



## Frequently Asked Questions

This information is not legal advice and you need to confer with an attorney about your specific situation.

- What is a divorce?
- How is child support determined?
- How do you determine alimony?
- When does alimony terminate?
- How is property divided?
- On what grounds can I get a divorce?

### **What is a divorce?**

An absolute divorce legally dissolves a marriage, allowing the husband and wife to remarry. As part of a divorce, decisions are usually made regarding the following:

- Who will have custody of the children?
- Will there be payment of alimony and how much?
- How much child support will be paid and by whom?
- How will personal property be divided?
- Will the parent with custody of the children be allowed to stay in the home? If so, for how long?
- What type of visitation is appropriate?

If a couple cannot agree on how these questions will be settled, the court may have to make the decisions.

The spouse seeking a divorce must be a resident of Maryland for at least one year before filing suit for divorce.

### **How is Child Support Determined?**

Maryland uses child support guidelines. In order to calculate the amounts recommended by the guidelines you must know the gross income of both parents. Your attorney will advise you about what is included as “income” and what deductions from income are permitted.

The Maryland Code contains a chart for basic child support. Your attorney can advise you about what is calculated. The total expense is then allocated between the parties in proportion to their income.

### **How Do You Determine Alimony?**

The Court can award alimony in a divorce proceeding or in a separate suit for alimony.

Generally, alimony is considered to be “transitional” (i.e. an adequate amount for a specific time period in order to get the non-working spouse back into the workforce).

The Court has the authority to award indefinite alimony, but only if the court finds that the spouse seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting or even after the spouse seeking alimony will have made as much progress toward self-support as can be expected, the respective standard of living of each spouse will be unconscionably disparate.

### **When does alimony terminate?**

Unless the couple agrees otherwise, alimony terminates:

1. Upon the death of either spouse;
2. Upon the marriage of the spouse receiving alimony; or
3. If the Court finds that alimony should terminate in order to avoid a harsh and inequitable result.

### **How is Property Divided?**

When a couple divorces, they divide their property and possessions. If the husband/wife cannot agree, a judge will make the decision.

Property obtained by either spouse during a marriage, no matter how it is titled, is considered to be owned by both spouses and is called "marital property". Marital property includes any interest in real property held by a couple as tenants by the entirety unless the real property is excluded by an agreement. Property received by gift or inheritance is excluded.

A court cannot change title to property from one spouse to the other except for pension or other retirement assets and, under certain circumstances, the family home. The Court may order one spouse to pay a certain sum of money to adjust the equities of the parties in the marital property.

### **On what grounds can I get a divorce?**

An absolute divorce can be granted on the grounds of:

1. Adultery: voluntary sexual intercourse between a married person and someone other than their spouse.

2. Desertion: There are two types of desertion. Actual desertion exists when the husband/wife leaves the home without cause. Constructive desertion exists when one spouse leaves the home based upon the behavior of the other spouse: the move has to be justified due to physically abusive behavior on the part of the other spouse, for instance. The desertion has to have continued for more than one year. Constructive desertion is not a simple thing to prove and you should consult with your attorney before doing anything.
3. Voluntary Separation: both the husband and the wife agree, verbally or in writing, to end the marriage with mutual regard of fault.
4. Non-Voluntary Separation: the husband or the wife may seek a divorce without agreement from their spouse to end the marriage.
5. Jail: a jail sentence of over three (3) years or an indetermination sentence imposed on the spouse and imprisonment of 12 months following criminal conviction.
6. Insanity: Permanent and incurable insanity.
7. Cruelty: cruelty of treatment or excessively vicious conduct.