

NEBRASKA LEGISLATURE

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Chapter 42

42-349.

Dissolution; action; conditions.

No action for dissolution of marriage may be brought unless at least one of the parties has had actual residence in this state with a bona fide intention of making this state his or her permanent home for at least one year prior to the filing of the complaint, or unless the marriage was solemnized in this state and either party has resided in this state from the time of marriage to filing the complaint. Persons serving in the armed forces of the United States who have been continuously stationed at any military base or installation in this state for one year or, if the marriage was solemnized in this state, have resided in this state from the time of marriage to the filing of the complaint shall for the purposes of sections [42-347](#) to [42-381](#) be deemed residents of this state.

Source

-  Laws 1972, LB 820, § 3;
-  Laws 1997, LB 229, § 9;
-  Laws 2004, LB 1207, § 18.

Annotations

1. Residence

2. Miscellaneous

1. Residence

The inference that residency in Nebraska has been with the intent to make it one's permanent home is negated where he or she is a nonimmigrant alien residing in Nebraska on a visitor's visa. *Rozsnyai v. Svacek*, 272 Neb. 567, 723 N.W.2d 329 (2006).

One who proves he or she met the durational residency requirement shall be permitted the inference that such residency was with the intention to make Nebraska a permanent home, absent a showing that the residency was a sham and not bona fide. *Rector v. Rector*, 224 Neb. 800, 401 N.W.2d 167 (1987).

Domicile is obtained only through a person's physical presence, accompanied by the present intention to remain indefinitely at a location or site, or by the present intention to make a location or site the person's permanent or fixed home. The absence of either presence or intention thwarts the establishment of domicile. *Lasu v. Lasu*, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

In order to effect a change of domicile, there must not only be a change of residence, but an intention to permanently abandon the former home. The mere residing at a different place, although evidence of a change, is, however long continued, per se insufficient. A brief move to another location to see if living with one's spouse will succeed may not indicate present intent to change one's domicile. *Lasu v. Lasu*, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

Once established, domicile continues until a new domicile is perfected. *Lasu v. Lasu*, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

The language of this section requiring an "actual residence in this state" means that one party is required to have a bona fide domicile in Nebraska for 1 year before commencement of a dissolution action. *Lasu v. Lasu*, 28 Neb. App. 478, 944 N.W.2d 773 (2020).

A plaintiff satisfied Nebraska's residency requirement to obtain a divorce where he alleged in the complaint that he had lived in Nebraska for more than 1 year with the intent of making this state a permanent home. *Metzler v. Metzler*, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

The language of this section requiring an "actual residence in this state" means that one party is required to have a bona fide domicile in Nebraska for 1 year before commencement of a dissolution action. *Metzler v. Metzler*, 25 Neb. App. 757, 913 N.W.2d 733 (2018).

In order to maintain an action for divorce in Nebraska, one of the parties must have had actual residence in this state with a bona fide intention of making this state his or her permanent home for at least 1 year prior to the filing of the complaint. *Catlett v. Catlett*, 23 Neb. App. 136, 869 N.W.2d 368 (2015).


The requirement that one party have "actual residence in this state" means that one party must have a "bona fide domicile" in the state for 1 year before the commencement of a dissolution action. *Catlett v. Catlett*, 23 Neb. App. 136, 869 N.W.2d 368 (2015).

2. Miscellaneous

This section is not unconstitutional. *Ashley v. Ashley*, 191 Neb. 824, 217 N.W.2d 926 (1974).

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