

# Divorce



## **What is a Dissolution of Marriage?**

A Dissolution of Marriage is another term for divorce.

## **When can I file for a Dissolution of Marriage in Missouri?**

Either you or your spouse must be a resident of Missouri for at least 90 days in order to file for a Dissolution of Marriage. It is not necessary for the parties to have physically separated in order to file for a Dissolution of Marriage.

## **Do I have to allege misconduct on the part of my spouse in order to file for a Dissolution of Marriage?**

Not In Missouri, you must allege that your marriage is incapable of being preserved and that your marriage is irretrievably broken. Missouri is a modified no-fault state, which means that you do not have to allege any misconduct or fault to dissolve your marriage; however, any marital misconduct can be considered by the Judge in dividing property and awarding maintenance (alimony).

## **How quickly can I get my marriage dissolved?**

That depends. 30 days must elapse since the filing of your case before the Judge can enter a Judgment dissolving your marriage. However, your spouse normally has 30 days to respond to your petition, and contested cases can take many months and sometimes over a year before they are finished.

### **How much will it cost to get a Dissolution of Marriage?**

Normally you will be required to pay a filing fee and a service fee in the county where you file; however, those fees can sometimes be waived by the Court. You will also usually be responsible for paying your own attorney's fees; however, in some cases the Judge can order one of the parties to pay all or a portion of the other party's attorney's fees. You can contact the Circuit Clerk in the county where you are filing your dissolution of marriage and ask about any fees.

### **How can I get a waiver of the filing and service fee by the Court?**

You may file a "Motion and Affidavit in Support of Request to Proceed as a Poor Person" with the court. This form will require information about your monthly income and expenses, as well as any property you may own at the time of filing. It must be signed under oath. It is up to the Judge to decide whether you may file without paying the fees.

### **Can I get a Dissolution of Marriage without an attorney?**

There is no requirement that you have an attorney in a dissolution of marriage case. However, in cases involving custody of children, disagreements over dividing property, maintenance, child support or other disputed issues, it is recommended that you consult with an attorney. There are pro-se forms prepared by the Supreme Court of Missouri available on their website which you must use if you are going to file for a dissolution of marriage without the assistance of an attorney.

MMLS offers the Uncontested Divorce Clinic on a regular basis. Volunteer attorneys and law students assist clients in filling out their paperwork to get divorced without the need of an attorney.

### **What forms are filed in a Dissolution of Marriage?**

A Petition, Income and Expense Statement, Statement of Marital and Non-Marital Property and Debts; and in cases involving children, a Parenting Plan and Form 14 Child Support Calculation must be filed. Your spouse may file an Answer to your

Petition, as well as their own Income and Expense Statement and Statement of Marital and Non-Marital Property and Debts, and their own Parenting Plan and Form 14. You should always check the local rules in the county where you are filing to see if additional documents are required when filing your dissolution of marriage.

### **Where can I find the local rules for my county?**

You can find the local rules by going to the Missouri Courts Web site and clicking on the Circuit Court for your county or by contacting the Circuit Clerk's office for your county.

### **Can I get maintenance from my spouse?**

Maybe. A Court first must make a determination that you lack sufficient property to provide for your reasonable needs and that you are unable to support yourself through appropriate employment. The Court then considers factors including, but not limited to, the financial resources of each spouse; the time necessary to acquire sufficient education or training for you to obtain appropriate employment; the standard of living established during the marriage; the duration of the marriage; the age, physical and emotional condition of the spouse seeking maintenance; and the conduct of each party during the marriage.

### **How is Child Support Calculated?**

Missouri uses what is called a Form 14 Child Support Calculation Worksheet in determining a child support amount. The child support amount is calculated after considering the income of both parents, and other expenses for the child including day care, overnight credits, health insurance and other extraordinary expenses of the child. If one parent is not working, the Judge may impute an income to the parent who is not working. Judges can deviate from the Form 14 child support calculation only if other factors are present which would make the child support amount unjust and inappropriate.

### **What happens to the property and debts in a Dissolution of Marriage?**

The Judge must divide all the property and debts of the parties. Property that is acquired during your marriage is usually considered marital property and must be divided by the Judge. Property that is brought into the marriage by either spouse is usually separate property and the Judge sets aside to each spouse their own

separate property. The Judge will make an equitable distribution of the marital property and debts.

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