



Help Yourself Divorce in D.C.

Divorce is the legal way to end a 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*.

■ **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. If the divorce is contested and the parties do not reach a settlement agreement, there will be a trial. 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 one spouse will pay *alimony* to the other. A divorce is *contested* when you and your spouse cannot agree on one or some of these issues, even if you both agree that you want the divorce. For more information see “Help Yourself: 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 of your divorce. However, you can always go back to the court later and ask the judge to enter a custody or child support order, or to legally change your name.

■ **What is a legal separation? Do I need a legal separation to get divorced in D.C.?**

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.

■ **What is marital property?**

Marital property includes debts and assets that were acquired during the marriage. Assets might include homes and other real estate, retirement plan benefits, and personal property (such as furniture, cars, or bank accounts). Debts might include student loans, credit card debt, and taxes. In D.C. it does not matter whose name is on the title, 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 from others during the marriage that were given to one spouse alone.

■ **What if my spouse and I disagree about our marital property?**

Unless you and your spouse reach an agreement regarding marital property, the judge will 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. Some relevant factors may include how long the marriage lasted, each spouse’s needs, or a spouse’s financial obligations to other children.

■ **Can I file for divorce in D.C.?**

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

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

- ▲ **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;

- ▲ **One-Year Separation:** You and your spouse have been living *separate and apart*, without cohabitation, for at least one year before filing for a divorce, whether or not you have agreed to separate.
- ▲ You and your spouse can live separate and apart even if you are living in the same house or apartment. The law says you must show that you have shared “neither bed nor board.” This means that you had separate bedrooms, and that you do not go out together as a couple, share meals, pay bills jointly, or otherwise act as married.

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, with a raised seal, from the state where they were married. If you and your spouse married in D.C., you can obtain one at the 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 personal records, such as photographs and letters, to prove that a common law marriage exists.

■ **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 does not have 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. 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. For more information, see “Help Yourself: Divorce in D.C.: Uncontested Divorces.”

■ **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 some court forms: a cross-reference intake form, and a vital statistics form. After you file your complaint, you must give a copy to your spouse according to very specific legal requirements. 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 give a

copy to your spouse. For more information, see “Help Yourself: Serving Court Papers in D.C. for Divorce and Custody Cases.”

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?**

After the hearing, if the judge grants your divorce, you will get a copy of the divorce order. Your divorce will be final 30 days after the “docketing date,” which could be a few days after your hearing. Either party may file an appeal within those 30 days and also ask the court to *stay* the divorce order. If the stay is granted, the order becomes final once the appeal is resolved. If the stay is denied, the order is still final after the 30 days. 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.dcbar.org/pleadings, or at the D.C. Superior Court Family Court Self-Help Center (room JM-570), open Monday through Friday, 8:30 a.m. to 5 p.m. (202-879-1471). The Self-Help Center staff can explain the process and help you fill out the pleadings and forms.

For more information, you can go to www.lawhelp.org/dc or listen to recorded messages about divorce by calling the D.C. Bar Legal Information HelpLine at 202-626-3499.

There is a **free Pro-Se-Plus Divorce Clinic** each month at D.C. Superior Court where people without lawyers can learn about the divorce laws and process, and get help with questions and paperwork. To register, go to www.dcbar.org/divorceclinic, or call the D.C. Bar Pro Bono Program at 202-737-4700 ext. 292 for more information. For specific help with custody matters in your divorce, there is a **free Pro-Se-Plus Custody Clinic**. To register, go to www.dcbar.org/custodyclinic, or call the D.C. Bar Pro Bono Program at 202-737-4700 ext. 424.

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