



HARRIS DIVORCE & FAMILY LAW

WHAT IS SEPARATE MAINTENANCE?

Separate Maintenance is sometimes, mistakenly, referred to as “legal separation”. “Legal separation” is a misnomer as the State of Georgia does not require a specific period of separation prior to filing for divorce. For this reason, it is usually more efficient, economical, and overall less stressful, to just file for a divorce. A period of separation will rarely result in a reunification of the marriage.

An action for Separate Maintenance is appropriate in some cases. Some circumstances that would call for Separate Maintenance include: a desire to keep both parties on the same insurance policy, religion that prohibits divorce, or when the parties are not yet eligible for a divorce in Georgia because they have not resided here for the requisite six months.

As with a Petition for Divorce, a Petition for Separate Maintenance also requires the parties be living in a bona fide state of separation prior to filing (See *Date of Separation* handout). If the parties can agree, a Separate Maintenance Agreement is filed with the Court. Such an agreement would settle issues such as spousal support, child support, equitable division of assets, and child custody. If the parties cannot agree, the judge would issue an order in the same manner as with a Petition for Divorce.



O.C.G.A. § 19-6-10

No fixed period of separation required prior to a divorce

Separate maintenance agreements are akin to settlement agreements

Separate Maintenance requires a bona fide state of separation prior to filing

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