



DIVORCE AND SEPARATION INFORMATION PAPER



LEGAL ASSISTANCE OFFICE, NORTHERN LAW CENTER
ARMY COMMUNITY SERVICE, FAMILY ADVOCACY PROGRAM
SUPREME HEADQUARTERS ALLIED POWERS EUROPE, BELGIUM

Divorce and Separation, FAQ with the Northern Law Center

What is the difference between a divorce and a separation?

A divorce or dissolution of marriage is a decree by a court that a valid marriage no longer exists. It leaves both parties free to remarry. The court may divide property and order spousal support, and, if children are involved, award custody and child support.

Legal separation allows spouses to live separately and to formalize their arrangement by a court order. The order will specify what support, if any, one spouse will pay to the other. If the husband and wife have minor children, the court order will set forth arrangements regarding custody or visitation. Generally, a separation does not legally end a marriage.

I am ready to get divorced. What should I do first?

Getting the right lawyer is often the first step. Whether the attorney you select has represented you previously or has been recommended by a friend, relative, or bar association lawyer referral service, the important thing is that you communicate well with each other and that you have confidence in his or her ability to handle your case.

What you say to your lawyer is "privileged information." This generally means that what you tell your attorney must be held in confidence unless you give permission otherwise. In addition, your attorney has the duty to: 1) allow you to make the major decisions in your case, such as contesting custody or accepting a settlement for alimony; and 2) remain open and honest with you in all aspects of your case, including your chances of success, the positives and negatives of your position, and the time and fee required.

Where can I file for divorce?

You cannot file for divorce just anywhere. A valid and legal divorce can only be granted in the "home state" or domicile of either spouse. This means the true legal home of one of the spouses. It is the place where you can vote, pay income taxes, and qualify for in-state college tuition. It does not necessarily mean the same thing as the military "home of record." You will usually have to hire a lawyer in that place (state or county) to start the divorce proceedings.

What if I want a divorce, but my spouse is not onboard?

It is the judge who grants your divorce, not your spouse. If your spouse will not cooperate, it may take longer and cost more, but you can still get divorced.

My spouse and I do not have anything to fight over (e.g. no kids, no property) —can we just file for divorce without a lawyer?

In some states, there are simplified divorce procedures (usually called "pro se divorce," which means "do-it-yourself"). These procedures provide for standard forms in which you fill out the blanks in order to start your divorce. You will then need to serve your spouse with these papers, usually by certified mail, by sheriff, or by "process-server" (a person who delivers court papers). If your spouse doesn't respond within a set period of time, the court will either grant your divorce or else a hearing may be held which will likely end in an uncontested divorce.

I am a military dependent and my spouse and I have separated —am I able to keep my military ID and privileges prior to the divorce being finalized?

The military card and its associated privileges are granted by the U.S. government, not the servicemember spouse. The servicemember does not



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have the right to take the ID card away —only the U.S. government has that authority.

I am a military member on active duty and have been served with divorce papers. I have no time to attend to the matter because of my military duties. What can I do?

The Servicemembers Civil Relief Act may provide some protection. The servicemember should first request a stay of the proceedings, and he or she may make additional stay requests later on. An application for an additional stay may be made at the time of the original request or later. If the court refuses to grant an additional stay, then the court must appoint counsel to represent the servicemember in the action or proceeding. The servicemember should confer with appointed counsel (or retain counsel) to discuss additional options.

Can I get a divorce through the Legal Assistance Office?

No. You have to go to court to get a divorce, and you will likely want a private attorney to do that. Although you are not legally required to have an attorney, it is sometimes difficult to get a divorce without one.

What assistance can the Legal Assistance Office provide?

Even though a Legal Assistance attorney cannot go to court for you, he or she can still help you by giving you advice on the issues and procedures involved and by preparing a separation agreement for you and your spouse to sign, if appropriate.

How to Achieve Amicable Separation, 8 Tips from the Family Advocacy Program

1. The goal of an amicable separation is to set up “two homes with no fighting”
2. It is normal to feel sadness, anger, betrayal and depression during the separation process and normal for these feelings to reoccur overtime when memories of the relationship are triggered
3. Just like there are standards of conduct for a good marriage there are also standards of contact for a good divorce and they take work to uphold
4. Be mindful of the words that you use to describe your past relationship, the divorce process, and the new path your family is on. Work to frame things in a positive way rather than using blaming, name calling, or other unpleasant words.
5. In order to keep a positive frame of mind turn to sources of support that can help you through whether they are personal or professional and ensure you care for your mental health throughout the separation process.
6. A good legal agreement cannot guarantee a good result, couples and families must learn how to make agreements work for their everyday life
7. If you have children work to maintain a “business relationship” as parents to meet the needs of your children :
 - a. Keep your feelings in check
 - b. Use schedules, protocols, business hours, expectations and keep a clear record of meetings and agreements
 - c. Make no assumptions
 - d. Give the other parent the benefit of the doubt
 - e. Do not take the other parent for granted
 - f. Double check your verbal understandings
8. Look for helpful resources for couples and parents considering separation, such as the below:
 - a. “Conscious Uncoupling” by Katherine Woodward Thomas
 - b. “Mom’s House, Dad’s House” by Isolina Ricci, Ph. D
 - c. Talkingparents.com

- TO CONTACT THE FAMILY ADVOCACY PROGRAM -

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CALL: 065 75 7370 (OFFICE) OR 0472 90 1068 (HOTLINE)

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