# **DIVORCE IN TENNESSEE**



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Divorce is hard to understand. You need a lawyer's help to get a divorce if:

- you have children under 18,
- you own real estate,
- have retirement, 401K plans, or
- own other valuable property.

LAET has clinics to teach people how to get a simple divorce without a lawyer. If you think you have a "simple divorce" and want to find out about these clinics, call an LAET office near you. They are listed on the back of this brochure. May Internet forms and mail order forms will not work in Tennessee.

#### **GROUNDS FOR DIVORCE**

The reason you use for getting a divorce is called "grounds" for divorce.

- Irreconcilable differences (ID) (no fault) you and your souse cannot get along anymore. You must agree on all issues.
- Inappropriate marital conduct some examples are adultery, drug abuse, abandonment, etc.

#### **COSTS**

There are two parts to the costs of a divorce; what your lawyer charges and court costs. If LAET represents you in your divorce, there will be no charge for the lawyer's work.

If you cannot afford the court costs, you may fill out a form called an affidavit of indigency at the Clerk's office. If the affidavit is approved by the court you can file your divorce papers without paying any filing fees. When the divorce is final the judge will decide who pays the court costs.

### WHERE IS THE DIVORCE FILED?

You can file the divorce in Tennessee in the county where you separated from your spouse or, in the county where your spouse lives. If you and your spouse separated in another state but you have lived in Tennessee for six months you can file for divorce in the county where you live. If your spouse has left Tennessee or is in prison, you can file in the county where you live.

#### WHAT HAPPENS AFTER THE DIVORCE IS FILED?

Your spouse must be served with the divorce papers. If you do not know where your spouse is, your lawyer will discuss other possibilities for completing service of process. If there are minor children of this marriage you and your spouse must attend parenting classes.

You must file a "proposed parenting plan' with your divorce papers.

After your spouse has been served with the divorce papers your spouse has 30 days to file a response with the court. If your spouse does not respond within 30 days then you can ask the judge for a "default judgment". This means that the judge will give you the divorce.

Once your spouse has the divorce papers, he/she has 30 days to file an "Answer." This is a legal document that must be filed with the court. In the Answer, your spouse will admit or deny the claims you made in the divorce. Your spouse may file divorce papers against you when he/she files an Answer. This is called a "counterclaim." If your divorce becomes contested, your lawyer may first try to reach an agreement with your spouse's lawyer and settle the divorce. If you cannot agree, you will have to attend mediation. Mediation is a meeting of both the wife and the husband, their attorneys, and a neutral person who is the mediator. The mediator's job is to talk to both wife and husband and see what, if any, issues can be agreed upon. If all issues are resolved you will not have to go to court for the judge to make the decisions. If you cannot agree on issues at mediation, you will have a hearing in court for the judge to decide the issues (custody, child support, visitation, alimony, who pays bills and who gets property). If you have an order of protection you may not have to attend mediation.

# DO I HAVE TO WAIT UNTIL THE DIVORCE IS FINAL TO GET CUSTODY, SUPPORT OR OTHER HELP?

No, you do not have to wait. Your lawyer can ask the judge to give you temporary custody of your children and temporary child support until there is a final decision. You can contact the Child Support Enforcement Office to apply for child support. If your spouse has abused you, you should talk to your lawyer or contact your local Legal Aid office about getting an order of protection. This will keep your spouse from coming around or bothering you. A mutual order will be issued by the court to keep you or your spouse from selling or hiding your property.

#### HOW LONG WILL IT TAKE TO GET MY DIVORCE?

If you do not have children there is a 60 day waiting period from the time the divorce complaint is filed until the divorce hearing. If there are children of the marriage there has to be a 90 day waiting period from the time the complaint is filed until the hearing.

If your spouse fights the divorce and you cannot reach an agreement, you may have a trial. It may take several months (up to a year or more) to get your divorce.

#### DO I NEED WITNESSES TO GET A DIVORCE?

If your divorce is contested and you have a trial, you will need witnesses to help tell

the judge your side of the story.

If your divorce is an "ID" divorce and you and your spouse have signed an agreement, you will <u>not</u> need witnesses.

If you filed a "fault divorce" and your spouse did not respond, you will probably need two witnesses. One witness should be able to back-up your story about why you want the divorce. This witness can be a relative, friend or neighbor. They should know specific details about your situation. The other witness is a character witness. This witness should not be related to you. He/she should know you well enough that they can tell the judge that you are a truthful person and that you would tell the truth under oath.

### HOW LONG DO I HAVE TO WAIT BEFORE I CAN REMARRY?

There is a 30-day appeal period after the final hearing during which you should not remarry.



Remember, these are only a few general questions and answers. Each divorce case is different, with important issues to be considered.

#### OFFICE HOURS AND LOCATION

Legal Aid of East Tennessee offices are open from 8:30 A.M. to 5:00 P.M.

Monday through Friday.

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#### Associate Director - Eric Miller

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No person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

This pamphlet is intended for general information only. The circumstances of every case are different and need to be dealt with on a case-by-case basis. This is not a substitute for the advice of a lawyer. Also, the law may change and may be different from county to county.





