



General Information About Divorce

What do you have to prove to get a divorce?

Indiana has "no fault" divorce, which means you don't have to prove either spouse did anything wrong to get a divorce. (A divorce is sometimes called "dissolution of marriage"; both mean the same thing). The spouse who wants a divorce just has to tell the court that the marriage is "irretrievably broken" to get a divorce. There is really nothing the other spouse can do to stop a divorce.

Do the husband and wife both have to live in Indiana to get a divorce here?

Either you or your spouse must be a resident of Indiana for six months before you file for divorce, and be a resident of the county in which you are filing for three months before you can file for divorce.

How much does it cost to get a divorce?

The court will charge a filing fee which will vary between \$132 and \$152, depending on which county you are in. You usually have to pay this fee in cash or by certified check or money order. You should check with your local court clerk's office to find out your county's exact fee. If you have children, you may have to attend a class for helping children through a divorce. There is sometimes a fee for that class. If you cannot pay these fees, you can ask the court to let you file your divorce without paying the fees. The court can allow you to file a divorce without paying any fee at all, or allow you to file by paying only part of the filing fee.

If you hire an attorney, you will also have to pay the attorney. You will need to check with the attorney about that attorney's fees.

How long does it take to get a divorce?

Once a divorce is filed, you have to wait 60 days before the court can finalize the divorce. The

court can issue temporary orders as soon as the divorce is filed, but the actual divorce and final orders cannot be done until 60 days have passed since the date the divorce was filed. It could take longer than 60 days, depending on the issues of your case and the court's schedule.

What happens after I file the divorce papers?

Your divorce case is assigned to a judge, and copies of the papers are sent to your spouse. If you asked for temporary custody, child support, etc., the Court will have a "provisional" or "preliminary" hearing. At this hearing, the Court can enter restraining orders and other temporary orders such as custody, visitation, support, and property. The provisional order will be in effect only until the final hearing. The court can make different decisions at the final hearing.

How will the Court divide the property and debts of the marriage?

Generally, the Court will divide the property and debts of the marriage on a 50-50% basis. The Court can give more than 50% to one spouse if the Court has good reason to do this.

How does the Court decide which parent should get custody of the children?

The Court must decide the issue of custody based on the "best interests" of the child. The Court can consider many things, including:

1. the age and sex of the child;
2. the parents' wishes;
3. the child's wishes, especially if the child is at least fourteen;
4. the child's interactions with the parents, the siblings and others;
5. the child's adjustment to home, school and community;
6. the mental and physical health of all individuals involved;
7. the stability in the home, income, housing, and child care; and
8. evidence of a pattern of domestic violence by either parent.

How much visitation will the non-custodial parent get?

Indiana has Indiana Parenting Time Guidelines, which tell the courts what visitation the courts should order. The non-custodial parent will usually have visitation every other week-end, and one evening during the week. Holidays are split between the parents. The non-custodial parent's visitation can be limited if there is proof that visitations would be harmful to the child. The amount of visitation is NOT related to whether the parent has been paying court-ordered child support.

How much child support will the non-custodial parent have

to pay?

Indiana has child support guidelines that the Court uses to decide how much the child support order will be. The guidelines use the parents' income, child care expenses and other factors to come up with the child support amount. If a parent is not working, the Court will often assume that the parent could earn at least a minimum wage. In almost all cases, support must be paid through the clerk's office. The support order can also require the non-custodial parent to provide health insurance coverage for the child. You can see the child support guidelines at [Child Support Guidelines](#).

How do I finalize a divorce?

The divorce can be finalized either by going to court for a final hearing or by giving the court papers showing you and your spouse have agreed on all of the issues.

What will the court do as part of a divorce?

The court will:

- End the marriage.
- Divide the marital property and debts (usually on a 50-50% basis).
- Issue custody, visitation and child support orders for children of the marriage.
- The wife can get her maiden or former name back as part of the divorce.

The court can also issue other orders such as for counseling, spousal maintenance, or protective orders.

Can we go back to court later and change the divorce order?

Generally, courts cannot change the order concerning property and debts after the divorce is done. The court can sometimes change orders concerning child custody, visitation and child support.

What if my spouse is in the military?

You can file for a divorce if your spouse is in the military. However, it may take you longer to get the divorce finalized if the military spouse is on duty and is unavailable for court hearings. The Servicemembers Civil Relief Act allows the military member to ask the court to delay court proceedings while the military member is unavailable due to military service.

Do I need an attorney to file a divorce?

It is best to have an attorney help you file a divorce. Some attorneys will handle your divorce without charging you a fee because the court can order your spouse to pay your attorney fees. If you don't know any attorneys who handle divorces, you can contact your local bar association to get the names of some attorneys who handle divorces.

If you can't get an attorney, you can file for a divorce on your own. You will have to follow the same rules an attorney has to follow.

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