

Covenant Marriage: Separation and Divorce

This fact sheet gives the steps you need to get a covenant marriage divorce in Arkansas.

It points out issues for you to think about and choices you will need to make.

Every divorce starts with one person (the plaintiff) filing a complaint asking the court to grant a divorce decree. The person who files the complaint asking for the divorce is the **plaintiff**. The person who the divorce is filed against is the **defendant**.

To file for a covenant marriage divorce in Arkansas:

1. You must have lived in Arkansas for 60 days before filing.
2. You must attend marital counseling.
3. You must state grounds.
4. The grounds must have happened within the last five years.

If your spouse does not want the divorce, then you have to prove each of these things in court and bring a witness or a written affidavit to prove your testimony about the grounds and residency at the final hearing. If you and your spouse agree to divorce, then you do not need to have a witness.

Grounds for divorce:

The grounds for divorce in a covenant marriage are stricter than in a normal marriage. You must prove that your spouse committed at least one of these grounds to get a divorce:

- Adultery
- Felony or serious crime

- Physical or sexual abuse of one of your children
- Living separate and apart from you for at least 2 years
- Living separate and apart from you for at least 2 years and 6 months, if you have a child
- Living separate and apart from you for at least 1 year, if you have a child and your spouse abused you or the child

Grounds for Separation

The grounds for separation in a covenant marriage are stricter than in a normal marriage. You must prove that your spouse committed at least one of these grounds to get a separation:

- Adultery
- Felony or serious crime
- Physical or sexual abuse of one of your children
- Living separate and apart from you for at least 2 years
- Constantly drinking alcohol for 1 year
- Cruel and barbarous treatment that is a danger to your life
- General indignities that make it intolerable to continue being married

Service of process:

You must tell the defendant about the divorce and give the defendant the chance to respond.

You must follow the Arkansas Rules of Civil Procedure when telling the defendant of the divorce.

- ⌚ A process server or deputy sheriff may personally give the summons and complaint to the defendant or the defendant may be served by certified mail.

- ⌚ If the whereabouts of the defendant is unknown, service by warning order may be used.
- ⌚ There are specific rules for serving a defendant who is in prison or serving in the military.

Once the defendant is served, he or she generally has twenty (20) days to file a written answer with the court. If the defendant does not file an answer, the court can grant the divorce without the defendant.

Many cases are settled by agreement of the parties. If the parties cannot agree, the judge will decide. These are some of the issues decided in divorce cases:

- ⌚ Which parent will the children live with?
- ⌚ How often will the children be able to visit with the other parent?
- ⌚ Will the children be able to move from the state?
- ⌚ Who will pay for the children's medical and other expenses beyond child support?
- ⌚ How should property and debts acquired during the marriage be divided?

The amount of child support is determined by the Arkansas Family Support Chart. Alimony or spousal support may be awarded based on the spouse's needs, the other's ability to pay, and the specific facts of the case.

Getting a divorce in Arkansas takes a minimum of thirty (30) days from the date a complaint is filed.

If there are several issues to be decided by the judge, the divorce may take much longer. Once the judge issues the final divorce decree, you cannot get the terms changed just because you do

not like it or change your mind. In order to change the final decree, a party must show that a material change in circumstances has happened since the filing of the decree. The divorce decree lists the rights and responsibilities of each person. If someone does not follow the decree, the other may file a motion for contempt. Only the judge can change the decree.

The Family Law Series is produced by the Center for Arkansas Legal Services, Legal Aid of Arkansas, Inc., and Arkansas Volunteer Lawyers for the Elderly. These agencies provide free legal services to eligible Arkansans. Legal services may include advice and counsel, brief services, or full representation consistent with case priorities and case acceptance criteria. Additional information can be found at: <http://www.arlegalservices.org> or call 1-800-9LAW AID.

*This fact sheet is given to you as a guide to help you generally understand the way family law matters are handled. Local courts interpret things differently. The information and statements of law contained in this fact sheet are not intended to be used as legal advice. Before you take any action, talk to an attorney and follow his or her advice. **Always do what the court tells you to do.***