



HARRIS DIVORCE & FAMILY LAW

WHAT IS THE DATE OF SEPARATION?

In order to file a divorce petition, the parties must be living in a “bona fide state of separation”. The divorce petition will state the date of separation. The State of Georgia does not require a specific, fixed period of separation. This creates a bit of a moving target because, in Georgia, the date of separation is, simply, the date which you consider yourself separated from your spouse. That date could be the date one party moves into a separate residence, or even another bedroom in the same household. It could be the date both parties agree to a divorce, or it could be the date that you unilaterally decide you are done with the marriage.

There is Georgia case law that states “marital separation means a suspension of the marital relations. . . .” between the parties. Blasingame v. Blasingame, 249 Ga. 791, 792, 294 S.E.2d 519, 520 (1982). What this essentially means is that there can be a suspension of marital relations without a separation but there cannot be a separation without the suspension of marital relations. Thus, if you are still involved in a romantic relationship with your spouse, you are not separated. It is important to remember that once your date of separation is stated in your petition, you cannot reconcile with your spouse, even for a brief time, or you risk having your petition dismissed. This will result in additional legal fees and court costs in order to re-file a new petition.



O.C.G.A. § 19-5-5

No fixed period of separation required prior to divorce

A petition for divorce may be dismissed if a romantic relationship is resumed

The date of separation is subjective

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