

Tennessee Divorce FAQs

Learn the rules for getting a divorce in Tennessee.

updated by Lisa Guerin, J.D.

How long do I have to live in Tennessee before I can get a divorce here?

You must be domiciled in Tennessee for at least six months before you can file for divorce. If you are the victim of abuse or there is some other emergency, you may be able to file immediately.

If I moved out of the marital home to another state, where do I file?

You must be a resident of Tennessee for six months to file for divorce here. You may file in the county where you or your spouse live. If you have moved from another state recently, discuss your options with your attorney. You may have to file in Tennessee. This is an important decision.

What if my spouse lives in another state?

That makes your case more complicated. An attorney can help you weigh the pros and cons of filing in Tennessee or in the state where your spouse lives. If the court in Tennessee does not have jurisdiction, you may be wasting your time and money if you file here. First, you need to "serve" divorce papers on your spouse out of state. "Serving papers" means giving official notice.

How do I serve papers on my spouse?

A sheriff or a process server in your spouse's home state may serve process. You may also send copies by certified mail to your spouse's residence or, if you don't know where your spouse is, publish a legal notice in a newspaper selected by the court.

How much does it cost to serve process?

That depends on how much the local sheriff or private process server charges, but usually fees are under \$75. Publishing a legal notice can be more expensive, however. Depending on the newspaper, you can spend \$100 or more.

Do my spouse and I need lawyers if we agree on everything?

Technically, no. But as a practical matter, it might be a good idea. An experienced family lawyer will still need to draft your agreement to make sure everything is done correctly. A divorce is a lawsuit. Remember, there is no such thing as a standard divorce. There are so many issues to be considered that it makes sense to have a lawyer with an ethical duty to explain things and represent only your best interests. Very few lawyers will represent both parties because of the potential for a conflict of interest.

What is a conflict of interest?

A conflict of interest happens when an attorney's duty to his or her client is compromised. An attorney who represents both spouses in a divorce might face such a conflict if a benefit to one spouse would be a detriment to the other. If one lawyer represents both spouses, the lawyer cannot advise either of them in negotiating better settlement terms.

**DIVORCE INFORMATION. DO NOT FILE THESE INSTRUCTIONS. THEY ARE FOR
YOUR INFORMATION ONLY**

What are the grounds for divorce in Tennessee?

Tennessee law allows divorce on either fault or no-fault grounds. The no-fault grounds for divorce are: irreconcilable differences, and

living in separate residences, and not cohabiting as spouses, for at least two years (this ground applies only if the couple has no children).

The fault grounds for divorce are:

either spouse, at the time of the marriage, was and still is naturally impotent and incapable of procreation

either party has knowingly entered a second marriage, in violation of a previous marriage that has not ended

either spouse has committed adultery

either spouse has willfully or maliciously deserted or left the other, without a reasonable cause, for one year

either spouse has been convicted of a crime which, by the laws of the state, renders the party infamous

either spouse has committed a felony and been sentenced to confinement in the penitentiary

either spouse has attempted to take the life of the other, by poison or any other means showing malice

either spouse has refused to remove that person's spouse to this state, without a reasonable cause, and has been willfully absent from the spouse residing in Tennessee for two years

The wife was pregnant at the time of the marriage, by another person, without the knowledge of the husband

habitual drunkenness or abuse of narcotic drugs by either spouse, when the spouse has contracted such habit after marriage

either spouse is guilty of such cruel and inhuman treatment or conduct towards the spouse as renders cohabitation unsafe and improper, which may also be referred to in pleadings as inappropriate marital conduct

either spouse has offered such indignities to the other spouse's person as to render the other spouse's condition intolerable, and thereby forced the other spouse to withdraw, or

either spouse has abandoned the other, or turned the other out of doors, and refused or neglected to provide for the other while having the ability to do so.

How long does a divorce take?

A mutual-consent, no-fault divorce takes about two to six months. There is a mandatory 60 day "cooling -off" period after the complaint is filed, if there are no children. If the couple has children, it takes a minimum of 90 days. A contested divorce can last years, with the average case lasting a year or more.

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Finally, if the spouses agree to divide a pension, it might take an additional 60 to 180 days after the divorce is granted to complete the division.

Can I get an annulment?

Rarely. Annulments may be available if the marriage was illegal (for example, incestuous) or based on fraud or duress. An annulment can also be had if one party was under age. The rules and applications can be complex. The effect of annulment will not render the couple's children illegitimate. No alimony is available when a marriage is annulled. Property rights will be restored as if no marriage had taken place.

What is legal separation?

In effect, legal separation allows for the support and maintenance of a spouse without an actual divorce. The parties can sue for divorce later. Separation often doesn't make sense because it can be as expensive as a divorce. In addition, if the parties work out their differences after a divorce, the parties can always remarry.

Is there a right to a jury trial in a divorce case?

No. If the case goes to trial, the judge will make the final determinations.

What about mediation?

Mediators usually recommend that the parties review a settlement with independent counsel before signing. Mediation is most beneficial with custody and visitation issues, because the spouses will have to maintain an ongoing constructive relationship to successfully parent their children. Mediation works best when the parties come to the table in good faith and fully disclose their assets and debts.

Can I change my last name at the time of divorce?

Yes. The only limitation is that a person cannot change names to perpetrate a fraud. It's common for divorcing spouses to change from their married last name to the name they used when they were single.

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STATE OF TENNESSEE

COURT- CHANCERY

COUNTY OF _____

Plaintiff,

vs.

Defendant

Case No.: _____

REQUEST FOR DIVORCE (COMPLAINT)

You can only use this form if you have no children under the age of 18.

**Comes now the Plaintiff, and sues the Defendant for an absolute divorce, and
for cause of action would respectfully state and show to the Court as follows:**

Residency:

ANSWER EACH QUESTION.

Residency - (CHECK ALL THAT APPLY):

- ☐ My spouse or I have lived in Tennessee for at least 6 months.
My spouse and I were living in Tennessee when the reason for this divorce happened.
- ☐ Our differences arose in Tennessee.

Venue – (CHECK ONE) I am filing for divorce in this County because:

- ☐ My spouse and I lived in this County when we separated.
Address: _____
- ☐ My spouse lives in this County.
- ☐ I live in this County and my spouse does not live in Tennessee or is in jail.

Reason for Divorce: My spouse and I have irreconcilable differences.

In the alternative, my spouse: (Check All that Apply)

- ☐ Impotency and the inability of procreation
- ☐ Bigamy on the part of either spouse
- ☐ Adultery on the part of either spouse
- ☐ Desertion for two years or more
- ☐ Conviction of a crime which renders the party infamous
- ☐ Conviction of a crime (felony) and confinement to the penitentiary
- ☐ Inappropriate marital conduct or cruel and inhuman treatment
- ☐ Malicious or deliberate attempted murder of that spouse
- ☐ Habitual drunkenness or drug abuse
- ☐ Pregnancy at the time of the marriage by another man without the husband's knowledge
- ☐ Refusal, on the part of a spouse, to move to this state, without a reasonable cause, and being willfully absent from the spouse residing in Tennessee for two (2) years
- ☐ The husband or wife has offered such indignities to the spouse's person as to render the spouse's position intolerable. Thereby forcing the spouse to withdraw from the marriage.
- ☐ The husband or wife has abandoned the spouse. Or the spouse turned out of doors for no just cause. And has refused or neglected to provide for the spouse while having the ability to so provide.
- ☐ For a continuous period of two (2) or more years which commenced prior to or after April 18, 1985, both parties have lived in separate residences, the parties have not cohabitated as man and wife during such period, and there are no minor children of the parties.

1
2
3 **Children:**

4 My spouse and I have no child(ren) together.
5
6

7 **Date of Separation: (You may estimate if not known)**

8 As of the date of this filing.
9

10 **Order for Protection**

11 Do you want a Protection order? _____
12

13 **Order of Restraint** (other than the Statutory Injunction)

14 Are you asking for a restraining order? _____
15
16

17 **Your (The Plaintiff's) Information:**

18 Full Name _____

19 Maiden Name (Name Before Marriage) _____

20 Current Address _____

21 Current City and State _____

22 Birth City and State _____
23
24

25 Date of Birth _____

26 Race _____
27
28

I have been married _____ times before this marriage. I have lived in Tennessee
_____ years.

Are you Active-Duty U.S. Armed Services? (Yes or no) _____

Your Spouse's (The Defendant's) Information:

Full Name _____

Current Address _____

Current City and State _____

Birth City and State _____

Date of Birth _____

Race _____

My spouse has been married _____ times before our marriage. My spouse has lived
in Tennessee _____ years.

Is the spouse Active-Duty U.S. Armed Services? (Yes or No) _____

Marriage Information

The two parties were married on the date of _____,

The marriage license was recorded in _____ County, Tennessee.

1 **Marital Possessions**

2 Do you both own real property (Houses and Land) Together? _____

3 If yes, what is the address? _____

4 If yes, do you know the Deed Book and Page number? _____

5 Do you own any Joint Personal Property (Cars, Clothes, Bank Accounts etc.)? together?

6 _____

7
8 **(If the answer is Yes, staple a piece of paper to this form with the list of joint property or**
9 **attach a Proposed Divorce Agreement.)**
10

11 **Alimony**

12 Do you want Alimony? _____ If yes, how much and why?

13
14 _____

15
16 **Name Change**

17 Do you want a name change? (Yes or no) _____

18
19
20 If Yes, I request my name to be changed to:

21 _____

22
23 **Court Cost**

24 Who is paying the court costs? _____

25
26
27 **Prayers**

1 I pray that the Court grants this divorce, make the other orders I have asked for above, and to
2 make any other orders I am entitled to.
3
4

5 **Oath**

6 I know that Tennessee has laws against perjury. I therefore swear or affirm:

7 As far as I know, all information I have given is true,

8 My request for divorce is serious, and

9 I have agreed to not withhold any information.
10
11

12 Plaintiff Signature_____ Date_____.

13 Plaintiff Phone Number_____
14

15 State of Tennessee

16 County of_____
17

18 Sworn to and subscribed before me, a Notary Public for said State and County, by the plaintiff,
19 whose name is _____, whose identity
20 has been sufficiently proven, or who is known personally to me.
21

22 WITNESS MY HAND AND SEAL OF OFFICE ON THIS DATE OF_____
23
24

25 _____
Notary Public Signature
Commission Expires:
26
27
28

State of Tennessee	Court _____ (Must Be Completed)	County _____ (Must Be Completed)
Proposed Divorce Agreement (Marital Dissolution Agreement)		File No. _____ (Must Be Completed) Division _____ (Large Counties Only)
Plaintiff _____ (Name: First, Middle, Last) of Spouse Filing the Divorce)		
Defendant _____ (Name: First, Middle, Last of the Other Spouse)		

This form explains how you and your spouse will divide your property and debts.
You must file this form with your **Request for Divorce, Form 1**.

I say that:

- I am the Plaintiff above.
- I believe that this is a fair division of property.
- I request that the Court Order this Proposed Divorce Agreement to be part of the Final Decree.

CHILDREN

My spouse and I have no children together who are under 18, in high school or disabled. **Children together** means children we had together, born before our marriage **AND** it means any and all children born during our marriage or adopted.

The Wife is **not** pregnant.

Real Property (house, land or mobile homes that are permanently attached to the ground) List the address to the property, and who will own it, or how you will divide it (buy one party out, sell and split money, etc.) If none, write "None"

Other Assets

If you own any retirement accounts, please list the bank below and the amount in them. (Write "None" if not applicable.)

If you do own any retirement accounts, do you wish to split the money and how do you want to split the money?

HUSBAND'S PERSONAL PROPERTY

The **Husband** will own the following property:

a. Vehicles (cars, motorcycles, trucks, boats, etc.)

Vehicle 1	Year	Make	Model	VIN #
Vehicle 2	Year	Make	Model	VIN #
Vehicle 3	Year	Make	Model	VIN #
Vehicle 4	Year	Make	Model	VIN #

b. Other personal property (bank accounts, cash, furniture, jewelry, etc.) **Not** houses or land!

Describe: _____

c. All personal property currently in the possession of the husband is his.

WIFE'S PERSONAL PROPERTY

The **Wife** will own the following property:

a. Vehicles (cars, motorcycles, trucks, boats etc.)

Vehicle 1	Year	Make	Model	VIN #
Vehicle 2	Year	Make	Model	VIN #
Vehicle 3	Year	Make	Model	VIN #
Vehicle 4	Year	Make	Model	VIN #

b. Other personal property (bank accounts, cash, furniture, jewelry, etc.) **Not** houses or land!

Describe: _____

c. All personal property currently in the possession of the wife is hers.

If you need more lines, copy this page. Make sure it is included when you file this paper.

DEBTS HUSBAND WILL PAY

Husband will pay all debts he has made since the date of separation, and will pay for the following debts:

List all loans, credit card, cash advance debts	Name of Creditor (person or company you owe)	Amount still owed
1.		\$
2.		\$
3.		\$
4.		\$

DEBTS WIFE WILL PAY

Wife will pay all debts she has made since the date of separation, and will pay for the following debts:

List all loans, credit card, cash advance debts	Name of Creditor (person or company you owe)	Amount still owed
1.		\$
2.		\$
3.		\$
4.		\$

If you need more lines, copy this page. Make sure it is included when you file this paper.

(Hold Harmless Provision)

Creditors will try to collect from both spouses. A creditor may get one spouse to pay the other spouse's debt. If that happens, the spouse who is supposed to pay the debt will pay the other spouse back. They will pay back any payments and reasonable lawyer's fees the spouse made. They will pay back any costs of trying to stop a creditor from collecting the debt.

ALIMONY

Do you want alimony? _____

NAME CHANGE

Complete below to change a spouse's name back to the name used before this marriage.

First	Middle	Last
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Court Costs will be paid by:

Notice!

The Final Decree does not necessarily affect the ability of a creditor to proceed against a party or a party's property, even though the party is not responsible under the terms of the decree for an account, any debt associated with an account or any debt. It may be in the party's best interests to cancel, close or freeze any jointly held accounts. T.C.A. §36-4-134.

This means that the Final Decree of Divorce does **not** protect you against creditors. They may try to collect from you, even if your spouse is responsible for the debt. It may be best to cancel, close, or freeze any accounts you have together.

ENTIRE AGREEMENT

This document says everything the Plaintiff wishes to become a permanent part of the Final Decree.

WARNING - CHANGES (MODIFICATION)

After the divorce is final, the spouses may later want to change or drop parts of this agreement. Changes must be put in writing and filed with the Court Clerk and approved by the judge. You may want to talk to an attorney.

Read below but only sign in front of a notary.

I know that Tennessee has laws against lying on purpose (perjury). I swear that:

- As far as I know, the information on this form is true.
- I have revealed to my spouse all property, all debts that I know about and have not kept any property or debts a secret from my spouse before I signed this agreement.

SWORN to and SUBSCRIBED before me, on

(date): _____
MM/DD/YYYY

State of Tennessee, County of _____

X _____

Phone Number: _____

Address: _____

Signature of Notary Public

My commission expires on:

SERVED ALONG WITH THE COMPLAINT TO DIVORCE AS AN ATTACHMENT.

State of Tennessee	Court <u>Chancery</u>	County _____ (Must Be Completed)
Health Insurance Notice		File No. _____ Division _____ (Large Counties Only)
Plaintiff _____ (Name: First, Middle, Last) of Spouse Filing the Divorce)		
Defendant _____ (Name: First, Middle, Last of the Other Spouse)		

Important! Your spouse must receive this notice at least 30 days before the coverage ends.

To (Spouse's Name): _____

(Spouse's Address): _____
Street address or P.O. Box City State Zip

From (Your Name): _____

(Your Address): _____
Street Address or P.O. Box City State Zip

Does your health insurance cover your spouse? _____

If Yes, NOTICE TO SPOUSE, YOU HAVE 30 DAYS TO OBTAIN YOUR OWN HEALTH INSURANCE. YOU MAY HAVE COBRA OPTIONS.

Plaintiff, Sign here _____

I hereby certify that a true and exact copy of this **Health Insurance Notice** was mailed to Defendant on (Date) _____. (MM/DD/YYYY) I sent it to the address listed above by certified mail.

Court Clerk _____ Date (MM/DDD/YYYY) _____

COURT -CHANCERY COUNTY _____ STATE OF TENNESSEE

<p>_____</p> <p>Plaintiff,</p> <p>vs.</p> <p>_____</p> <p>Defendant</p>	<p>Case No.: _____</p> <p>PERSONAL INFORMATION</p>
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UNDER SEAL

If any information is unknown, just write in "Unknown".

Wife's Full Name _____

Maiden Name _____ Birth Date _____

Address _____ City _____

State _____ Zip _____ Telephone _____

Social Security No. _____ Birth State _____

Husband's Full Name _____

Maiden Name _____ State of Birth _____

Address _____ City _____

State _____ Zip _____ Telephone _____

Social Security No. _____ State of Birth _____

State of Tennessee	Court _____ (Must be completed)	County _____ (Must be completed)
Restraining Order for Divorcing Spouses (Statutory Injunction) (Form 7)		File No. _____ (Must Be Completed) Division _____ (Large Counties Only)
Plaintiff: _____ (Name: First, Middle, Last of spouse filing this paper)		
Defendant: _____ (Name: First, Middle, Last of the other spouse)		

Both spouses must obey all state law below until the divorce is granted.

If you do not obey them, you may be held in contempt.

Behavior You must not:

- Bother, harass, threaten, assault or abuse your spouse.
- Talk about your spouse in a bad way to or in front of your children, your spouse's children, or your spouse's employer.
- Hide, destroy, or spoil any evidence stored on a computer hard drive or memory storage device.

Property & Money

- **DO NOT** do anything to any property that makes it worth less money. This means you can't sell, spend, destroy, harm, transfer, assign, borrow against, hide, or do anything with it. This is true unless the court orders it or your spouse agrees.
- You may use your income for expenses that:
 - Let you keep living as well as you did when married,
 - Pay the usual costs for your business the same way you always do.
- You must keep records of all expenses. If he/she asks, you must give your spouse copies of those records.

Children

You must not move the children:

- Out of Tennessee, or
- More than 50 miles from the home where you lived while married. This is true unless the court orders it or your spouse agrees.

Important! Do you have a good reason to be afraid that your spouse might hurt you or your children? Then you may go with your children to a safe place. Later, the other spouse may ask the court for an emergency hearing and new Orders. The court can hold the hearing by phone, if needed.

Important! If you want to move with the children out of Tennessee or more than 50 miles away after the divorce, Tennessee's relocation law applies. You must speak with a lawyer.

Insurance Unless the court orders it or your spouse agrees, you must not:

- Change, cancel, or transfer **any** insurance policy that covers either spouse or the children.
- Change, cancel, or transfer **any** insurance policy that names either spouse or the children as beneficiary.
- Stop paying for **any** insurance policy premium that covers either spouse or the children.

You **must** follow this Order unless the court changes or ends it, OR your case is final or dismissed. OR you and your spouse make an agreement. Either spouse may ask the court to change or cancel this Order.

Plaintiff's Signature

Defendant's Signature

State of Tennessee	Court: _____ (Must Be Completed)	County: _____ (Must Be Completed)
Notice of Hearing to Approve Irreconcilable Differences Divorce (Form 8)		File No.: _____ (Must Be Completed) Division: _____ (Large Counties Only)
Plaintiff: _____ (Name: First, Middle, Last of spouse filing the divorce) Defendant _____ (Name: First, Middle, Last of the other spouse)		

This case is set for hearing at the court above on:

_____, 20____ at _____
(T [] o'cloc) ☐ a.m. ☐ p.m.

Location: Room # _____
(Street) (City, State, Zip)

Presented by:

Person asking for the Hearing to approve the irreconcilable differences divorce

Certificate of Service

I swear and affirm that a copy of this Notice was given to my spouse. It was delivered in person or sent by first-class U.S. Mail to this address:

I did so on the _____ day of _____, 20_____.

Person asking for the Order:

Street Address:

City, State, Zip

Phone number:

STATE OF TENNESSEE

COURT: CHANCERY

COUNTY _____

Plaintiff,

Case No.: _____

vs.

FINAL DECREE OF DIVORCE

Defendant

Address of Plaintiff

Address of Defendant

On the date of _____, there was a court hearing at the court and county listed above.

The parties at the hearing were as follows:

The above-mentioned Plaintiff has filed for a divorce. He / She has petitioned the Court to grant divorce.

Based on the REQUEST FOR DIVORCE, and the entire record for this case, the Court finds good cause to make this FINAL DIVORCE ORDER.

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Presented by: **Plaintiff's Signature** _____

Plaintiff's Phone Number _____

CERTIFICATE OF SERVICE:

I hereby certify that a true and exact copy of this ORDER was served to the other party spouse.

Signature of Court Clerk

_____ Date _____