

DIVORCE

What These Words Mean

Client — the person for whom the lawyer works

Custody — care of children

Contest — to argue

Annul — to cancel

Spouse — a husband or a wife

Dissolution — another name for divorce

Arbitration — means of resolving disputes using a third party who hears both sides and decides

Mediation — where a third party facilitates resolving disputes with the goal of voluntary settlement

Collaborative Law — where before the filing of divorce petition, all parties, including attorneys, agree to work together outside of the courtroom and without judicial involvement

Petition — a paper asking for a divorce from the court

File — to give a paper to the court/court clerk

Summons — the order from the court that tells you to respond to the petition

Support — money paid to a wife, husband or for children

A divorce can take place if the marriage is irretrievably broken. The case is decided by a judge without a jury. In Missouri, either the husband or the wife must have lived in the state for 90 days before the divorce can be filed.

What Should You Think About Before Filing for Divorce?

- How much will it cost for the husband and wife to live apart?
- How much will it cost to support the children?
- How much will the divorce cost?
- The husband and wife must wait to go to court at least 30 days after filing a petition for divorce and service on the other spouse.
 - It will take longer if the spouses can't agree on any part of the divorce.
 - A lawyer may ask them to talk with a marriage counselor to see if they can work out their problems.
 - The lawyer gets paid for trying to solve their problem, even if he doesn't succeed.

If the Problem Can't Be Solved

If there are children, the lawyer helps the client find a plan for their custody. The lawyer decides what witnesses to use. The lawyer helps the client decide what property and spousal support for which to ask. The lawyer helps the client decide whether to make temporary arrangements for custody or support of the children.

Custody of Children

The judge will be particularly concerned about what is best for the children, rather than the adults, while a divorce case is pending. Missouri law says that children cannot be taken out of the state or from the parent who has had the custody of them unless the parents agree or a judge gives permission.

The judge will think about:

- the best interests of the child
- the wishes of each parent
- the wishes of the children
- where the children will get along better

Usually, the parent who does not have custody the majority of the time is expected to support the children. Missouri has specific laws about whether a parent can move with the children after divorce. Check your divorce judgment for details.

What is Joint Custody?

It is a plan in which parents get court permission to share the decision-making responsibilities (joint legal custody) and share the physical custody of the children (joint physical custody). One parent will usually still have a duty to support the children.

Support/Maintenance

In deciding how much support is needed for either spouse, a judge thinks about: how long the husband and wife have been married; the ages of the husband, wife, and children; their health; their work and what they earn; what money or property they have; and their standard of living during the marriage. It was formerly known as alimony.

How is the Property Divided?

Property and debts acquired during the marriage (not by gift or inheri-

tance) will be divided in an equitable manner. Many times this results in close to an equal division, but relevant factors might change that decision in a specific case.

What is Dissolution?

It is another name for divorce. It is a legal ending of the marriage, so that both spouses become single again. The wife's lawyer may ask that her name be changed back to her maiden name.

What is Alternative Dispute Resolution?

There are alternatives to having a judge decide your case. The more common are mediation and collaborative law. However, any agreement reached by the parties must be approved by the court before it can become effective and enforceable.

What is a Legal Separation?

A legal separation is exactly the same as a divorce except the marriage is not irretrievably broken and the parties are still legally married when the case concludes.

Does Missouri Have a No-Fault Divorce Law?

Yes and no. Generally, one person doesn't have to prove that the other one is at fault to get a divorce. But the court can consider fault, called misconduct, in deciding child custody, support, or division of property.

What is Annulment?

An annulment is a decision by the court that the marriage was not legal from the beginning.

If Your Spouse Files for a Divorce

You will get a summons and a petition. If you do nothing, the judge will decide the case and you may not get your say in what happens. You or your lawyer should file an answer to the petition within 30 days after you receive the summons. You may contest the divorce, custody, child support or how the property is to be divided.

What Will a Lawyer Charge?

Usually, lawyers charge by how much time is spent working on your case. Ask the lawyer about fees the first time you meet. Ask about court costs in your county. You will have to pay your lawyer's fee regardless of the result.

For Legal Advice, See Your Lawyer

If you need help finding a lawyer, call The Missouri Bar Lawyer Referral Service at 573/636-3635.

In St. Louis, call
314/621-6681

In Springfield, call
417/831-2783