

Getting Started

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 Divorce

can be one of the biggest steps in the process of regaining control over your own life. The process of divorce

can also be very confusing. While people, in most instances, are free to enter into marriage, in New York only the Supreme Court can terminate a marriage. As divorce

laws are different in each state, it is important to work with an attorney to protect your rights.

General Process and Divorce Terminology

While the process of divorce

can vary greatly depending on numerous circumstances, every divorce

is started by filing a summons in the county clerk's office and paying a filing fee. The spouse filing the divorce is known as the plaintiff, and the non-filing spouse is known as the defendant. This document sets out what the grounds are and what relief the plaintiff wants. The plaintiff must serve the summons on the defendant spouse. Thereafter, the defendant is given time to appear in the lawsuit to contest the issues if he or she desires. Only if both parties agree on the terms is the case called "uncontested." If both parties do not agree, the divorce

is "contested." With a contested divorce

, it is essential to involve an attorney to help you prepare for trial. Failing to file the proper

paperwork or improperly drafting a pleading can result in your rights not being protected. In between the initial pleadings and the trial there are a series of intermediate steps, each requiring additional pleadings and paperwork. The primary tools a lawyer uses are pre-trial motions and discovery. Your attorney can file motions to help obtain temporary orders for support, custody

, and visitation

as well as exclusive use and occupancy of the marital residence and spousal maintenance. An attorney can use formal discovery to get documents and information under oath. A preliminary conference with the court sets up a timeline for the divorce

, identifies what issues are in dispute, and sets dates for the exchange of information. Among the documents the parties may need to exchange are net worth statements, appraisals of real estate, tax returns, bank account statements, and other document requests. If children are involved, the court will also determine whether the children need independent representation, and if so, appoint a "law guardian" to represent the children's best interests. The compliance conference is another court meeting to make sure that both sides have all the information necessary to go to trial. If a settlement has not been reached and both sides are ready for trial, the court will direct the plaintiff to file a Note of Issue and a Certificate of Readiness. Often there are pre-trial conferences held to see if any issues can be resolved before the actual trial. After trial, the Court will issue a decision.

How Long Will It Take

The most common question involving divorce

is "how long will it take?" We understand that many couples want to move on and start a new chapter of their lives. A simple uncontested divorce

may be processed through the Courts within 90 days, depending on the Court's schedule. A complex contested divorce action, involving contested custody

, valuation and property issues can take from one to three years and sometimes longer. It is important to work with an attorney you are comfortable with, who understands your issues.

Privacy

All original documents are located in the county clerk's office, but divorce

files are not public record. The privacy accorded matrimonial matters is a recognition of the inherently personal nature of these proceedings. Except by order of the court, the law prohibits the clerk of the court from allowing anyone, other than a party, or their attorney, to examine or copy anything in the court's file. Residency Requirements

In New York State, an action for divorce may be maintained only when one of the following residency requirements are met: The husband and wife were married in New York, and either party is a resident of New York for at least one year prior to the initial filing for divorce.

The parties have resided in New York as husband and wife, and either of them is a resident of New York for at least one year prior to filing.

The grounds for divorce occurred in New York, and either party has been a resident of New York for at least one year prior to filing.

The grounds for divorce occurred in New York, and both parties are residents of New York at

the time of filing.

Either spouse has been a resident of New York for at least two years prior to filing.

Filing Your Own Divorce

Yes, you can file for divorce

without a lawyer. However, too many people think that doing their own divorce

means filling out some forms or purchasing a "do it yourself kit." Legally, you may represent yourself, but because the law is so complex, it is very risky. Friends and family will attempt to help by giving you lots of "free" advice but it is best to leave legal matters to a professional. Friends and family are great for comfort and support but everyone's situation is different and it is important that you are legally protected and that you don't cause yourself harm. Only in circumstances where you and your spouse are in agreement on all terms, your assets are simple, you are satisfied that your spouse has disclosed all of his or her assets and income, and you believe that the settlement is fair, should you even consider doing your own divorce

. Each state has different laws and procedures when it comes to divorce, so in New York it is generally not advised to purchase a generic book or kit. Consulting with an attorney will help clarify and answer questions about New York's legal requirements. There are many situations that a "do it yourself" divorce

should never be considered: You or your children are in danger or have been harmed.

The division of marital assets and debts are unequal.

Complicated assets including joint accounts, joint ownership, debt, pensions plans or insurance benefits.

One or both spouses are self-employed, own a business, not self-supporting, or there is a large income difference.

You cannot agree on important issues.

Your spouse is not cooperating or does not want a divorce.

Your spouse is domineering and demanding.

You cannot agree on parenting arrangements.

You or your children have special needs or health issues.

You don't fully understand the marital finances.

You don't have time or don't understand the complicated legal paperwork.

Already Filed Paperwork

If you have already filed for divorce

and do not know the next step, our lawyers can help. Filing the paperwork is not an end-all to the problems or the marriage. In fact, often it is just the first step. A lawyer can help draft a

clear, unambiguous and legally correct marital settlement or review one you have made yourself. The language used in legal paperwork can be technically challenging, it is best to get help. Without the proper planning and execution, a divorce can easily become a nightmare. If your spouse is contesting the divorce, it is even more important to involve a knowledgeable and experienced lawyer to guide you through the process. How to get the most out of a lawyer while controlling costs. No one ever looks forward to the pain and expense of a divorce

or the search for a lawyer to help. The cost of a divorce

can vary greatly. However, there are several ways to best utilize your attorney during a divorce

and keep your costs down. You can help the process by being well prepared and organized and keep a file for all notes, letters, and important documents. Some of the documents you will want to gather include: Full contact information for both spouses (address, phone number, social security numbers).

Names, ages and addresses of the children of the marriage.

Information about any prior marriage of either spouse.

Any domestic contracts such as a prenuptial or postnuptial agreement.

Information about any prior court proceedings involving you, a spouse or the children (including judgments, decisions, orders).

Dates and details about any separations, attempts at reconciliation, or marriage counseling.

Know your facts, write down any questions you would like answered, and know the agenda of topics of discussion. Schedule sufficient time for meetings or calls, free of interruptions and distractions. Arrive on time in presentable dress and do not use any substances that impair thinking such as drugs or alcohol. Be prepared to answer questions and make decisions for yourself. Consider your needs and state the issues in a constructive way. Divorces

and negotiations take time, so be patient and persistent. The most popular City / Village / Town Courts our lawyers serve:

Albany, Altamont, Amsterdam, Berne, Bethlehem, Brunswick, Clifton Park, Cohoes, Colonie, Coeymans, Delaware, Duanesburg, East Greenbush, Fulton, Glens Falls, Glenville, Gloversville, Grafton, Greene, Guilderland, Hoosick, Hudson, Johnstown, Malta, Mechanicville, Menands, Montgomery, Nassau, New Scotland, Rensselaer, Rensselaerville, Rotterdam, Saratoga, Schenectady, Schoharie, Schodack, Scotia, Troy, Ulster, Voorheesville, Warren, Washington, Watervliet