

THE TENNESSEE DIVORCE PROCESS

Whether You Have Recently Made the Decision to Seek a Divorce, Were Served with Divorce Papers Indicating that Your Spouse Has Already Filed for Divorce, Or Are Still Contemplating Divorce, It Helps to Have a Better Understanding of the Tennessee Divorce Process



For most couples, the decision to end a marriage is not an easy one. Typically, couples will spend months, even years, trying to fix the issues in a marriage before resorting to divorce. Whether you have recently made the decision to seek a divorce, were served with divorce papers indicating that your spouse has already filed for divorce, or are still contemplating divorce, it helps to have a better understanding of the Tennessee divorce process. Although no two divorces are the same, there are some common steps and procedures that most divorces share.

Establishing Residency

Before you initiate the divorce process in Tennessee you need to be certain you



meet the residency requirements. If you plan to file the Complaint you will need to have been a resident of the State of Tennessee at the time the grounds for the divorce took place. If the grounds for divorce occurred outside of Tennessee

one of the parties will need to have been a Tennessee resident for at least the six month period prior to initiating the divorce. The divorce needs to be filed in the county in which either the Respondent or the Petitioner resides.

Choosing Your Grounds for Divorce

Most states have moved away from “fault” divorces and now use only “irreconcilable differences” or something similar that does not require the party filing the divorce to prove grounds for the divorce. Tennessee does allow the Petitioner to file on irreconcilable differences grounds or on the basis that parties have lived apart for two years or more if no minor children are involved in the divorce. Tennessee also continues to allow the Petitioner to file using any of the following grounds:

- Impotence
- Adultery
- conviction of a felony and imprisonment
- alcoholism and/or drug addiction
- wife is pregnant by another at the time of marriage without husband's knowledge
- willful desertion for 1 year
- bigamy;
- endangering the life of the spouse
- conviction of an infamous crime
- refusing to move to Tennessee with a spouse and willfully absenting oneself from a new residence for 2 years
- cruel and inhuman treatment or unsafe and improper marital conduct
- indignities that make the spouse's life intolerable
- abandonment, neglect, or banning the spouse from the home.

Filing the Complaint

The Complaint for Divorce is the document that is filed to open the court Case. Along with the Complaint a Summons must be prepared and served on the respondent. The summons notifies your spouse that the Complaint for Divorce has been filed and explains how long your spouse has to respond. Within the Complaint you will include your grounds for divorce as well as tell the court what you are asking it to do aside from granting the divorce, such as:



- Award you custody of the children
- Award child support
- Award you alimony/spousal support
- Give you possession of the marital residence and other assets
- Order your spouse to pay debts of the marriage

The Answer/Counter-Complaint

Once served with the Complaint and Summons your spouse only has a short period of time to file a formal Answer with the court along with a Counter-Complaint if your spouse chooses to do so. The Answer usually denies many of the allegations in the Complaint. The Counter-Complaint is similar in form to the

Complaint but it tells the court what your spouse wants out of the divorce. If your spouse fails to file an Answer with the court you may be able to request a default judgment against your spouse that will cover some, but likely not all, of the issues in your Complaint.

Discovery

If you and your spouse are able to reach a mutually agreeable settlement that



addresses all the potential issues in your divorce there may be very little need for discovery in your case. In most divorces though, the parties are required to engage in the “discovery” process which essentially just means that each side has to share relevant information with the

other side. Common discovery items include things such as:

- Tax returns
- Account statements
- Financial summaries
- Proof of income
- Records pertaining to the minor children such as school report cards or medical records
- Retirement account information
- Health and life insurance information

During the discovery process you may also decide to take a deposition with your spouse. A deposition occurs outside of the courtroom but under oath. Your attorney will ask your spouse a variety of questions pertaining to the divorce. The entire deposition is recorded and can typically be used in court if necessary. Along with gaining valuable information during a deposition it also allows you and your attorney to observe how your spouse will likely act in court. The more complex and/or contentious your divorce is the longer the discovery process will take to complete.

Reaching an Agreement



The vast majority of Tennessee divorces are settled outside of the courtroom through negotiations. If you and your spouse are eventually able to reach an agreement the terms of that agreement will need to be reduced to writing and approved by the court. If it appears as though a divorce is headed for trial most judges will order the parties to attend mediation first. Mediation allows you (along with your attorney) and your spouse (along with his/her attorney) to try and negotiate a settlement with the assistance of a mediator. Typically, mediators are

attorneys who have received special education to be certified as a mediator. The mediator is a neutral third party whose job is to help each side to reach a mutually agreeable settlement.

Trial

Only when all else has failed will a divorce actually go to trial. A trial can settle all, or just a few, issues. For example you and your spouse may have agreed on custody and child support but not on who will remain in the marital residence. In that case, the court will typically only hear evidence on that remaining contested issue.

If you are facing a divorce in Tennessee it is best to consult with an experienced Tennessee divorce attorney to ensure that your rights are protected throughout the divorce process.

References

Divorce Source, [Tennessee Divorce Laws](#)

Tennessee State Courts, [Approved Divorce Forms](#)

About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional and trustworthy services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.

108 North Church Street
Murfreesboro, Tennessee 37130
Phone: 615.898.1560
Website: www.stanbennettlaw.com