

# Indiana Legal Services, Inc

Using the law to fight poverty, empower clients, and improve access to justice.

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## Frequently Asked Questions About Divorce

### **My spouse doesn't want the divorce. What if he won't sign the papers?**

You can get a divorce even if your spouse does not want it. You will have to tell the Court, in your petition and at the hearing(s), that your marriage has suffered an "irretrievable breakdown." This means that you cannot fix the problems in your marriage. In Indiana, this is a reason for divorce and your spouse does not have to agree.

### **My spouse filed for divorce, but I do not want a divorce. What can I do to stop it?**

You really cannot stop the divorce. You can ask the court to order counseling for you and your spouse, but the court is not required to do this.

### **Since I separated from my spouse, I have no money. Where can I get help?**

If you need help with: health insurance, child care, food expenses, housing, rent, utilities, or other expenses, go to your county's office of Division of Family and Children. Find the address of your local office at [Family and Social Services website](#).

If you have children, your local county prosecutor's office may be able to help you get a child support order. Generally, you can get a child support order before you have filed for divorce. You can call your local county prosecutor's office, child support division to ask for help getting a child support order.

### **My spouse has been violent in the past, or, may be violent when I file for divorce. How can I protect myself?**

You can get a protective order. You can contact your local county clerk's office to ask for help getting a protective order. You don't need an attorney, and there is no charge. You can also get the protective order forms by clicking [here](#).

You may want to contact your local domestic violence shelter to find out other ways to protect your safety.

### **When can a spouse get maintenance (alimony)?**

The Court can order temporary maintenance at the provisional hearing, and can order maintenance at the final hearing. The court can consider how long it might take the spouse receiving maintenance to be able to earn an adequate income. The court can also order maintenance if the spouse is physically or mentally incapacitated, or is taking care of a child who is incapacitated.

### **What if the non-custodial parent fails to pay the court-ordered support?**

When a person intentionally violates a Court order, they can be found in contempt of court, and fined or even jailed. In child support cases, wages can also be garnished. Your local county prosecutor's office can help you enforce a child support order.

### **My spouse and I agree on all issues. Do we have to have a hearing to get a divorce?**

If you and your spouse agree on all issues to be decided in the divorce (custody, visitation, support, property and debts) AND if you and your spouse put that agreement in writing and file the agreement with the Court, the divorce can be finalized without a hearing. You and your spouse must also agree not to have a final hearing. This can only be done after the 60-day waiting period after you file your petition for divorce.

Even if you think you and your spouse have an agreement, if there is a hearing set, you should go to the hearing just to make sure your rights are protected.

### **I can't find my spouse. Can I still get a divorce?**

Yes. If you cannot find your spouse and you have made reasonable efforts to find your spouse, you can ask the court to notify your spouse of the divorce by putting a notice in the newspaper. After this is done, you can finalize the divorce (even if there is no proof that your spouse saw the notice).

### **My spouse filed for divorce two years ago, but I don't think it was ever final. What do I do now to get a divorce?**

You should call the court where the divorce was filed previously to make sure it was dismissed. If it was not dismissed, you can ask that court to finalize the divorce. If the case was dismissed, you will have to file a new divorce.

### **I bought a house myself before I got married, and my spouse has not made any payments on the house. My spouse and I have only been married for a year and we want a divorce. Does my spouse have any rights to this house?**

The house would be considered marital property. Generally, marital property would be divided between the spouses on a 50-50% basis. However, the court can give more than 50% of the property to one spouse if there are good reasons to do so. The fact that you bought and have paid for the house yourself and you and your spouse have not been married long could cause the

court to award the house to you, giving you more than 50% of the marital property.

**My husband filed for divorce. Can I get my maiden name back as part of the divorce?**

Yes. It does not matter who files for divorce; the wife can get her maiden or former name back as part of the final divorce as long as she asks the court to do this. She does not have to get her maiden or former name back; she can keep her married name after the divorce if she wants to.

**This divorce or is going to turn my life upside down for a little while (or, is disrupting my children's lives). What can I do to make it easier to get through it?**

You can get counseling for yourself and your children to support you during this difficult time. This is especially important if there was domestic violence in your marriage.

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