

THE TENNESSEE DIVORCE PROCESS

Only an Experienced Tennessee Family Law Attorney Can Provide You With Individualized Advice and Guidance Regarding Your Divorce; However, an Overview of the Tennessee Divorce Process May Be Helpful for Now





For most people, going through a divorce is a difficult time from both an emotional and a practical standpoint. Even if you agree that it is time to end your marriage, you may still be dealing with the emotional ramifications of that decision. In addition, you may now be facing your first experience with the legal system.

Although no two divorces are exactly the same, there are some common steps that are involved in almost all Tennessee divorces. Only an experienced Tennessee family law attorney can provide you with individualized advice and guidance regarding your divorce; however, an overview of the Tennessee divorce process may be helpful for now.

Basic Requirement



Before you can officially begin the divorce process in Tennessee you must first determine that you meet the filing requirements and decide what grounds you plan to use when you file. In order to file for divorce in Tennessee you and/or your spouse must have lived in the state for the six months prior to filing the petition. Assuming the residency requirement is met, you may then file for divorce in either the county where you last resided together or where your spouse resides.

In addition to the residency requirements you will need to decide what grounds you plan to use for your divorce. Like most states, Tennessee offers you the option to file a “no-fault” divorce based on irreconcilable differences, where there are no contested issues. As the term implies, “no-fault” does not require you to prove fault, or wrongdoing, on the part of your spouse during your divorce proceedings. Instead, you simply agree that you have irreconcilable differences or that you have been separated without co-habitation for at least two years.

Tennessee also retains the option to file a “fault” divorce. If you file using any of the following grounds you will need to prove those grounds during your divorce:

- Impotence
- Adultery
- Imprisonment
- Alcoholism or drug addiction
- Wife was pregnant by another at the time of the marriage without the knowledge of the husband
- Willful desertion for one year or more
- Bigamy
- Endangering the life of the spouse
- Conviction of an infamous crime
- Abandonment for two years or more
- Inappropriate marital conduct
- Indignities that make the spouse’s life intolerable

Filing the Complaint

Once the preliminary considerations have been addressed it is time to officially



begin the divorce process by preparing and filing a Complaint for Divorce. The Complaint is the legal document that officially requests a divorce from your spouse. Within the Complaint you will include statistical information such as the date of the marriage and

separation, information regarding minor children born of the marriage, and what grounds are being used for the divorce. The Complaint wraps up by asking the court to grant your divorce and to provide you with all other relief you are seeking such as custody of the minor children and a fair distribution of property and assets.

After you file the Complaint for Divorce the Clerk of Court will issue a Summons to your spouse. The Summons, along with a copy of the Complaint, must be served on your spouse, normally by certified mail, or by paying a private process server or having the Sheriff serve the documents on your spouse. In any event, service of process must be effectuated for your divorce to proceed.

Answering the Complaint

The Respondent (your spouse) has 30 days from the date service is effectuated to file an official, written Answer and/or Counter-Complaint with the court. An



Answer is typically used to do nothing more than let the court know that the Respondent plans to take part in the divorce process. As such, an Answer simply addresses each allegation in the Complaint and either “agrees”, “denies”, or

claims “insufficient information with which to form a response” to each allegation. A Counter-Complaint goes one step farther and actually files a similar lawsuit against the original Petitioner (you). Therefore, a Counter-Complaint will also ask for a divorce but might allege different grounds and/or might also ask for custody of the minor children.

If the Respondent fails to file an Answer and/or Counter-Complaint within the statutorily allotted time period he or she effectively waives the right to partake in the divorce process, meaning you will be able to ask for a default judgment.

Reaching a Settlement



Once the Complaint has been filed and the Respondent given the opportunity to file an Answer and/or Counter-Complaint the parties may decide to resolve the divorce simply and amicably by reaching a negotiated settlement. Even if you and your spouse have already reached a settlement that resolves all issues in the divorce you are required to sit out Tennessee's mandatory waiting period before the divorce can be finalized. If there are no minor children of the marriage the waiting period is 60 days. If you do have children you must wait 90 days to finalize the divorce.

The Discovery Process

If you and your spouse are unable to reach a settlement agreement quickly, that resolves all of the issues in your divorce the next step is to begin the Discovery process. Discovery allows each side to find out pertinent information about the other



side. Interrogatories, which are questions to be answered under oath, may be prepared and filed as well as a Request for Production of Documents.

Depositions may also be scheduled. A deposition is typically held at an attorney's office with a court reporter present. The person being deposed remains under oath during the deposition while he or she answers questions asked by opposing counsel. In essence, a deposition allows the other side to get an idea what your answers will be ahead of time to important questions at trial.

In Tennessee, mediation is required before a trial. Mediation is a type of settlement process where both parties sit with a qualified mediator and try to settle differences before trial.

Taking Your Divorce to Trial

If you remain unable to reach a settlement agreement after the Discovery process your case will proceed to trial. At trial, a judge (if you waived your right to a jury) or jury will decide all remaining contested issues after hearing all the testimony and seeing all evidence admitted during the trial. If you were able to reach an agreement with regard to some issues in the divorce but not all issues you may let the court know which issues remain contested prior to the trial. In that case, only contested issues will be decided at trial.



Your Tennessee divorce will be as unique as your marriage. For this reason, it is in your best interest to contact an experienced Tennessee divorce attorney as soon as you begin to seriously consider divorce.

<http://www.divorcenet.com/resources/divorce/tennessee-divorce-basics.htm>

About Bennett and Michael, Attorneys at Law



The law firm of Bennett & Michael is located on the historic public square in Murfreesboro, Tennessee. We offer knowledgeable and effective representation for families in divorce and family law situations, injured victims of negligent accidents, and those charged with misdemeanor or felony offenses.

Our firm takes pride in being a local law firm that delivers superior results at competitive prices right here at home for the people of Murfreesboro, Smyrna, La Vergne, and the greater Rutherford County area. Our staff is professional and helpful, and our attorneys are experienced litigators and trial lawyers.

When you need legal help, you should be confident that the lawyer you choose will provide you with exceptional and trustworthy services. Our experienced, dedicated, and compassionate lawyers and legal staff are committed to always protecting clients' rights and relentlessly fighting for their best interests. Enlist the unyielding advocacy at Bennett & Michael, and you can trust that you and your family will get the results, service, and respect that you deserve. You won't be disappointed.