



## DIVORCE

### What is divorce?

Divorce, also called absolute divorce, is when a court legally ends your marriage. The court will enter an order, called a “divorce decree” or “decree.” The order can also settle issues including:

- alimony (spousal support)
- how to divide your marital property
- child support
- child custody (also called parenting time and decision-making authority).

Addressing these issues in your divorce decree allows a court to take steps to enforce the terms of the order if you or your spouse do not follow them. After your divorce is finalized, you and your former spouse can remarry.

Watch a video series on divorce at [mdcourts.gov/divorce](https://mdcourts.gov/divorce).

### Can I get a legal separation?

There is no such thing as a “legal separation” in Maryland. If you and your spouse live separate lives for at least six months, you can file for divorce based on the ground (legal reason) of a “6-month separation.”

### What are legal reasons, or grounds, for divorce?

One spouse must prove that at least one “ground” exists before the court will grant a divorce. There are three grounds for divorce:

- **Mutual Consent** – You and your spouse can agree to divorce and sign a written agreement (called a marital settlement agreement) that resolves all issues related to alimony, marital property, and the care, custody, and support of any minor or dependent children. You can use form [CC-DR-116 \(Marital \(Marriage\) Settlement Agreement\)](#) and file it with a complaint for divorce.
- **6-Month Separation** – You and your spouse have lived separate and apart, without interruption, for at least six months before filing a complaint for absolute divorce. You can still live under the same roof but must pursue separate lives. The separation can also be based on a court order, such as a protective order.
- **Irreconcilable Differences** – You believe, or your spouse believes, that your marriage should end for reasons that cannot be resolved.





## How does alimony (spousal support) work?

Alimony, or spousal support, is a periodic support payment one former spouse makes to the other. Alimony can only be ordered before a final divorce decree is entered. You cannot ask for alimony after a divorce is final.

There are three types of alimony:

- **Pendente lite alimony** – This is temporary support one spouse pays to the other while the divorce action is pending (before the court issues a final divorce decree).
- **Rehabilitative alimony** – This type of alimony provides support for a limited time or for a limited purpose. The goal is to provide one spouse with temporary support so they can become self-supporting. For example, the court can order alimony for two years to allow the receiving spouse to earn a degree. This is the most common type of alimony.
- **Indefinite alimony** – This type provides support to one spouse with no end point. This type of alimony is rare but may be awarded if one spouse cannot make reasonable progress toward becoming self-supporting. This could be because of their age, an illness, or a disability. It may also be ordered if the standard of living of one spouse would significantly change.

If you and your spouse cannot reach your own agreement about alimony, the court will decide for you. It will consider a variety of factors including the length of your marriage, your financial situations, how any marital property is divided, the reasons for your divorce, and your and your spouse's ages and health.

Unless you and your spouse agree otherwise, alimony can be modified or extended. It terminates (ends) upon death, the recipient's remarriage, or by the court to avoid a harsh result.

## What is marital property?

Marital property is property that you and your spouse acquired during your marriage. It does not matter how the property is titled or who paid for it. It can include real estate, bank accounts, pension and retirement accounts, vehicles, furniture and other personal property, and businesses.

Marital property does not include:

- property one of you acquired before you got married
- gifts or inheritances made only to you or your spouse
- property you and your spouse agree are not marital
- property traceable to any of the above sources, such as items purchased with money from an inheritance





Property can be part marital and part non-marital. This can get complicated, so it's a good idea to talk to a lawyer.

You and your spouse can reach an agreement to divide marital property. If you cannot agree, you and your spouse will need to complete a [Joint Statement of the Parties Concerning Marital and Non-marital Property \(CC-DR-033\)](#) to help the court decide who gets what.

If you and your spouse have children in common, the court can order that one spouse has exclusive use of the family home and "family use personal property," which are items used for family purposes like the family car, furniture, and household items. This can be awarded to the spouse who has primary physical custody (also called parenting time) of your child(ren) for up to three years from the time of divorce. The goal is to allow children to stay in a familiar environment and community.

## What about our children?

Your divorce decree can also address child support and custody.

- **Child support** – Parents have an obligation to financially support their children. In general, a parent who has primary physical custody (also called parenting time), will receive child support payments. The amount of child support will be based on a formula that takes into account each parents' income and expenses, and the child's needs. The amount of child support must be in the best interests of your child. Learn more about child support at [mdcourts.gov/childsupport](http://mdcourts.gov/childsupport).

If you and your spouse's combined gross monthly income (not take home pay) is \$30,000 or less, you'll need to provide a [Financial Statement \(Child Support Guidelines\) \(CC-DR-030\)](#). If your combined gross monthly income is more than \$30,000, you'll need to provide a [Financial Statement \(General\) \(CC-DR-031\)](#).

- **Child Custody** – Your divorce decree can address when your children spend time with you and your spouse (parenting time or physical custody) and how decisions about your children will be made (decision-making authority or legal custody). You and your spouse can create your own written parenting plan (custody agreement) and file it during your divorce. [Learn more about parenting plans](#). If you cannot reach an agreement, you'll need to file a [Joint Statement of the Parties Concerning Decision-Making Authority and Parent Time \(CC-DR-110\)](#), which will help the court decide what custody arrangement is in the best interest of your children.





## Do I need a lawyer?

Divorce can be complex. You may have a lot at stake if child custody is an issue, or if property, retirement assets, or alimony needs to be resolved. Consider having a lawyer represent you if your case has complicated issues or if your spouse has a lawyer. If you plan to represent yourself, talk to a free lawyer at your [local Family Court Help Center](#) or by calling the [Maryland Court Help Center](#). These lawyers can't represent you in court, but they can help you represent yourself.

## How do I file for divorce?

You can file for Divorce in a Maryland [circuit court](#) if you or your spouse is a Maryland resident. If the ground for divorce happened outside of Maryland, one of you must have been a Maryland resident for at least six months at the time of filing.

To file for divorce, you can use form [CC-DR-020 \(Complaint for Absolute Divorce\)](#). The form lists other documents you need to attach to your complaint. You may also need to file a Civil Domestic Information Report ([CC-DCM-001](#)).

There is a fee, but you may be eligible for a fee waiver based on your income. Learn more about filing fee waivers at [mdcourts.gov/feewaivers](#).

You'll need to provide copies of the complaint and all attachments to your spouse through a formal process called service of process (service). You must also send to the court proof that your spouse was served. Do not overlook this crucial step. Learn more about service at [mdcourts.gov/ccservice](#).

## What if my spouse filed for divorce?

If you are served a complaint for absolute divorce, you must respond by filing an **answer**. In an **answer**, you agree or disagree with the statements your spouse made in their complaint. You can use form [CC-DR-050 \(Answer to Complaint/Petition/Motion\)](#). There are deadlines for when you must file your answer with the court:

- If you were served in Maryland, you have 30 days to respond
- You have 60 days if you were served in another state
- If you were served outside the U.S., you have 90 days.

If you don't file your answer on time, your spouse can ask the court for an order of default. This would allow the divorce case to move forward without your participation.

If you want the court to address issues different from what your spouse asked for in their complaint, can also file a **counter-claim**. You can use form [CC-DR-094 \(Counter-Claim for Absolute Divorce\)](#).





Mail to your spouse copies of your response and any attachments you file with the court. Let the court know that you mailed those copies by completing the Certificate of Service section at the end of the Answer and Counter-Complaint form.

### **How do I change my name back to my former name?**

You can ask the court to order to change your name back to what it was before marriage during the divorce case. If you do not make the request before the divorce order, you have 18 months to ask the court to restore your former name. You can use [Motion for Restoration of Former Name \(CC-DR-097\)](#). After 18 months, you will need to file a separate case to change your name. Learn more about the name change process at [mdcourts.gov/namechange](https://mdcourts.gov/namechange).

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