

## **What does it mean to file for divorce?**

When you file for divorce, you are asking the court to end your marriage. The court will divide the property and debts. If you and your spouse have children, the court will issue custody, visitation and child support orders. A divorce is also called a “dissolution of marriage.”

## **What do I have to prove to get a divorce?**

You have to prove there has been an “irretrievable breakdown” of your marriage. This means that there is no chance you and your spouse can stay married. You do not have to prove that you or your spouse did anything wrong. But you do have to prove that you or your spouse have lived in Indiana for the last six months.

## **What happens when I file for divorce?**

There is a \$129 filing fee. If you cannot afford to pay the fee, you can ask the court to let you file a divorce without paying the fee. The court will then decide whether you can afford to pay the filing fee or not.

Shortly after you file for divorce the court will often have a hearing. At this hearing, the court will issue temporary orders concerning children, property, debts or anything else that cannot wait until the final hearing. You have to wait

for at least 60 days after you file the divorce before you can get the divorce finalized. After the 60 days are up, you can ask the court to schedule a final divorce hearing. At that hearing, the court will issue final orders concerning children, property, and debts of the marriage.

## **How do I finalize the divorce?**

If you and your spouse agree on everything, you can give the agreement to the court and the court will finalize the divorce. You do not have to go to court for a hearing if you and your spouse have an agreement. An attorney can help with the proper paperwork.

If you and your spouse do not agree, the court will have a final hearing. At the hearing, both you and your spouse (and maybe other witnesses) will tell the court what you each should have out of the divorce. The court will then grant the divorce, and issue final orders concerning any children from the marriage, and the property and debts of the marriage. The wife can also ask that her maiden name (or other former name) be given back to her.

## **How will our property be divided?**

In general, the court will divide the property evenly between the two spouses. However, the court may give one spouse more property than the other spouse if the court has good reasons to

do this. The court can look at several factors, including:

1. Which spouse provided the money for the property;
2. Whether the property was given as a gift to one of the spouses;
3. The current financial situation of each spouse; and
4. The earnings or earnings ability of each spouse.

## **How will the court decide custody and visitation?**

Both the husband and wife have equal rights to custody of the children. The court will determine what is in the best interests of the children. The court can consider:

1. The age and sex of each child;
2. The wishes of the children and the parents;
3. The relationships among the children, their parents and other significant people;
4. The children’s adjustment to their home, school and community;
5. The physical and mental health of the children and parents; and
6. Evidence of a pattern of domestic abuse.

The parent who does not have custody is usually given visitation. Indiana has “Parenting Time Guidelines” which say what visitation should be given. The visitation is different for different ages of children. Your local court can give you a copy of these Guidelines.

### **Will the non-custodial parent have to pay child support?**

Yes. The court usually will order the non-custodial parent to pay child support. Indiana has Child Support Guidelines that help the court determine the amount of child support. The guidelines use both parents’ incomes to determine the amount of child support. The following web-site may help you estimate your child support:  
[www.indygov.org/cgi-bin/courts/support.cgi](http://www.indygov.org/cgi-bin/courts/support.cgi)

### **What if my ex-spouse does not follow the divorce order?**

If your ex-spouse does not follow the court’s orders, you can take the ex-spouse back to court for a “contempt” hearing. The court can order your ex-spouse to follow the divorce order, and can even punish the person for not following the court’s order.

### **Will the court grant a divorce if the woman is currently pregnant?**

The court can grant the divorce while the woman is pregnant. If the husband and wife agree that the child is not a

child from the marriage, the court can grant the divorce and will state in the divorce order that the unborn child is “not a child of the marriage.” If the husband and/or wife believe the child is a child of the marriage, the court can grant the divorce but the parties will have to go back to court after the child is born to determine issues concerning the child.

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### **TO SUBMIT AN APPLICATION FOR LEGAL ASSISTANCE, CALL ILS INTAKE:**

*Anderson:* 1-800-385-3541 or 1-765-644-2816  
*Bloomington:* 1-877-323-6260 or 1-812-335-2610

*Evansville:* 1-800-852-3477 or 1-812-426-1295  
*Fort Wayne:* 1-877-323-6260 or 1-260-424-9155

*Gary:* 1-888-255-5104 or 1-219-886-3161  
*Hammond:* 1-219-853-2360

*Indianapolis:* 1-800-869-0212 or 1-317-631-9410  
*Lafayette:* 1-800-382-7581 or 1-765-423-5327

*New Albany:* 1-800-892-2776 or 1-812-945-4123  
*South Bend:* 1-800-288-8121 or 1-574-234-8121

**Español 1-877-323-6260**

# Divorce

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Information Available on the web  
[www.indianajustice.org](http://www.indianajustice.org)