



Legal Briefs

From the Fort Knox Legal Assistance Office

WISCONSIN DIVORCE LAW

WHAT ARE THE GROUNDS FOR DIVORCE?

Under Wisconsin law, a divorce may be granted on the basis of “no fault” based upon irretrievable breakdown of the marriage. If the parties agree that the marriage is irretrievably broken or have voluntarily lived apart for one year, the court may grant a divorce decree. If one party fails to agree and the parties have not lived apart for one year, the court may delay granting a decree and order counseling to attempt reconciliation.

WHAT ARE THE PROCEDURES?

At least one party must have been domiciled in the county where the action is brought for 30 days or, unless the marriage has been contracted within the state, within one year prior to commencement of the action. One of the parties must have been a domicile within the state for at least six months prior to commencement.

A nonresident defendant may be served personally or by mail outside the state. Service by publication is permitted if service cannot be perfected by above means. Mailing must accompany publication if the address is known.

WHAT MAIN ISSUES ARE ADDRESSED IN THE DIVORCE DECREE?

The divorce decree issued by the judge will address issues of child custody and visitation, child support, spousal maintenance, and property division. If the parties can agree on these issues, the terms of their agreement can be incorporated into the decree. If the parties cannot agree, the judge will decide these issues as follows:

a. Child Custody and Visitation

Child custody is determined in accordance with the best interest of the child.

b. Child Support

Child support (including the specific responsibility of one parent for payment of medical expenses) is based upon: financial resources of the child; financial resources of the parents; the standard of living the child would have enjoyed, except for the divorce; the desirability for the custodian to remain in the home as a full-time parent; the physical, emotional, and educational needs of the child; maintenance received by either party; cost of day care; the guidelines for determination of child support established by the Department of Health and Social Services; the best interests of the child; and the earning capacity of each parent. The court shall order either party or both to pay for the support of any child of the parties who is less than 19 years old and is pursuing a course of instruction leading to the acquisition of a high school diploma or its equivalent. The court shall assign responsibility for and direct the manner of payment of the child’s health care expense.

c. Spousal Maintenance

The amount of maintenance (alimony) is based upon: the length of the marriage; the age and health of the parties; the distribution of property; educational level of the parties; earning capacity of the parties; feasibility of self-support; tax consequences; prior agreements, maintenance received by either party; cost of day care; any other factors the court deems relevant; contribution to education, training, or increased earning power of the other; and other relevant factors.

d. Property Distribution

The method of property distribution is usually a 50/50 division except where to do so would cause “undue hardship” to one party. Gifts are excluded from the division.

A legal assistance attorney cannot represent you in court for a divorce. You must obtain a civilian attorney for filing the petition for divorce and obtaining the divorce decree. A legal assistance attorney can advise you on divorce matters, negotiate with your spouse on alimony, child support and custody, and division of property, and refer you to a civilian attorney. If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at www.knox.army.mil/center/sja/. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.
