

Indiana Legal Services, Inc

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Legal Separation

I am thinking about divorcing my spouse, but am not sure if I should. Is there anything else I can do?

Yes. You can file a legal separation from your spouse. You can do this when you don't want a divorce, but you cannot currently live with your spouse.

What is the difference between divorce and legal separation?

Divorce is when a judge legally ends your marriage. Legal separation doesn't end the marriage. The court can, however, issue orders like the ones issued in a divorce case concerning property, debts, and children. A legal separation is like a "temporary divorce."

How long does a legal separation last?

A legal separation can last up to one year. After one year you should be ready to decide if you want to get a divorce or get back together with your spouse.

If either spouse files for a divorce during the legal separation period, then the divorce case will take over and the legal separation will end.

All orders of a legal separation end when the legal separation ends.

What do I have to do to get legally separated from my spouse?

You need to file a Petition for Legal Separation. In your petition you will need to tell the judge the reasons why you think you and your spouse cannot currently live together.

Either you or your spouse must be a resident of Indiana, and a resident of the County where you file, for six months before you file the petition.

Can I file for legal separation if my spouse has already filed for a divorce?

No. If your spouse has filed for divorce, you will not be able to apply for legal separation.

If I am legally separated, can I still get support for myself and my children from my spouse?

Yes. In fact, you can ask for temporary maintenance, child custody, possession of property, and child support. You can also ask for temporary visitation rights, counseling, a temporary restraining order or a protective order.

The court will not automatically grant these orders; you need to request them first.

What is temporary maintenance?

Temporary maintenance is money paid from one spouse to another during the legal separation. It is generally intended to preserve the standard of living of the family.

You mentioned that there was a possibility of counseling. Can you tell me more about that?

You, your spouse, and any of your children can ask a judge to order you to attend counseling so that you can try to improve your marriage. But the judge cannot require you and your family to get counseling together if either you or your spouse are against it, or if there has been any violence in your marriage or life together.

Is there anything else I need to know before I begin to prepare for a legal separation?

Think about getting legal assistance. A separation or divorce action requires a number of forms to be submitted to the court. Make sure all the information you provide is up to date and accurate. Also, you should be aware that the information you give your attorney is confidential, so you don't have to worry about the kind of information and detail that you provide. The more open and honest you are, the better your attorney can help you.

Do I have to file for a legal separation if I want to separate from my spouse?

No. You can simply move out and live separately. However, if you want court orders on the marital property and debts or about the children, you should file for a legal separation. Also, if you have not filed for divorce or legal separation, you may be liable for some of your spouse's debts even if you are no longer living with your spouse.

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