

## WHAT IS MARRIAGE DISSOLUTION?

In the State of Minnesota, the legal term for a divorce is "marriage dissolution." Marriage dissolution is a legal proceeding designed to terminate a marital relationship, as well as take care of other related issues such as child custody, support and parenting time (visitation); spousal maintenance (alimony); and property distribution.

## WHAT IS LEGAL SEPARATION?

Legal separation involves the same procedures and court costs as a divorce; however, a legally separated individual may not legally re-marry. Parties may have religious or other reasons for wanting a legal separation rather than a divorce.

## WHAT ARE THE GROUNDS FOR MARRIAGE DISSOLUTION OR LEGAL SEPARATION?

In Minnesota the only ground for dissolution of marriage or legal separation is "an irretrievable breakdown of the marital relationship." An irretrievable breakdown occurs when there is no reasonable prospect of reconciliation of the differences between the marriage partners and the marriage cannot be saved.

Evidence of marital misconduct cannot be used by the court to determine whether a dissolution should be granted, how property should be divided, or whether child support or maintenance should be awarded and, if so, in what amount. However, this "no fault" concept does not change the adversary nature of a dissolution proceeding--it is a lawsuit.

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# MARRIAGE DISSOLUTION IN MINNESOTA



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### **Jurisdictional Requirements:**

In most cases, you or your spouse must live in Minnesota for 180 days before you can file for dissolution in Minnesota District Court.

### **Decisionmaker:**

Contested issues in a dissolution are decided by a judge, not a jury.

### **Length of Time:**

How long a dissolution proceeding takes depends largely on the complexity of a case, the amount of issues in dispute, and the number of other cases/matters on the court docket. If the parties are already in basic agreement and/or if there is little in dispute, the proceeding may be concluded in as little as 90 days. If there are issues which must be tried before the court, it may be 12 to 18 months or longer before the matter is set for a final hearing.

### **Costs:**

In addition to attorney's fees and costs, the parties to a divorce will be required to pay court filing fees and, depending upon the issues in dispute, may be required to pay additional costs for custody evaluations, mediations or other similar items. Generally, each party is responsible for his or her own legal costs and attorney's fees. Under certain circumstances, however, the court may order a contribution from the other party.

### **Starting a Divorce:**

A divorce/dissolution begins when one spouse is served a Summons and Petition. The Summons and Petition are designed to set forth, generally, the petitioner's legal position on the various issues such as property, maintenance, custody and child support. The Summons and Petition must be personally served upon the spouse. In the Summons and Petition and all subsequent documents pertaining to a dissolution, the person who has begun the proceeding is referred to as the "petitioner" and the spouse on whom the Summons and Petition is served is referred to as the "respondent." Once these pleadings have been personally served, the respondent has 30 days in which to prepare and serve on the petitioner's attorney an Answer, which admits or denies the allegations set out in the Petition. (Allegations are simply statements made by a party.) The respondent's attorney may choose to answer the Petition within the 30 days or may ask to have the time for answering extended if it looks like the case will be settled. If the respondent serves an Answer, the respondent may also serve the petitioner with a Counter-Petition, which sets forth the respondent's position on the issues involved in the case.

### **Temporary Relief:**

In a case where there is a need for immediate relief such as temporary child support, maintenance or a decision on who will remain in the marital home, the party seeking relief may file motion papers with the court. The court will hear such matters on an expedited basis and issue an appropriate order, based upon the evidence presented at the motion hearing.

### **Concluding a Dissolution:**

A dissolution may be resolved by a number of different methods, as follows:

- The parties may resolve the issues involved between themselves.
- The parties may decide to employ a mediator to help them reach a decision about the contested issues. A mediator is a neutral third party who works with people to help them sort out and resolve disagreements.
- The parties and their attorneys may be able to negotiate a settlement of the issues. This process may involve a process called "discovery." Discovery is a formal, legal information gathering process in which each party asks the other party to disclose information about issues on which the parties cannot agree.
- The parties may submit disputed issues to the court and a Judge will make the decision about how the issue(s) will be resolved. If the parties use any of the first three methods listed above to resolve their differences, their agreements must be put in writing in a document called a Marital Termination Agreement and presented to the court. Within certain bounds of reason, the court will usually accept the agreement reached by the parties. If the court accepts the parties' agreement, it is incorporated into the final Judgment and Decree dissolving the parties' marriage. If the parties cannot reach agreement, a final hearing is held at which the court hears evidence presented by each party about why that party should get what he or she wants. After hearing all of the evidence, the judge has 90 days within which to make a decision about the issues presented at the final hearing. The judge's decision about these issues is incorporated into the Judgment and Decree dissolving the parties' marriage.