



Divorce Fact Sheet

Introduction

A divorce starts when one spouse (husband or wife), the plaintiff, files a complaint for divorce in circuit court. The defendant is the person the plaintiff wants to divorce.

To be divorced in Arkansas, one of the parties must live in Arkansas at least 60 days before the plaintiff files for divorce. Any children of the parties must live in Arkansas for six months before the court can decide custody and visitation.

Grounds

Arkansas is a fault divorce state, so the plaintiff must prove there are reasons (grounds) for divorce. The most common grounds for divorce are general indignities and separation for 18 months.

Service

The plaintiff must tell the defendant about the divorce by serving them with the Complaint for Divorce and a summons.

The plaintiff may serve the defendant using a process server or deputy sheriff or by sending the paperwork by certified mail.

It is possible to serve the defendant by publication, but only if the plaintiff has done everything they can to find the defendant. This type of service is called "service by warning order."

If the defendant is in jail or prison or active military duty, then special rules apply to service and how long the defendant must answer the lawsuit.

Once the defendant is served they generally have 30 days to file a written answer with the court. If the defendant does not file a written answer, then the court may grant the divorce without any notice to the defendant.

Settling Issues

In most cases, the plaintiff must wait at least 30 days from the date the complaint was filed to finalize the divorce. If the plaintiff and defendant agree on all the issues of the marriage, then the case may be finalized without a contested hearing.

In all divorce cases, the plaintiff must prove grounds for divorce and 60 days' residency. The only no-fault divorce is if the parties have been separated for more than 18 months. These things may be proved by the testimony of the plaintiff and a witness. If the parties disagree, then the case must go to a judge to decide.

Some of the Issues the Judge May Decide

Custody and Visitation

The law assumes that the parents should have joint custody of minor children unless domestic violence is involved. If the parents cannot agree on a custody arrangement, then the judge decides what is in the children's best interest. If the judge decides that joint custody will not work, then the judge decides who will have custody and who will have visitation. The judge will also decide if there are any restrictions on visitation.

Child Support and Alimony

The non-custodial parent will be ordered to pay child based on the Arkansas Family Support Chart. The judge may award alimony based on the facts of the case if one spouse has a need and the other spouse can pay.

Property and Debt Division

Any property or debt that either party acquired during the marriage can be divided in a divorce. If the parties do not agree to a division, then the judge will order a fair division.

Afterwards

Once the judge orders a final divorce decree, the terms cannot be changed just because a party does not like it or changes their mind. Custody, visitation, and support are the only things in the decree that can be modified at a later date.

The divorce decree lists the rights and responsibilities of each party. If one party does not follow the decree, then the other may file a motion for contempt of court asking the court to enforce the decree.

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1-800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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