

WHAT IS A DISSOLUTION OF MARRIAGE, AND WHAT ARE THE REQUIREMENTS?

In Florida, when you want to end your marriage, it is called a “dissolution of marriage.” You or your spouse must have lived in the State of Florida for a minimum of six (6) months prior to filing for a dissolution of marriage, and you must have proof of your continued residency, generally proven at Final Hearing by letting the Judge see your Florida Driver’s License. Florida does not require that any “fault” be found in filing for divorce, only that you testify at the time of the Final Hearing that your marriage is irretrievably broken, or broken beyond repair. The proper venue (location within the state) for the filing of the divorce is where the parties last lived as husband and wife with the intent to so remain.

WHAT ARE SOME OF THE ISSUES THAT MAY COME UP IN A DISSOLUTION OF MARRIAGE ACTION?

1. SHARED PARENTAL RESPONSIBILITY, PARENTING PLANS, TIME SHARING:

If the parties have children, the Court must address all child related issues. The law in the State of Florida is called "Shared Parental Responsibility," which means that the minor child has frequent and continuing contact with both parents, and both parents continue to share the rights, responsibilities and joys of child-rearing. Florida does not recognize either party as having "custody."

If there is an extensive inability to cooperate, the Court can also decide that just one parent will obtain ultimate decision making authority for school, medical, and other decisions involving the child. Infrequently, the Court may find that shared parenting would be detrimental to the child, and order that one parent be awarded "Sole Parental Responsibility."

The Court requires that a "Parenting Plan" be established in every case. The Parenting Plan sets forth the relationship between the parties with regard to the decisions which must be made concerning the child, and it must contain a "time sharing" schedule for the parents and child. The time sharing schedule specifies the time, including overnights and holidays, which a child spends with each parent.

Florida law specifically prohibits one parent from relocating with the children more than 50 miles from their current location without the permission of the other parent or a court order.

In ordering the payment of child support, Florida Statutory Child Support Guidelines take into consideration both parties' incomes, the amount of time each parent spends with the children, as well as daycare/aftercare expenses and health insurance costs.

Completion of a four hour Parenting Course is required by both parties in all divorces involving children.

1. ALIMONY:

The Court can award a variety of types of alimony including: temporary alimony, while the case is pending; bridge-the-gap alimony, which provides transitional assistance while one adjusts their life from married to single; rehabilitative alimony, which is designed to establish a capacity for self-support; durational alimony, which provides economic assistance for a set period of time; and permanent alimony, generally after a long term marriage. The Court looks at many factors in determining whether or not alimony is warranted in a particular case, including, but not limited to: the need of one spouse and the other spouse's ability to pay, the length of the marriage, and the standard of living established during the marriage.

1. DIVISION OF PROPERTY AND ASSETS:

The law in the State of Florida is "Equitable Distribution." The Court will divide all assets- real and personal property, and debts acquired during the marriage. The presumption of equitable distribution is for an equal division of marital assets and liabilities. However, there are many factors which the Court

examines in making a final determination. The Court can depart from an equal distribution depending on specific factors.

LOTS OF PAPERWORK

Family Law cases require a lot of basic paperwork. The Petition is filed at the outset of the case requesting relief on behalf of the client. If there are children, a Declaration under the Uniform Child Custody Jurisdiction and Enforcement Act must be filed. This document reveals where the children have resided for the past 5 years to ensure that Florida is the home state of the minor children. A Financial Affidavit is required if monetary relief is being sought. Family Court requires Mandatory Disclosure of documents so that each party will be fully informed about the financial situation of the other party.

WHAT IF THE LITIGANTS AGREE ON HOW TO RESOLVE ALL THE ISSUES?

1. The State of Florida has a “Simplified Dissolution of Marriage” available for parties who both want a divorce, have no children, have divided all of their assets and debts. Both must go together to the Clerk of the Court for the case filing and to the Judge for the Final Hearing.

1. The parties can choose to go to Mediation prior to hiring attorneys and they can attempt to settle the issues with the assistance of a third party, called a Mediator. The Mediator is not a Judge, but simply tries to work out the issues with the parties. Or, the parties may instead choose to hire their own attorneys to be sure that they have protected their respective interests. With their respective attorneys assisting, the parties may be able to settle all issues between themselves, or they may still enlist the assistance of a mediator to help resolve the issues.

WHAT IF THE LITIGANTS CANNOT AGREE ON A FINAL RESOLUTION?

The Court requires that the parties attend Mediation prior to scheduling a contested Final Hearing. However, if a good faith effort is made to settle at Mediation, and an agreement is not reached, the case moves forward to the Judge or General Magistrate for a Final Hearing. Depending on how busy the Judge is, it can take months to get to a Final Hearing.

One party can file for a “Dissolution of Marriage”, and the parties can then enter into a written settlement, which is signed by both parties and presented to the Court to be ratified and adopted at the time of the Final Hearing. In this situation, only the Petitioner (the person filing the divorce) must attend

the Final Hearing. Three form Settlement Agreements are available on the Supreme Court site. That site is: www.flcourts.org