

***This page provides general information about the divorce process, the Court and its services. This information is not a substitute for legal counsel.***

***You may also find answers to specific questions on our "FAQ" (Frequently Asked Questions) page.***

The Domestic Relations Court handles divorces, dissolutions, legal separations, annulments, and domestic violence petitions. Because of the special nature of cases involving families, the Court possesses "continuing" jurisdiction to enforce its orders and to modify orders concerning the allocation of parental rights and responsibilities of children, child support, and spousal support under certain circumstances. The Domestic Relations Court does not handle marriage licenses or adoptions (handled by the Probate Court), or delinquency, parenting and support issues involving children of unmarried parents (handled by the Juvenile Court).

### **Terminating Marriage**

Ohio residents have the option of terminating their marriage through dissolution ( [Ohio Revised Code §3105.61](#)

) which requires advance mutual agreement, or through divorce ( [Ohio Revised Code §3105.01](#)

) which may be contested or uncontested. In rare circumstances, parties may qualify for annulment of marriage ( [Ohio Revised Code §3105.31](#)

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There are many aspects involved in terminating a marriage. The Court must divide the parties' property and debts, and if appropriate, award spousal support (formerly "alimony"). If there are children, the Court must allocate parental rights and responsibilities and determine responsibility for child support and health care needs. It is the Court's responsibility to ask questions to ensure orders are made that require the parties to appropriately meet their statutory duties to family members.

In order to make a fair property distribution the parties must fully disclose the value of all assets no matter whose name they are in. This includes things like real estate, bank accounts, pension and profit sharing plans, pending insurance claims, lawsuits and personal property. The Court must also be informed of all outstanding debts. This includes mortgages, car loans, credit cards, department store and credit card charges, unpaid medical and hospital bills and other bills. Property and debt are divided consistent with the guidelines set forth in [Ohio Revised Code §3105.171](#)

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The Court must also be informed about all sources of income. Both parties must reveal their income to each other and verify that income with documentation. This is necessary for the Court to fashion appropriate child and spousal support orders. Child support is established consistent with the Ohio Child Support Guidelines in [Ohio Revised Code §3119.01-3119.24](#) . Spousal support is determined according to the considerations set forth in

### [Ohio Revised Code §3105.18](#)

When there are minor children, the Court must ensure there is a written plan as to how the parents will share parenting time as well as the duties and costs of raising the children. In cases where the parties have been successful in working together on parenting issues a “shared parenting” plan may be appropriate. Alternatively, it may be in the child’s best interest if one parent is designated the residential parent and legal custodian and a specific parenting schedule is created. Parenting determinations are guided by the best interest of the child and the legal considerations set forth in [Ohio Revised Code §3109.04](#).

### **Dissolution of Marriage**

The law allows husbands and wives to jointly ask the Court to terminate their marriage without stating the reasons why they want to end their marriage. In order to obtain a dissolution the parties must agree on all aspects of property division, parenting and support filing the petition for dissolution. They must have been residents of the state of Ohio for six months before filing. The parties must file a petition for dissolution, a waiver of service of process, and a separation agreement.

The “separation agreement” is a written agreement signed by the parties that states how assets and debts are to be divided and how parenting and support issues are to be handled. Additional forms are required when there are minor children.

Dissolutions must be granted within a limited time frame. A hearing must be scheduled on the petition between 30 and 90 days after filing. Both parties (“Petitioners”) must attend the hearing and bring a copy of the separation agreement, and a judgment entry for the Judge to sign. The judgment entry, also known as a “decree”, is the legal document that terminates the marriage and makes the separation agreement a court order.

Before the Court adopts the separation agreement it must decide that it is fair, just and equitable to both parties. To do this the Court may ask questions about aspects of the agreement such as the value of assets and debts each party will be awarded. The parties must present the Court with information sufficient to allow the Court to make this determination.

### **Divorce**



If spouses do not agree on whether to divorce or how to handle property, parenting and support issues, one spouse may file a Complaint for Divorce. The person filing the Complaint (the "Plaintiff") must have lived in Ohio for six months before filing and, generally, in the County for 90 days. The person being sued for divorce (the "Defendant") has 28 days after being served with the Complaint to file an Answer if he or she intends to contest the divorce. If the Defendant wants the divorce to be awarded to him or her, the Defendant may counter sue by filing a Counterclaim with the Answer.

Under Ohio Revised Code §3105.01 a divorce may be granted for the following reasons:

- Either party had a husband or wife living at the time of the marriage from which the divorce is sought
- Willful absence of the other spouse for one year
- Adultery
- Extreme cruelty
- Fraudulent contract
- Any gross neglect of duty
- Habitual drunkenness
- Imprisonment of the other spouse in a state or federal correctional institution at the time of filing the complaint
- Procurement of a divorce outside this state, by a husband or wife, by virtue of which the party who procured it is released from the obligations of the marriage, while those obligations remain binding upon the other party
- Living separate and apart from your spouse without cohabitation for one or more years
- Incompatibility, unless denied by either party.

If the Defendant fails to file an Answer after being served with the Complaint, an "uncontested" trial will be scheduled. The Plaintiff must testify about the grounds alleged for the divorce, and bring a witness to corroborate his or her testimony. The Plaintiff must also provide evidence about the value of assets, debts, support, and the parenting needs of any minor children. Generally, assets and debts will be divided and parenting and support issues decided according to the Plaintiff's request. This process takes about two months.

If the Defendant files an Answer, or an Answer and Counterclaim, the case is considered "contested". One or more hearings, called "pretrials", will be scheduled to determine what actions must be taken before trial and to narrow the issues to be heard. At "trial" the Court will hear evidence on all issues the parties have been unable to resolve by agreement. "Contested" cases can be very time-consuming and expensive. Often, the parties eventually reach agreement on some or all issues. If the parties can "settle" all issues they will sign a "separation agreement" or an "in-court agreement" which states the terms of the settlement which the Court will order into effect.

### Annulment

A legal annulment is an alternative to divorce in very limited circumstances. The procedure is similar to a divorce. A Defendant may or may not contest a Complaint for annulment. To qualify for an annulment a party must have “grounds” and must file the Complaint within the time periods prescribed by [Ohio Revised Code §3105.32](#). The grounds for annulment are listed in

[§3105.31](#)

[Ohio Revised Code](#)

### Legal Separation

A legal separation is an alternative for parties who wish to live separately and formalize their legal duties to one another without getting divorced.

The process and length of time to obtain a legal separation is very similar to divorce. The same issues (division of assets and debts, allocation of parental rights and responsibilities, spousal support and child support) must be addressed. The difference is the parties who obtain a legal separation **remain legally married**. This may have consequences for retention of health insurance and for religious reasons. The granting of a legal separation does not preclude a party from filing for divorce at a later date. In that case, the Court will grant the divorce but the terms of the legal separation will remain intact.

### Domestic Violence



[Ohio Revised Code Section 3113.31](#) was designed to give any household member immediate protection from a household member who has committed an act or acts of domestic violence and has placed other household members in danger of domestic violence. The law in Ohio provides a form Petition that can be completed by any person seeking relief from violence from a household member. It is called a Petition for Domestic Violence Civil Protection Order. The person seeking relief is called the Petitioner. The person against whom the order is sought is called the Respondent. Ohio Revised Code Section. 3113.31 provides protection from *domestic violence*, which is defined in that Code Section as the occurrence of one or more of the following acts against a family or household member:

- (a) Attempting to cause or recklessly causing bodily injury;
- (b) Placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of [section 2903.211](#) or [2911.211](#) of the Revised Code;

(c) Committing any act with respect to a child that would result in the child being an abused child, as defined in section [2151.031 of the Revised Code](#) .

*Family or household member* means any of the following:

(a) Any of the following who is residing with or has resided with the respondent:

(i) A spouse, a person living as a spouse, or a former spouse of the respondent;

(ii) A parent or a child of the respondent, or another person related by consanguinity or affinity to the respondent;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the respondent, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the respondent.

(b) The natural parent of any child of whom the respondent is the other natural parent or is the putative [which means alleged or presumed] other natural parent.

A victim of domestic violence can have an attorney complete the Petition for them or they can complete the Petition themselves. The Petitioner's signature must be notarized. Once complete the Petition is filed at the Clerk of Courts in the Justice Center. There is no filing fee for this petition. The filed Petition is then brought to the Legal Department of the Domestic Relations Court (across the street from the Justice Center in the Lakeside Courthouse) for review and processing. Once the Petition is approved, the Legal Department will send the Petitioner to see the assigned Judge or Magistrate. The Judge or Magistrate will review the Petition and then hold a hearing. The Judge or Magistrate will ask the Petitioner some questions. The Judge or Magistrate may immediately issue an emergency Domestic Violence Civil Protection Order (called a Domestic Violence Civil Protection Order Ex Parte), or the Judge may decline to do so. In either event the Petition will be set for full hearing in 7 to 10 Court days.

The Respondent will have to be given legal notice of the filing of the Petition for Domestic Violence Civil Protection Order as soon as possible. You must give the Clerk of Courts written instructions as to how the Respondent is to be notified of the filing of the Petition. The Clerk of Courts issues this legal notice called a "summons." The Respondent must have been given legal notice of the hearing prior to the hearing.

The hearing is conducted under the Ohio Rules of Evidence and both parties must follow the Rules of Evidence, the Rules of Civil Procedure, the Local Rules of Court and other applicable law. The Respondent may hire a lawyer to represent him or her at the full hearing. If the Petitioner wishes legal representation they also will have to hire their own lawyer. No lawyer is automatically provided. After the evidence is presented the Court will decide whether or not to grant the Petition and issue a Domestic Violence Civil Protection Order. If the Court issues the Domestic Violence Civil Protection Order it will be an effective court order for up to 5 full years.

### **Filing Fees and Court Costs**

Court costs are fees charged by law by the Clerk of Court to cover the service of summons,

subpoenas, notices, orders, court reporter fees, computer research, docketing and journal posting, maintaining legal documents and other administrative costs. Court costs are assessed against one or both parties when a case is completed. When a case is first filed an advance deposit toward these costs is required. These are fees charged by the Court and are not controlled by the Attorney. See the Clerk of Court's website for the County in which you reside for these amounts.

### Service of Process

"Service" is the legal term applied to the process by which a Defendant is summoned (notified) that he or she has been named in a lawsuit. Without service the case cannot proceed.

Methods for accomplishing delivery of a divorce complaint, or counterclaim are described in [Rules 4 through 4.6 of the Ohio Rules of Civil Procedure](#)

. A party may be served by certified mail through the United States Postal Service by the clerk or courts, or by deputy sheriff or a process server who is specially appointed by the Court. Service by process server or deputy sheriff may be delivered personally by handing the person a copy of the pleading or by leaving a copy of the pleading at the party's residence or place of business, if it is very likely that the party will receive them there. A party can be served by publication if he or she cannot be located. The fact that a lawsuit has been filed is published in a newspaper, the Daily Legal News, for six weeks.

Papers filed after service of the initial summons may be mailed directly to the opposing party or that party's attorney according to [Civil Rule 5](#).

Once the marriage is terminated and the final decree is entered the Court loses jurisdiction. Motions filed after the parties are divorced have to be served on the other party pursuant to the rules set forth above. The proper service of post decree motions give the Court the proper authority over the issue in the motion.

Requesting service of process starts with completing "Instructions for Service" for the Clerk of Court and providing the Clerk with a copy of the pleading to be served. If certified mail service is requested the Clerk will send the pleading by certified mail. If the intended recipient or another person signs for the certified mail, the Postal Service will notify the Clerk of Court who will then enter the fact of service on the Court's docket. Service is considered complete.

If the intended recipient is not present and the certified mail has not been accepted, the Postal Service will leave notification at the address requesting that the recipient claim the certified mail. If the recipient fails to claim or refuses to accept the certified mail the Postal Service will notify the Clerk of Court who will note that fact on the docket. The Clerk will send a notice to the person who requested service informing that service has failed. If service was not claimed or was refused the person requesting service may file another Instruction for Service asking the Clerk to send a copy of the pleading by ordinary mail. Another copy of the pleading must be provided to the Clerk to mail. Ordinary mail service cannot be requested if certified mail has not been returned or has been returned "not deliverable" or "addressee unknown." If the ordinary

mail is not returned to the Clerk of Court as “not deliverable” or “addressee unknown” service is considered complete.

The person requesting service is responsible for ensuring that service has been completed. Service information is available on the Clerk of Court’s docket

## **Allocation of Parental Rights and Responsibilities (Custody and Visitation) Establishment**

In all divorce, dissolution and legal separation actions where there are minor children the Court will allocate parental rights and responsibilities (formerly “custody”) for the care of the children, provided no other court has determined or is in the process of determining an allocation of parental rights of the same children. An allocation of parental rights may be awarded to one parent who is designated the residential parent and legal custodian or both parents if shared parenting is awarded. [Ohio Revised Code §3109.04](#) sets forth the requirements and factors the Court needs to consider when making an allocation of parental rights and responsibilities.



When making a determination of parental rights the Court will also order parenting time (formerly “visitation”) to the parent determined to be the nonresidential parent. If shared parenting is awarded a parenting time schedule will be included in the shared parenting plan.

[Ohio Revised Code §3109.051](#)

governs the award of parenting time along with the Court’s Local Rules.



A Parenting Proceeding Affidavit must be filed pursuant to [Ohio Revised Code §3127.23](#) at the initial filing of a complaint for divorce, legal separation, annulment or a petition for dissolution when there are minor children. The Parenting Proceeding Affidavit is a sworn statement stating the names and dates of birth of the minor children of the parties, their residence addresses for the previous five years and whether any or all of the children have been the subject of any court cases where a designation of parental rights has been made no matter where the location of the case. The Parenting Proceeding Affidavit is necessary for the Court to determine if it has the authority to issue parenting orders in the case being filed.

## Modification

The allocation of parental rights and responsibilities is always modifiable. In order to modify a previous allocation of parental rights and responsibilities the party requesting the modification must show that a change has occurred in the circumstances of the child, the residential parent, or either parent if there was an award of shared parenting, and that a modification is in the best interest of the minor child.

As with the initial allocation of parental rights any modification of the allocation of parental rights may cause a need for the court or the parties to modify the schedule of parenting time.

[Ohio Revised Code §3109.051](#)

governs the modification of parenting time along with the Court's Local Rules.

A Parenting Proceeding Affidavit must be filed pursuant to [Ohio Revised Code §3127.23](#) upon the filing of a motion to modify a parenting order. The Parenting Proceeding Affidavit is a sworn statement stating the names and dates of birth of the minor children of the parties, their residence addresses for the previous five years and whether any or all of the children have been the subject of any court cases where a designation of parental rights has been made no matter where the location of the case. The Parenting Proceeding Affidavit is necessary for the Court to determine if it has the authority to issue parenting orders in the case being filed.

## Child Support Establishment

Parents owe their biological or adopted children a legal duty of support. This means they must financially support their child. A support order has several components:

- An order to pay a monetary amount of support,
- An order to carry accessible private health insurance if the cost is reasonable,
- An order to pay cash medical support if accessible private health insurance is not available at a reasonable cost,
- An order to pay health care expenses that are not covered or reimbursed by insurance and are not covered by cash medical support, and



- An allocation of the right to claim the federal dependency exemption when filing taxes.

A support order can be established two ways, administratively or judicially.



The Domestic Relations Court has jurisdiction over the support orders of children whose parents' marriage has terminated or is in the process of being terminated.

Child support orders are set according to the "Ohio Child Support Guidelines" set forth in [Ohio Revised Code §3119.01-3119.27](#)

. The Guidelines are legislation passed by the Ohio General Assembly in response to federal law. The use of these guidelines is mandatory for the establishment or modification of all Ohio child support orders.

Child support is computed using a [Child Support Computation Worksheet](#) and tables that set forth the economic cost of raising children known as the

["Basic Child Support Schedule"](#)

and the "

[Cash Medical Support Schedule](#)

." The basic cost of raising children, work-and-education-related childcare costs, and the cost of providing health insurance for the children are factored into the computation. The amount computed according to the Worksheet is presumed to be the correct amount.

Under appropriate circumstances the Court may "deviate" from the "presumed" correct amount. The burden of proving why a deviation is appropriate rests on the parent seeking the deviation. The Court, but not the CSEA, has the power to deviate from the amount computed on the worksheet. The reasons why the Court may deviate from the statutorily computed amount are stated in [Ohio Revised Code §3119.23](#) . The amount of the deviation the Court grants, if there is a valid reason to deviate, depends on the particular facts and circumstances of the case.



## Modification

A child support order can be modified if the parent requesting the modification can demonstrate a substantial change in circumstances has occurred since the order was established or last modified.

## Collection

Once a support order is made, the case is open for collection. Child support cases remain open until the children are emancipated and arrearages that may have accrued are paid.

The Child Support Enforcement Agency (CSEA) is the administrative agency responsible for monitoring, collecting and distributing child support payments. Each support case is assigned a number under Ohio's statewide Support Enforcement Tracking System (SETS). Payments must be made to Ohio Child Support Payment Central ("OCSPC"), a centralized processing center in Columbus, Ohio.



State law requires that the parent ordered to pay support secure the obligation. The most

common and preferred method of securing collection is by mandatory income withholding from the parent's paycheck or other income source. A parent may also be required to fund a bank account from which deductions can be regularly made, to post a cash bond, or to seek work and report employment efforts to the CSEA.

If these methods are ineffective, a variety of enforcement mechanisms are available to the CSEA, without a court order. If the CSEA determines that the person paying support is in default the CSEA can:

- Intercept a federal and state tax refund
- Attach a lump sum payment due to be paid
- Suspend driver's license (including commercial license), professional license, or recreational license
- Seize a financial account
- Place a lien on real or personal property
- Report delinquency to a credit bureau
- Publish a delinquent parent's name and picture on a "Wanted" poster
- Notify the United States Department not to issue or renew a passport.

The Domestic Relations Court has the power to find a parent who does not obey its order to pay support in contempt of court upon motion filed by a party. Under [Ohio Revised Code §2705.05](#) the penalties are:

- A fine of up to \$250 and a jail sentence of up to 30 days for a first offense
- A fine of up to \$500 and a jail sentence of up to 60 days for a second offense
- A fine of up to \$1,000 and a jail sentence of up to 90 days for a third or subsequent offense.