BEST LAW FIRM
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Your Guide
To Divorce

What You Need to Know about Divorce and the Divorce Process in Arizona



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Your Guide to Divorce

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Divorce Is Difficult

We Can Help

Divorce is one of the toughest events you can experience. It's even harder when you don't know what the next step is. The best way to reduce your stress is to understand and involve yourself in the process. This booklet is designed to give you an outline of the legal process and provide you with some important information as you navigate through this difficult time.

Before

You Begin

Starting A Divorce

Once you have made the decision to divorce you must file a Petition for Dissolution in the Maricopa Courts and then "serve" it on the opposing party. The date of service ends the marital community and all property or debt accumulated after this date will be deemed separate property or separate debt.

Legal Separation Or Divorce?

A legal separation is almost identical to a divorce, except at the end, you are separated and not divorced. The procedures are identical in terms of filing, costs, and the final agreements regarding finances. Financial agreements in a legal separation will become the same financial agreements in a divorce. In other words, you cannot make a decision regarding finances in a legal separation and then change your mind about the same issues in a divorce, unless both parties agree. Most frequently, people choose legal separation to maintain certain financial benefits, such as allowing one spouse to remain on the other spouse's health insurance.



Quick Facts

About Divorce

(also called a dissolution)

1 Getting Started

Once you have made the decision to divorce you must file a Petition for Dissolution in the Maricopa Courts and then "serve" it on the opposing party. The date of service ends the marital community and all property or debt accumulated after this date will be deemed separate property or separate debt.

2 Community Property and Separate Property

Property acquired from the date of your marriage until the date the other party is "served" with the divorce paperwork is community property and divided equally in a divorce. Property that was inherited, given as a gift or owned before marriage is sole and separate property and awarded to that person. Community property includes real estate, vehicles, retirement accounts, banks accounts and furniture. Debts are also considered community and split equally.

3 Spousal Maintenance

Spousal maintenance (alimony) may be awarded to a spouse who lacks sufficient property and income to meet his or her reasonable needs. Spousal maintenance is set in amount and duration and paid monthly from one spouse to another. The parties can agree to make it non-modifiable as to amount and duration. Spousal maintenance is the most complex issue in a divorce. We recommend you consult with an experienced Arizona attorney to learn more about this complex issue.

4 Reaching Agreements

Parties may reach agreements out of court through a settlement conference, settlement letters, and/or mediation. These agreements can then be written in a decree and/or a property settlement agreement that will be filed with the court and signed by the judge. Issues that cannot be resolved by the parties will be resolved by a judge after a trial. The parties can make agreements that differ from community property laws. A trial includes testimony and exhibits that are presented in a courtroom.



What You Need to Know About Filing for

Divorce in Arizona

Filing for Divorce

In Arizona, a divorce starts when one spouse files a Divorce Petition (called a Petition for Dissolution) with the court. There are filing fees for a Petition for Dissolution and for filing a Response. Filing Fees: Petition for Dissolution of Divorce $349 as of April 1, 2019.

Serving Petition

In Arizona the Petition is filed and then a copy of the Petition and the related documents must then be legally served on the other spouse. Service can be accomplished in a few different ways, including by certified mail (return receipt), by having the respondent spouse sign an Acceptance of Service, or by a process server. An "Affidavit of Service" must be filed with the court so the court knows the other spouse has notice of the divorce filing.

Marital Community

The date of service is important, because it is the date the "marital community" is over. From the date of service going forward, the parties will no longer accumulate "community" property or debt. Community property is property that each spouse has a claim to and community debts are split equally.

A Preliminary Injunction will be served along with the Petition. Among other things, this prohibits both parties from selling community property or making changes to existing insurance coverage.

Cooling-Off Period

Before a divorce can be finalized, parties must wait 60-days from the date of service. Negotiations and agreements can be made during this period to avoid trial. The final paperwork can be filed on the 61st day after service.



Response to

Divorce Petition

1 Responding

A response can be filed after receiving a petition for divorce within 20 days (30 days to respond if served outside of Arizona). We strongly recommend that a response be filed to avoid a default. A default is difficult and costly to fix. We've received many panicked calls by spouses who were defaulted and treated unfairly in the Default Decree. The filing fee for a Response to Petition for Dissolution is $274.

2 Default: If No Response Is Filed

If the responding spouse fails to file a Response within the allowed time, the petitioning spouse may apply for a default judgment.

A spouse applies for a default judgment by filing an Application and Affidavit for Default. This must be filed with the Court and served on the other party. The responding spouse will then have 10 days to respond to the Application and Affidavit for Default.

If the spouse fails to respond, a Default Decree of Dissolution of Marriage may be obtained, which grants the divorce on the terms of the spouse who originally filed the Petition. The court will often hold a default hearing before issuing the Default

3 Agreements

If both parties agree to all issues, the divorce can be completed in sixty-one days. A Consent Decree of Dissolution of Marriage and a Property Settlement Agreement sets forth all the agreements and can be submitted to the court 61 days after the date of service. Once the Decree is signed by the judge, the divorce is final.

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Divorce Process

without Children

You Decide to Get a Divorce

You File the Divorce Paperwork with the Court

You Serve the Filed Divorce Paperwork to your Spouse

Your Spouse Files a Response

Is There an Agreement on all issues?

No

Yes

You and Your Spouse Disclose Docs & Info

The Court Schedules a Resolution Management Conference

Temporary Orders Hearing (if needed)

Settlement Conference/Mediation

Is there a Settlement Agreement?

Yes

You File Consent Decree (and Property Settlement Agreement - if necessary) with Court.

Judge Signs Consent Decree and Property Settlement Agreement

Divorce is Final

QDRO (if needed)

No

Trial Preparation

Trial before a Judge

Judge Signs Consent Decree

Judge Makes a Decision on All Contested Issues



After the

Divorce is Filed

Resolution Conference

The court typically schedules a Resolution Management Conference (RMC) where the parties and their attorneys, if they are represented, go before the court for the first time. At the RMC, the court will attempt to determine if the parties have reached any agreements or need any experts or help. If neither party is represented, the court will schedule an Early Resolution Conference which is a mediation with a court employee. They will attempt to reach a settlement with both parties. Your negotiation process can be on going during the court process. It can settle at any time.

Next Steps

The court will also determine what, if any, experts or evaluators and/or orders the parties need to help settle or litigate the matter. Those services and/or orders could include drug testing, mental health evaluations, vocational evaluations, business evaluations, mediation or a trial date.

Rule 69 Agreements

Agreements become binding if they are in writing and signed by both parties or agreements are stated on the Court record. These are later incorporated into the Decree and/or Property Settlement Agreement.

Disclosure and Discovery

Parties should be exchanging all financial documents so there a complete transparency of all assets and debts.

Settlement Conference/Mediation

The Court may schedule a mediation with the court's alternative dispute resolution (ADR) services. A mediation can be scheduled to meet with a mediator who attempts to help the parties resolve all issues without going to trial. The parties can also hire a private mediator to try and resolve all issues.

Trial

The court will set a trial date to hear any disputed issues. If the parties settle all issues before the trial date, they will not need a trial. It is advised to retain an experienced family law attorney if you go to trial.



Divorce

FAQs

How long will it take to get a divorce?

According to Arizona Revised Statute, section 25-329, you must wait at least 60 days from the date your spouse was served before going to Court and filing the Decree of Dissolution of Marriage. When the spouses cannot agree on how to settle issues such as assets and debts, the length of time to get divorced will be longer. If you litigate (go to trial) the issues, it can take a year or longer.

Where do I file for my divorce?

There are currently four courthouse locations in Maricopa County, which are located Downtown, Northeast, Northwest and Southeast.

What if my spouse filed and I do not want to get divorced?

You cannot stop your spouse from divorcing you, but you can file a request with the court to order a one hour conciliation meeting to try and reconcile. There may be a fee associated with reconciliation. During this “time out” for 60 days, nothing else happens.

What is a divorce "Decree?"

A Decree of Dissolution of Marriage is the final order of the Court which makes each party a single person again, and includes separate orders, division of property and debts, spousal maintenance and any other appropriate orders. The Decree is the final order of the court legally ending the marriage. A Decree of Dissolution is a court order and can be enforced just as any other order of the Court.

What if I do not have money to pay the filing or fee?

You may request that the Court waive or postpone payment of the filing or response fees. Forms must be completed and signed by you and submitted to the Court. The forms are free of charge and are available in the office of the Clerk of Superior Court.

How much does it cost to file for divorce in Maricopa County?

The Petitioner (initiator of the divorce) must pay Maricopa County $349.00 as of April 1, 2019 and the Respondent pays $274.00 for filing an answer.

Can my spouse and I file for divorce together?

No, Arizona does not have a provision for any type of joint filing.

Do I need an attorney for my divorce?

Arizona law allows you to do this yourself. You are considered “pro se” or “pro per”; but you must follow all the same rules as parties with attorneys. In a courtroom you are held to the standard of an attorney and must know rules of discovery, evidence, examination of witnesses, and how to disclose and admit exhibits, and write a pre-trial statement.

Is it possible to represent myself in court?

Yes, but it is not a good idea. The same rules and procedures apply whether you have an attorney or not, which means all papers must be correctly completed and filed on time. Especially, if your spouse has an attorney, we recommend you consider hiring an attorney.

When is my divorce/dissolution final?

A dissolution of marriage is final after the judge signs the Decree. The court sends you a signed copy.

I cannot afford health insurance. If I file for divorce, can my husband stop paying for it while we are in the divorce proceedings?

No. After one spouse is served with the dissolution or legal separation documents, no insurance of any kind can be canceled or modified to the detriment of the other spouse until the divorce is finalized. Once finalized, each party will be responsible for their own health insurance.

Am I considered the "bad guy" if I file first?

Someone has to be the Petitioner and someone has to be the Respondent. There is no advantage or disadvantage to either (other than perhaps assignment of the courthouse nearest to the Petitioner).

Does it matter if my spouse was having an affair?

No, Arizona is a “no-fault state,” which means that the court does not require that one spouse prove blame or responsibility in order to end the marriage.

? What if I change my mind after starting a divorce?

If you and your spouse decide to stay married, the divorce case can be canceled or "dismissed" by filing a request with the Clerk of Superior Court and signed by both parties.

? Who can start a divorce case?

In Arizona, either spouse who has lived in Arizona for 90 days can file for a divorce. A divorce is not awarded to either spouse; rather, it simply changes the status of the marriage relationship.

? Will I have a jury if my divorce proceeds to trial?

No, if your case goes to trial, you will not have a jury. One judge will make all the decisions that the parties cannot agree on.

? Do I have to "serve" my spouse?

Yes, "service" includes allowing the Respondent spouse to sign a "Acceptance of Service." This must then be filed with the court.

? I Want the house.

You can negotiate buying It from your spouse. If you all cannot agree on terms the court's usual remedy is to order it to be sold and the "net equity" be split equally.

? I want to stay out of Court?

We recommend early settlement letters going back and fourth to help narrow the disputed issues and then go to mediation to resolve anything that you need help resolving. A good mediator can save you from going to trial.

? I do not want a mediator telling me what to do.

A good mediator and a good attorney will give you the benefit of their trial experience, range of options, and risk/rewards of taking issues to trial. You make the final decisions. Both parties have to come to agreements to avoid trial.



Meet The

Best Law Team



Cindy Best
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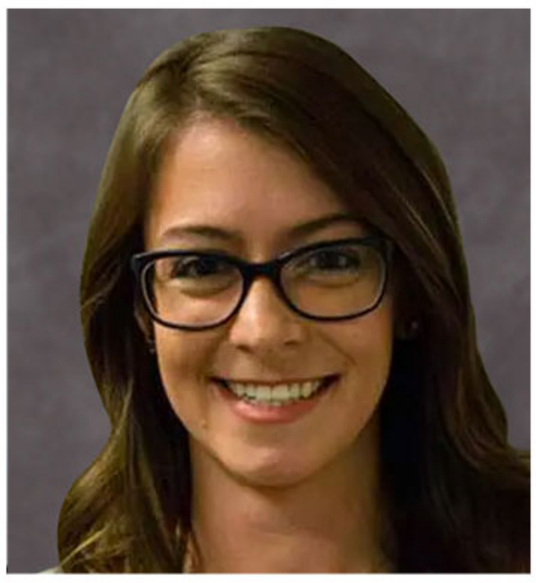

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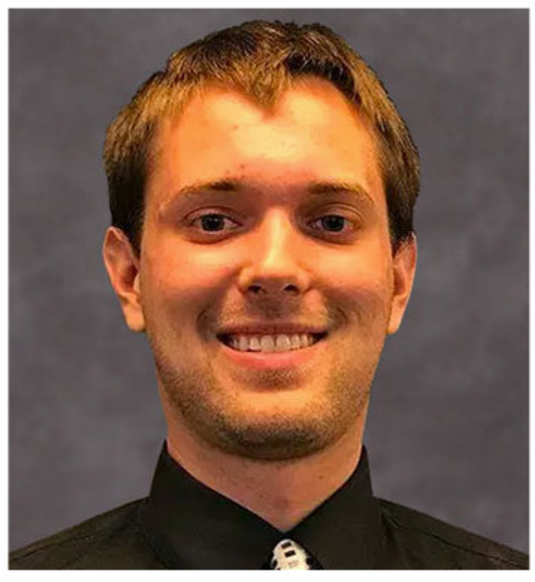

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ABOUT
BEST LAW FIRM

Best Law was founded in 2007 by Cindy Best as she was going through her own divorce. Her divorce was very contentious and extremely stressful. At times she felt like her attorneys weren't listening, they didn't care, and they seemed unprepared. They appeared to lose track of facts and failed communicate a coherent strategy. So, when Cindy founded the firm she focused on exceptional communication. She knew firsthand that good communication and a strategic game plan were the most valuable things she could offer clients. Cindy constructed a team that shares this vision. Cindy, along with the firm's Managing Partner - Robbie Hendricks, and Senior Attorneys - David Uffens and Stephen Vincent, have built a reputation in the legal community for their outstanding, client-focused representation. Best Law Firm has helped thousands of clients successfully navigate the divorce process and we know we can help you too.

CONTACT US TODAY

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