

DIVORCE IN PHILADELPHIA COUNTY DURING COVID-19

Do you want to file for divorce?

Divorce is a legal procedure that ends a marriage and changes the legal relationship between former spouses. Living apart from your husband or wife does not legally end a marriage.

Types of divorce available in Pennsylvania.

There are 2 kinds of divorce: **no-fault** divorce and **fault**-based divorce. Most people in Pennsylvania obtain a no-fault divorce because it is easier and cheaper and you may not have to appear before a judge or go to court other than to file the papers needed for the divorce. There are 2 kinds of no-fault divorce:

1. **If both parties agree to the divorce**, they can obtain a no-fault divorce based on consent. After one party files for the divorce, and 90 days has passed after the complaint is served on the other spouse, each party may file an Affidavit of Consent to divorce. If your spouse was convicted of a personal injury crime (a misdemeanor or felony crime listed in the divorce law) against you, you will not have to get your spouse to sign a consent affidavit and file it with the court. Consent will be presumed. You may also work out any property issues you have by agreeing on how you will deal with marital property in a Property Settlement Agreement. The court rules require you to file a series of legal papers to complete the divorce. This is the fastest way to divorce in Pennsylvania, but it requires both parties to work together

2. **Unilateral** (also known as “**irretrievable breakdown**”) no-fault divorce is available if one of the spouses will not agree to the divorce but the parties have been living separate and apart (defined by the statute as “complete cessation of any and all cohabitation, whether living in the same residence or not”) **for at least one year** and the marriage is irretrievably broken. You may file for the divorce before you have lived separate and apart for one year, but you cannot finalize the divorce until the required time period has passed.

There may be disagreement between you and your spouse about when you started living separate and apart. If you disagree with each other, it is important to try to get some legal advice on this issue.

Where to file for divorce.

You may file for divorce in Philadelphia County if you or your spouse lived in Pennsylvania for the 6 months immediately before the filing of the divorce complaint, and either party currently resides in Philadelphia or you agree to divorce in Philadelphia. There is no required length of residency in the county where the divorce complaint is filed.

Divorce forms for both types of divorce including complaints and instructions are on the Philadelphia Family Court’s website under Court of Common Pleas-Domestic Relations at <https://www.courts.phila.gov/forms/>. You can download the correct complaint, complete it yourself, and file it by mail or by email. You will need to file an original and three copies with the Court. One of these copies must be “redacted.” This means that confidential information such as a child’s name and date of birth must be blacked out. One copy must include the information and the other two copies must have it blacked out.

If you cannot pay the filing fee of \$333.73, you may download and complete an In Forma Pauperis (“IFP”) petition to waive the fee, which can be found [here](#).

While the Family Court building is physically closed to the public, you can still file for either type of divorce in one of two ways:

By Mail: Divorce complaints can be filed by mail to the Office of the Clerk of Family Court, 11th Floor, 1501 Arch Street, Philadelphia, PA 19102. Be sure to include the required Domestic Relations Information Sheet, and an IFP petition if you have completed one. You should also include a self-addressed, stamped envelope so that the Court can mail two copies of the time-stamped complaint back to you, so that you

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can serve it on your spouse and keep a copy for your records.

or

By Email: Complaints and petitions can be emailed to DRCLerkRoutine@courts.phila.gov.

Be sure you include the required Domestic Relations Information Sheet and an IFP petition if you have completed one. The Court will mail you back by U.S. mail two copies of the time-stamped divorce complaint, so that you can keep one for your records and serve the other one on your spouse.

What is the cost?

The filing fee is \$333.73. Payment of all applicable filing fees, or in the alternative a fully completed Petition to Proceed In Forma Pauperis must be received by the Office of the Clerk of Family Court simultaneously with a mailed filing, or within three (3) business days from an emailed filing.

All filing fees must be in the form of a money order or attorney's check (no personal checks), MADE PAYABLE TO THE OFFICE OF JUDICIAL RECORDS, and must be mailed (along with the legal filing, if applicable) to the Clerk's office, addressed as follows: Office of the Clerk of Family Court 1501 Arch Street, 11th Floor Philadelphia PA 19102 ATTENTION: FILING FEES (if payment is included). The docket number should be included in the memo portion of the check or money order, but if no docket number has yet been generated, the case name should be included. If the filing was emailed, the mailed filing fee should include a printout of the email accompanying the filing, but not the filed document itself.

If after Court review, the IFP petition is denied, payment of all applicable filing fees must be made via mail within twenty (20) days from notification by the Clerk's office to the Petitioner that the IFP petition has been denied.

What happens to property owned by the parties in a divorce?

“Marital property” refers to almost all property regardless of whose name is on it. Such assets would include a house (again, regardless of whose name is on the deed or mortgage), pensions, stocks and bonds, furniture, automobiles, bank accounts, debts, etc. “Marital property” also includes *increases in value*

during the marriage of: (1) any property owned by a spouse before the marriage and/or (2) any asset or property a spouse inherits or receives by gift during the marriage. **Importantly, debts are also part of a marital estate and responsibility for them may also be divided between the parties.** The law provides guidance regarding the “**equitable distribution**” of marital property. Equitable distribution means “fair.” ***It does not necessarily mean 50-50 distribution*** of marital property.

“**Fairness**” is determined by examining several factors:

- Length of marriage;
- Any prior marriage of either party;
- Age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties;
- The contribution by one party to the education, training or increased earning power of the other party;
- The opportunity to acquire assets and income in the future;
- The sources of income for both parties;
- The contribution of each party in the acquisition, preservation, depreciation or appreciation of marital property, including the contribution of a party as homemaker;
- The value of any property set apart to each party;
- The standard of living of the parties established during the marriage;
- The economic circumstances of each party; and
- Whether the party will be serving as the custodian of any dependent minor children.

Note that “fault” behavior (e.g., adultery) is not considered in determining fairness in property distribution.

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Can alimony or support for the spouse be awarded in a divorce?

A separated spouse may seek three forms of support.

- **Spousal Support** Spousal support is a form of support available to a dependent spouse even before a divorce complaint is filed because married people have a duty to support one another.

- **Alimony Pendente Lite (APL)** is a form of support that is only awarded for the period after a divorce complaint has been filed and ends when the divorce is granted. Its purpose is to allow the spouse with fewer financial resources than the other to pursue and/or defend against the divorce action and maintain his or her standard of living during this period.

- **Alimony** is a form of financial support paid by one spouse to the other after the divorce is final. The law allows the court to order alimony for as long as it is needed based on the following factors:

- ✓ Relative earnings and earning capacities of the parties;
- ✓ Ages and physical, mental and emotional conditions of parties;
- ✓ Sources of income of both parties, including:
- ✓ Expectancies and inheritances of both parties, and
- ✓ Length of the marriage.
- ✓ Contribution by one party to the education, training, or increased earning power of the other party;
- ✓ Extent to which earning power, expenses, or financial obligations of a party will be affected by reason of serving as custodian of minor child;
- ✓ Standard of living of the parties established during the marriage;
- ✓ Relative education of the parties and time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment;
- ✓ Relative assets and liabilities of parties;
- ✓ Property brought to the marriage by either party;
- ✓ Contribution of a spouse as a homemaker;
- ✓ Relative needs of the parties;

- ✓ Marital misconduct of either party during the marriage, but not after the date of final separation (except abuse of one party by the other);
- ✓ Federal, state and local ramifications of alimony;
- ✓ Whether the party seeking alimony lacks sufficient property to provide for the party's reasonable needs;
- ✓ Capability for self-support through appropriate employment.

Do you need a lawyer?

Filing for a divorce can be a complicated process, especially if custody of children, support, and/or property division is involved. If possible, it is best to have legal representation.

Legal assistance may be available from:

- **PHILADELPHIA LEGAL ASSISTANCE:**
<https://www.philalegal.org/>
- **PHILADELPHIA BAR ASSOCIATION'S LAWYER REFERRAL AND INFORMATION SERVICE:**
215-238-6333

This brochure is meant to give you general information and not legal advice.

**Divorce forms are available under
*Court of Common Pleas Family Court-
Domestic Relations at***

<https://www.courts.phila.gov/forms/>