

## **DIVORCE AND ANNULMENT**

What are the grounds for divorce annulment in Florida?

Dissolution of marriage is a legal act of terminating the marriage through the courts commonly known as a divorce. The Florida Dissolution of Marriage Statutes are designed to promote the amicable settlement of disputes that rise between the parties in a marriage.

Under Florida law dissolution of marriage is not based on fault of one or both of the parties. There are only two grounds for a divorce in Florida:

1. The marriage is irretrievably broken, or broken, or
2. One of the parties is mentally incompetent.

Additional requirements are that one spouse must have lived in Florida for at least 6 months immediately prior to filing of the dissolution of marriage. Florida must have jurisdiction over the other spouse or that spouse must consent to jurisdiction if they are not also a resident of Florida

The ground for dissolution based on the incompetence of one of the parties is not commonly used. It cannot be used unless the party alleged to be incompetent has been held to be incompetent by a judge for a period of at least three years.

The common way to obtain a divorce is through the irretrievably broken means and what that means is that the parties have differences or disputes that cannot be settled and they must be so serious that they have caused the total and complete breakdown of the marriage.

The court has the option if there are minor children involved or if one of the parties denies that the marriage is irretrievably broken to order counseling for a period of three months or to take other such actions that may be in the best interest of the parties and or the minor children.

In Pinellas County, Pasco County and in Hillsborough County if there are children involved all parties are required to take a children and families course before a final decree of dissolution of marriage will be granted.

## **DOCUMENTATION**

You will need to provide your lawyer with the following documentation in order to proceed with your divorce. Start gathering everything together as soon as possible so that you can find out what might be missing and submit any requests for duplicates as soon as possible.

## **PERSONAL DATA**

- Full address, phone number, and social security numbers of both parties. Full names, birth dates, and addresses of all children of the marriage and where they have resided for the past 5 years as well as their schools and their grades.
- A copy of any domestic contracts, ex. prenuptial agreements.
- Info about any previous legal proceedings between the spouses or involving any of the children ex. Award of custody, a court order of guardianship, domestic violence injunctions, etc
- Dates and particulars about any previous separations, attempts at reconciliation or marriage counseling.

## **FINANCIAL DATA**

Financial disclosures are mandatory in Florida.

- You must provide your previous years Income Tax returns and any related data from the IRS including W-2s, K-1's and 1099's.
- Information about your current income, ex. Current pay-stubs for the past 3 months
- A list of substantial assets and liabilities of both parties
- Financial affidavit, either a short form if you make under \$50,000.00 in a year, or long form if you make over \$50,000.00 in a year.
- Any federal state gifts or intangible tax returns filed in the past years, any corporate returns filed in the past year.
- A statement identifying the amount and sources of all income received from any sources during the 3 months preceding service of a financial affidavit.
- Any loan applications and financial statements within the 12 months preceding service of a financial affidavit, or for any purpose.
- Any deeds within the last 3 years, all promissory notes within the last 12 months, and all present leases owned.
- All periodic statements for the last three months of all checking accounts, and for the past 12 months of all other accounts.

- All brokerage account statements held within the last 12 months
- Most recent statement for any profit-sharing retirement diverted compensation or pension plan, ex. IRA, SEP, 401 K, 403(b), Keogh and summary plan description for any plan.
- Declarations page, last periodic statement and certificate for any group insurance, for all life insurance policies, and all current health and dental insurance cards.
- Corporate tax returns for the last 3 years if you own at least 30% or more of the corporation.
- All promissory notes for the last 12 months, all credit cards and charge account statements and other records showing indebtedness at date of filing and for last 3 months, and all present lease agreements.
- Any Court order directing a party to pay or receive spousal or child support.
- Any trust documents, Wills, etc., where you have inherited or any other documents which could show any special interest in a piece of property.

## **ANNULMENT**

In a divorce the Court declares the marriage contract irretrievably broken; whereas in an annulment, the Court says that the marriage never happened. Annulments are much more difficult to prove and it is much rarer than divorce. If you want an annulment based on religious reasons you will need to consult your priest, minister or rabbi.

## **SIMPLIFIED DISSOLUTION OF MARRIAGE**

The state of Florida has a procedure for a Simplified Dissolution of Marriage. To qualify to use this procedure both spouses must certify that:

1. They have no minor or dependant children, and the wife is not currently pregnant;
2. They are satisfied with the property divisions; and they have agreed how to pay for the joint obligations;
3. At least one spouse has been a resident of Florida for 6 months immediately prior to the filing of the Dissolution of Marriage;
4. The marriage is irretrievably broken.

Both spouses must appear in Court to testify regarding these items, and they must file a certificate of corroborating residence regarding the residency requirement if the driver's license is not over 6 months old. Each must also attach a Financial Affidavit to the Simplified Dissolution Petition. The Clerk of the Court can provide specific forms and instructions brochures regarding this procedure. [NOTE: if one spouse files an Answer and a Waiver of notice and hearing he does not have to appear in court.]