

What is Divorce in Indiana?

In Indiana when the marriage suffers, what is described as an irretrievable breakdown, the spouses may want to file for a divorce or legal separation.

Indiana law and case analysis does not require that there be specific reasons that can be articulated as to grounds or reasons for filing for divorce. Indiana is one of a group of “no-fault” states wherein no specific reason or pleading is required to state why the person wants a divorce or legal separation.

Therefore, the Court is not concerned whether one of the parties has been unfaithful, cheated on the spouse, is an alcoholic, has drug-related issues, or, personality disturbances that make the continuation of the marriage impossible. In Indiana, all that must be stated is that there is an irretrievable breakdown of the marriage and the other party no longer wishes to remain married. The previously-mentioned reasons are not required to get a divorce. A divorce in Indiana is no fault and will be granted without a presentation of reasons.

The Property Settlement Agreement and custody of the children may have elements of fault. If an individual has engaged in wasting of marital assets, either through gambling, or, possible drug-related matters, the court will be sensitive to hearing those issues concerning wasting of marital assets. The Court may be interested in hearing about alcohol or drug-related issues and extra-marital affairs when the issue of child custody is presented to the Court. Therefore, to procure a divorce does not require fault; however, the issues within the divorce may in fact have fault, or, reasons presented as they apply to separate issues such as property settlement division, asset allocation, debt payment, custody and visitation.

There is a misnomer in the public domain that states “non contested divorces available.” It must be remembered that every divorce in of itself is non-contested, but, the issues within the divorce itself may be highly contested. Therefore, it is imperative that the terminology be clear when discussing no-fault divorce, non-contested divorce and what is subject to a legal contest.

Legal Separation

A legal separation requires the same filing as a divorce filing except the words “legal separation” is inserted instead of divorce. A legal separation does not end with a decree of divorce as a petition for divorce. A legal separation is a period enforced with documentation, as to the responsibilities of the parties as to payment of bills and obligations; living arrangements, care and custody of the children. A legal separation may be in effect for more than one year, but, by statute, a formal separation agreement is to terminate at the end of the year of existence. At any point in time, a legal separation

may be amended to be a divorce action. Once the legal separation is amended to be a divorce, the pending action may be set for final divorce hearing.

Time Requirements for Divorce or Legal Separation

The Indiana Code requires that a dissolution action be on file for a period of 60 days prior to the approved entry of a dissolution decree. Therefore, no divorce in Indiana can be granted in less than 61 days. A divorce agreement may be entered into and signed by the parties prior to the 60 day period, and, prepared to be filed with the Court. However, even approval of a Property Settlement Agreement prior to the 60 days does not grant the dissolution of marriage. A Dissolution Decree must be filed later than 60 days.

A standard dissolution in Indiana takes approximately 120 to 150 days to be completed. The time element is directly related to the number of issues raised by the parties within a divorce action. The issues raised may be from a property settlement, debt allocation, custody, support, visitation and numerous other issues.

The greater the complication of the issues raised by the parties the longer the action may take to complete.