

Questions & Answers About Divorce

By Iowa Legal Aid



How long must I live in Iowa before I can file for a divorce?

The general rule is you have to live in Iowa for a year before you can file for divorce. If your spouse lives in Iowa, you may be able to file now.

What is a “common law” marriage?

Iowa recognizes “common-law” marriage. People may be regarded as being married, even though they never got a marriage license, or had a formal ceremony. When a couple thinks of themselves as being married, tells other people they are married and live together, they may be regarded as having such a marriage. Details on common-law marriage can be found on the Web at iowalegalaid.org

I want my divorce done quickly. Can I do this myself or do I need a lawyer?

Most of the time, going through a divorce is not a simple or speedy task. You don't have to use a lawyer, but a lawyer can help you to follow all of the rules required by law, and there are a lot of rules. This is especially true where the case involves children and/or real estate.

How does a person start a divorce?

A divorce starts with filing a “Petition.” The petition tells the court who the parties are. It says if there are children and what kind of results you want. In Iowa, you don't have to prove it is someone's fault that the marriage cannot continue.

Is there a lot of paperwork involved?

Besides the Petition, you also need to file other important papers. Often you will have to explain to the Court what sorts of property and debts both parties have, and give details on income.

What if the couple has children?

Parents who are divorcing must each take a class called “Children in the Middle.” This class tells parents about the effects of divorce on children. It explains how parents should behave during and after the divorce. Details about Children in the Middle can be found on the Web at iowalegalaid.org

How will my spouse know I have filed for divorce?

Once the Petition is filed, it must be “served” on your spouse. Iowa law prefers that the Petition be given to the other person directly, most of the time by a Sheriff's Deputy or private process server. This is called “personal service.”

What if I don't know where my spouse is?

You may not be able to serve your spouse directly. Then Iowa law says, you must publish a specific, formal legal notice in a newspaper. This is called “service by publication.”

What else keeps the case from getting finished quickly?

Once your spouse has been served, a 90-day waiting period begins. Most of the time, the case is not allowed to conclude until that period has expired. In special cases, the Court may not require the waiting period. If there are issues in dispute, it may take even longer than 90 days to actually conclude the divorce.

My spouse and I can't agree on things like visitation or property. Do we have to wait until the case is finished before we know how to handle things?

Because it may be some time before the case is fully resolved, the Court may be asked to issue temporary orders. The goal of temporary orders is to make clear the responsibilities of the parties while waiting for a final decision.

How are we supposed to resolve all of the issues in our case?

To resolve issues, you and your spouse may try to reach an agreement with one another. A written agreement that resolves important issues will speed up the conclusion of the case. This can be done with the help of attorneys. It can also be done through a process known as "mediation," but mediation is not available in every part of the state.

Parties can come to a decision that may work better for them than something the judge will decide. People are usually more satisfied with the results of their divorce if they agree about what to do on their own, even if it means they did not get everything they wanted.

What if we are unable to resolve all of the issues in our divorce?

If you and your spouse can't agree, then the matter will be set for "trial." A trial is a chance for each person to explain to the court what resolution they seek, and why. The Court will then resolve specific issues. A trial requires careful scheduling. If you do go to trial, your divorce is likely to take longer and cost more.

What happens when the court makes the divorce final?

At the end of the case, the Court issues a "Decree." A decree gives the court's final orders in a case. It resolves all legal issues. It tells the parties what their rights and duties are regarding property and debts. If children are involved, it decides custody, visitation and child support. Until the order is changed, you must do exactly what the court says. If you do not, you could be held in contempt. That means that the Court can make you follow the decree by having you pay money or in some cases go to jail. Under the proper circumstances, the court can modify the decree later. A party must file a "Petition to Modify."

What if I object to the terms of the decree?

You or your spouse may appeal the outcome in a divorce. Very strict and specific rules apply to that process.

This is only a general summary of the law. It is not meant to fully explain the topic. Do not assume that what you read here applies to your specific case. This information was correct when it was written (September 2005). The law often changes. See an attorney to get complete, correct, and up-to-date legal advice. This is not a substitute for legal advice.

To find out more about divorce, custody issues, child support or other civil legal matters, visit our website at iowalegalaid.org