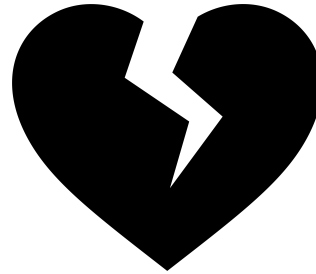


So You Are Getting A Divorce

Divorce can be incredibly stressful.

Whether you are ending a short-term marriage with no kids or separating after a 20-year marriage with three kids, many people don't know where to go for answers and advice.

Gordon Family Law knows how difficult divorce is on a family and that's why we have created this handout for clients. We believe that an informed client can make better choices, both financially and emotionally.



The information provided in this pamphlet is not legal advice, and should only be used to obtain a divorce; this guide will not help you resolve or protect your spousal support issues and / or property distribution claims or resolve your child support and / or child custody issue(s). Be sure you understand the rights you may lose if you complete your divorce without preserving your claims for support and /or a division of property.

Frequently Asked Questions

This pamphlet provides answers to these commonly asked questions:

1. How soon can I get a divorce?
2. When should I start the process?
3. How do I file for divorce?
4. I've been married for 10 years, does that make a difference?
5. How much is this going to cost?
6. How is property divided?
7. How much do I have to pay my ex?
8. Am I entitled to spousal support?
9. What happens to my kids?
10. How much child support do I owe?

Local Rules

All California counties have specific procedures called Local Rules. Some of the process information in this guide may not apply to your County. Visit your County Superior Court website to determine the specific procedure in that county.

Most County's have a self-help center for family law clients that show you which forms are required, however, that office will not tell you how to fill out these forms.

If you have any questions that the information provided herein does not answer, please contact an attorney. When filling out your forms, please understand that it is illegal to falsify any information on any of the documents and you could be criminally prosecuted if you do so.

1. HOW SOON CAN I GET A DIVORCE?

A divorce in California takes a minimum of six months. While it can take longer, it will never be less than 6 months. The clock starts after the other party has been served. California is a "no-fault" state. A no-fault divorce is one in which neither the husband nor the wife officially blames the other for the breakdown of the marriage.

2. WHEN SHOULD I START THE PROCESS?

Divorce is a personal choice, so when you file is up to you. There are special rules about the length of your marriage and the "date of separation" in California and you should speak with an attorney to understand the implications in your specific situation.

3. HOW DO I FILE FOR DIVORCE?

You file for divorce by filing a Petition at your local Superior Court. The fee for filing a divorce is \$435-\$450 depending on your County. See page 6 for our dissolution flow chart on the steps of divorce.

4. I'VE BEEN MARRIED FOR 10 YEARS, DOES THAT MAKE A DIFFERENCE?

Yes and no. The 10 year rule in California is used to determine what constitutes a long year marriage for spousal support. The 10 year mark is also used by the Social Security Administration for spousal benefits.

5. HOW MUCH IS THIS GOING TO COST?

The cost of a divorce is directly correlated to the cooperation between your spouse and you. Our office has completed uncontested divorces for \$2,000 and contested issues for upwards of \$10,000. You can minimize your costs by accurately documenting and preparing your financial documents and working with your spouse to understand the sticky issues. I've seen complicated divorces with business valuations be resolved for \$5,000 because the parties were able to understand the major sticking points.

6. HOW IS PROPERTY DIVIDED?

California is a community property state and what that means is that unless there is a premarital agreement, all assets, as well as debts, acquired during marriage are owned jointly by spouses. Separate property includes all assets and debts

owned before marriage, gifts received by only one spouse during marriage, or inheritances received during marriage.

Families are free to divide their property as they see fit if they agree on the division of assets and debts. If the parties cannot agree, the court makes a determination using rules of community property law.

7. HOW MUCH DO I HAVE TO PAY MY EX?

How much you may have to pay your ex spouse depends on the length of your marriage and the disparity of income between your ex spouse and you. Gordon Family Law is happy to run projections to help you understand the best and worst case scenarios.

8. WILL I HAVE TO PAY MY SPOUSE'S ATTORNEY FEES?

Attorneys fees can come from community property – this means that if you have joint savings (even if those savings are from your earnings), that those savings can be used to pay for an attorney. In some circumstances the Court can also require you to pay your spouse's attorney's fees.

9. AM I ENTITLED TO SPOUSAL SUPPORT?

Maybe. Spousal Support is determined by a complicated series of factors including the length of marriage, the income earned by each spouse, the separate property of each spouse, and the earning potential of each spouse. This question is very fact specific but we are happy to work with you to provide estimates.

10. AM I ENTITLED TO HIS/HER RETIREMENT?

Yes. No matter the length of your marriage, unless you have a premarital agreement you are always entitled to retirement earned during the marriage – even government pensions. Clients often forget this and give up their rights to retirement benefits – so contact an attorney to get an assessment of the assets.

Children and Divorce

Here are the basic child support and custody terms that you may see in your divorce:

Child support: California uses a guideline formula based on each party's income (or earning capacity) and the amount of time each parent spends with the child or children.

LEGAL CUSTODY

Who makes the legal, health, education, and welfare of the child?

Joint Legal Custody means that parents make these decisions together.

Sole Legal Custody means that one parent makes these decisions.

PHYSICAL CUSTODY

Where the children physically live.

Joint Physical Custody means that the children spend a significant amount of time with both parents (but not necessarily an equal amount of time).

Sole Physical Custody means that the children live primarily with one parent, with a schedule to spend time in the care of the other parent.

Child support and custody arrangements are always modifiable and may be changed when either party's financial circumstances change or there is a change in the custody or visitation schedule. A consultation with an attorney utilizing a computer program will give you an idea of the possible increase or decrease in the amount of support you are paying or receiving.

Children, no matter what age, benefit from having both parents involved in their lives. Even if you are no longer married, there are many ways to be actively involved in your children's daily life and a good divorce attorney will help your family plan for the new normal.

On average, children with two actively involved parents are statistically more likely to go to college, perform well in school, achieve advanced degrees, and maintain functional relationships.

WHAT ARE COMMON MISTAKES CLIENTS MAKE?

Gordon Family Law is committed to educating clients and we want to share some common mistakes we see early in the divorce process so you can avoid making them.

- (1) Making a deal with your spouse about splitting your assets or debts without seeing all the financial information in front of you. If your spouse has always handled all of the financial decisions in your household and you don't have any information about you and your spouse's income and assets, your spouse could have an unfair advantage over you when it comes time to settle the financial issues in your divorce. Make sure you accurately gather all the documents before you agree to any final decision.
- (2) Hiring a lawyer who promises you that they will "win". As we all know, there is no winning in divorce – generally divorce is the result of many years of consideration and is often a very sad event. A thoughtful divorce attorney will explain that the best outcome for a successful mediation or divorce is to walk about thinking "that wasn't so bad," meaning that both parties had to make concessions but have also walked away with what they need.
- (3) Tax considerations. Divorce and any property division have potentially huge IRS tax implications. If you are dividing real property or retirement accounts – please consider talking to a tax consultant or accountant about your divorce. The rules about filing separately or single can impact your taxes in the years after a divorce.
- (4) Believing your children will be better with you than they are with your ex. Divorce is hard on children, but not as hard as you may expect. Children are usually as happy as their unhappiest parent. What that means is that unless there is evidence, meaning CPS reports or a police record, fighting over children is expensive and rarely successful. We are strong believers in co-parenting and working together with your ex to create logical plans for raising children in separate homes.
- (5) Not taking care of yourself. Divorce is one of the most stressful events, besides maybe the death of a loved one. In the next few months, it's important to carve out some time for yourself as you go through a divorce. Re-connect with free activities you enjoy – like walking outside, gardening, hiking, and talking on the phone with friends.

Financial Disclosures

In order to finalize your divorce, California Family Law requires that parties exchange complete financial information. Specifically, California Family Code Section 2100 requires that Parties make a full and accurate disclosure of all assets and liabilities in the early stages of a proceeding regardless of the characterization of property as community or separate. Parties must also disclose all income and expenses over the past 12 months.

During your divorce you will be required to exchange financial documents including, but not limited to: (1) titles to your real property, (2) tax returns, (3) pay stubs, (4) bank statements, (5) loan documents, and (6) retirement accounts.

You are also required to fill out several financial forms including FL 142: Schedule of Assets and Debts, FL 150: Income and Expense Declaration, FL 140: Declaration of Disclosure, and FL 141: Proof of Service for Declaration of Disclosure.

Gordon Family Law will provide legal advice and assistance concerning these financial forms. Gordon Family Law will not review your financial documents for accuracy and completeness. If you are concerned about the valuation of an asset or want to audit any of you or your spouses' financial documents, I recommend that you employ a financial accountant.