

---

---

# DIVORCE AND SEPERATION

---

---

This pamphlet contains general information about your rights. Consult a lawyer if you have specific questions.

**CENTRAL VIRGINIA LEGAL AID  
SOCIETY, INC.**

**101 WEST BROAD STREET,  
SUITE 101**

**P.O. Box 12206**

**RICHMOND, VIRGINIA 23241**

**1-804-648-1012**

**1-800-868 1012**

**WWW.CVLAS.ORG**

**WWW.VALEGALAID.ORG**

CVLAS is a non-profit organization providing free legal advice, and representation to low income or elderly people in Central Virginia. Contact us Monday - Thursday 9-12 to see if you qualify for services.

This project financially assisted  
by the Virginia Law Foundation.



© May 2004 by  
Central Virginia Legal Aid Society.



**CENTRAL VIRGINIA LEGAL AID SOCIETY, INC.  
101 WEST BROAD STREET, SUITE 101  
P.O. BOX 12206  
RICHMOND, VA 23241**

## **ARE THERE ANY REQUIREMENTS FOR A DIVORCE?**

To file for a divorce, you or your spouse must:

- Be at least 18 years old.
- Have been living in Virginia for the 6 months before you file.

## **DO I HAVE TO WAIT FOR A DIVORCE?**

Maybe. You DO NOT have to wait if you are getting a divorce because your spouse cheated on you or your spouse is convicted for a felony and is sentenced to jail for more than a year.

You DO have to wait a year and live apart for a year if you are getting a divorce because of physical cruelty (there is no mental cruelty divorce in Virginia), desertion (this means your spouse left without a good reason), constructive desertion (this means your spouse forced you to leave) or an uncontested "no fault" divorce based on one year's separation.

A limited exception to the one year "no fault" divorce allows a divorce after six months separation. Under this exception, you must have no minor children of the marriage. You also must have a signed separation agreement.

## **WHAT IS A LEGAL SEPARATION?**

There is no such thing as a "legal separation" or "legal separation proceedings" in Virginia. Separation is simply not living together. You don't need any papers to live separate and apart from your spouse.

## **WHERE DO I FILE FOR A DIVORCE?**

You should file for divorce in the Circuit Court where you last lived together or where your spouse lives.

## **WHAT ARE THE STEPS FOR GETTING A DIVORCE?**

Generally, there are five steps in a divorce. First, you file divorce papers with the court. Second, someone, usually a Deputy Sheriff, serves (legally delivers) the papers to your spouse.

Third, both sides get to gather evidence. The most common way is an interview with an attorney. This is called a deposition. The judge will gather evidence at a hearing.

Fourth, both sides give the deposition, a proposed Final Decree of Divorce, and other papers to the Judge for review.

Fifth, if everything is in order, the Judge signs the Final Decree of Divorce.

## **DOES MY SPOUSE HAVE TO SIGN FOR ME TO GET A DIVORCE?**

No. Your spouse does not have to sign the papers for you to get a divorce. As long as the divorce papers have been properly filed and served (legally delivered) to your spouse, a judge can give you the divorce.

## **MY SPOUSE HAS FILED FOR DIVORCE, WHAT DO I DO?**

After you get the papers, you have 21 days to file a written answer (a legal document) with the Circuit Court. The Answer must admit or deny each numbered paragraph of the Bill of Complaint. Make sure you **ask or reserve your right to ask for spousal support or equitable distribution (the court to divide property) in the Complaint or the Answer. If you fail to do so, you have waived your right to ask for it in the future.** If you do not Although you can file your own Answer in Circuit Court, you will probably need a lawyer to help with the case. Procedures in Circuit Court are complicated.

## **WHILE WE'RE GETTING A DIVORCE, CAN THE JUDGE DECIDE OTHER THINGS?**

Yes. The judge can decide:

- Child custody.
- Child visitation.
- Child support.
- Spousal support (alimony).
- Protective order.
- Equitable distribution (fair division) of marital property.

Except for equitable distribution and the divorce, all of these issues also can be heard and decided in the Juvenile and Domestic Relations (J&DR) Court.

## **WHEN MY SPOUSE GETS A DIVORCE, DO I NEED ONE ALSO?**

No. One divorce covers both you and your spouse. It takes only one marriage to marry two people. It takes only one divorce case to divorce two people.

## **CAN I FILE FOR A DIVORCE WITHOUT A LAWYER?**

You may be able to do this, but it is not recommended. Divorce is difficult. You may lose your children, income, property, or other rights if you don't know the law. You probably will need a lawyer to file your divorce. Procedures in the Circuit Court are complicated.

## **HOW LONG DOES A DIVORCE TAKE?**

If there are no problems, it usually takes at least three months from the time the divorce is filed until it is granted. If there are contested issues, a divorce can last much longer, sometimes for several years.