody rights to their children unless there is a court order that says something different. This means your spouse can legally take your children and not return them to you. Unless there is a court order giving you custody, the police will usually not force the other parent to return your children to you.

If my children are living with me do I have to let my spouse take them for visits?

No. You do not have to let your spouse take the children unless there is a court order saying that you do. If you are not afraid your spouse is a danger to your child or that your spouse will not return your child, it may be best to try to work out some sort visitation time. Courts can take a negative view of one parent keeping a child from another parent. Unless there are safety concerns, courts generally determine it is in the best interests of a child to have contact with both parents.

Can I file for child support before I file for divorce?

Yes, if you and your spouse are separated and your child lives with you then you can contact your local Child Support Enforcement Agency (CSEA). See How to Establish Child Support Information Sheet.

Is there a cheaper alternative to divorce?

Dissolution can be much cheaper than divorce. Dissolution is a way to end a marriage when both the husband and wife agree how all issues should be decided. You should contact several private attorneys to see how much they would charge. Keep in mind that legal fees and costs can differ. Be sure to ask any attorney you deal with to explain all fees and costs. See Dissolution Information Sheet.

What is a legal separation?

A legal separation is similar to a divorce in some ways and different in others. All the same issues decided by a court in a divorce are decided in a legal separation. The only real difference is at the end of the legal separation process the spouses are still married. Often people whose religious beliefs do not allow them to get divorced seek legal separations. Legal separations are not necessarily any cheaper or shorter than a divorce.