

# Ending the Marriage and Divorce in PA

In Pennsylvania, there are two ways to end a marriage: (1) by getting a divorce and (2) by having your marriage annulled. The main difference between these two options is that a divorce will terminate the marriage, while a decree of annulment is a determination that the marriage never existed. It is important to talk to an experienced divorce attorney to decide which option is right for you. For more information, please contact Bethany L. Notaro, Esquire.

## Divorce

One way to end a marriage in Pennsylvania is through a divorce. To begin a divorce proceeding, one spouse must have lived in Pennsylvania for at least six months before beginning the divorce process. Unlike the criminal courts which provide public defenders for free to indigent clients, people involved in divorce proceedings are not entitled to counsel. There are two types of divorces in Pennsylvania: No-Fault Divorces and Fault Divorces. Both types of divorces result in the termination of the marriage.

### 1. No-Fault Divorce

No-Fault Divorces have become increasingly popular since they were introduced. This type of divorce will terminate the marriage without placing blame on either party. The standard is that the marriage is “irretrievably broken,” meaning it cannot be fixed. There are a few ways you can get a no-fault divorce.

The first way is by both parties agreeing to it. In this case, the parties would each sign an affidavit that says they have consented to the divorce. No-Fault divorces in Pennsylvania always require a waiting period, and a divorce decree will not be granted until the waiting period ends. If both parties agree and consent to the divorce, the waiting period is only 90 days. Once the 90 days are up, the parties will be granted a divorce.

However, in many cases getting a divorce is not a mutual decision. If one spouse does not consent to the divorce, the other party can unilaterally file for a no-fault divorce by claiming an irretrievable breakdown in the relationship. Pennsylvania imposes a longer waiting period in these types of No-Fault Divorces because the state has a policy favoring reconciliation. For example, the law used to require that couples live separate and apart for at least two years before being granted a divorce decree under this approach. Today however, you only need to live separate and apart for one year before the courts will grant the divorce.

The “separate and apart” requirement can be tricky. Pennsylvania law presumes that a couple begins living separate and apart no later than the day one party serves the divorce complaint on the other. However, this can sometimes change if there have been attempts at reconciliation. It is also possible to begin living separate and apart before the divorce complaint is

served. Pennsylvania law recognizes that not all people ending their marriages can afford to move out of the marital home, so the separate and apart requirement doesn't discriminate against parties that are still living in the same house. Instead, the law looks at various other factors that indicate the parties have stopped acting like spouses (e.g., no longer sharing a bed, going on dates, sharing vacations). If at the end of the waiting period one spouse disputes that the parties have lived separate and apart for two years or denies that there has been an irretrievable breakdown in the relationship, the court can decline to grant the divorce right away and order more court proceedings. For more information about proceeding with a divorce in Pennsylvania, please contact Allegheny County divorce lawyer Bethany L. Notaro, Esquire.

## 2. Fault Divorce

Another type of divorce that Pennsylvania offers is called Fault Divorce. Just as its name suggests, a Fault Divorce recognizes that one party is at fault. The following are all grounds for a fault-based divorce:

- Imprisonment for 2+ years
- Bigamy
- Indignities, or a course of conduct that makes a spouse's life burdensome or conditions intolerable
- Adultery, or voluntary sex with a non-spouse
- Cruel & barbarous treatment, or physical abuse
- Desertion, or willful and malicious absence from home without justification for 1+ year
- Insanity, or a situation where a spouse is institutionalized

Unlike No-Fault Divorces, Pennsylvania does not impose a mandatory waiting period for this type of divorce. This can be extremely helpful for those in domestic violence situations. However, despite not having a waiting period, these proceedings can still be quite lengthy. Not only will the court need to hear your reasons for requesting a Fault Divorce, but it will also need to hear evidence from the other spouse, including any defenses they might have. Common defenses to fault-based divorce include provocation, condonation, or insanity. The first time all of this evidence will be heard will be before a Master. A Master is not a Judge, but rather, a court official who makes a recommendation to the Judge. The Master will generally make a recommendation in favor of a fault-based divorce if you can show the other spouse committed the act you are accusing them of, the act ruined your marriage, and that you are innocent of any wrongdoing. If either party disagrees with the Master's recommendation, they can challenge it later at trial. Only after the Master makes his recommendation will there be a hearing before a Judge, who will make the final decision as to whether there are grounds for a fault-based divorce.

When it comes to distributing property after a divorce, Pennsylvania is an "equitable distribution" state. This means that the marital property is distributed fairly between the parties. In fault-based divorces, courts will not consider marital misconduct when distributing the property. So, if you are granted a Fault Divorce in Pennsylvania, it does not necessarily mean you will receive a bigger share of the marital property. If you think you may be proceeding with a fault-based divorce, please contact PA divorce attorney Bethany L. Notaro, Esquire for assistance.

## Annulments

The second way to terminate your marriage in Pennsylvania is through an annulment. Annulments differ from divorce because instead of just terminating the marriage, an annulment completely erases it from your past. To be eligible for an annulment in Pennsylvania, one spouse must have lived in the state for at least six months. Two types of marriages can be ended by annulments- those that are “void” and those that are “voidable.”

A marriage that is void is one that was invalid or illegal from the beginning. A void marriage is treated as if it never happened, so it doesn’t require a court order to be annulled. However, because of this, parties to a void marriage would not be entitled to anything that depends on the status of being married. For example, a spouse in a void marriage may not be able to inherit from their spouse if they die without a will, whereas a spouse in a voidable marriage would. There are four types of void marriages in Pennsylvania: (1) a marriage where one or both spouses have insanity or serious mental illness; (2) a bigamous marriage; (3) an incestuous marriage; (4) a purported common law marriage where either party was under the age of 18 years.

In contrast, a voidable marriage is one that is valid until it is declared invalid. This means that parties to a voidable marriage must have a hearing in front of a Judge, who will determine if there are grounds for an annulment. It also means that parties to a voidable marriage are still legally married until the day they get their annulment decree. Voidable marriages can only be annulled if a spouse attacks the marriage’s validity while both spouses are still alive, so if it is attacked by a third-party, or by a spouse after the other spouse has died, the marriage will remain valid in the eyes of the law. There are four types of voidable marriages in Pennsylvania: (1) marriages where one party was under age (rules vary slightly for those under the age of sixteen); (2) a spouse was under the influence of liquor or drugs when he or she entered into the marriage; (3) one party entered the marriage under duress, coercion, force, or fraud; (4) a party has a lack of some physical capacity that was unknown to the other party prior to the marriage (e.g., a spouse has an incurable physical or psychological inability to have normal sexual intercourse).

*(For more information on this topic or any topic in divorce, custody, mediation, child support, collaborative law, PFA matters, alimony, or other family law matters, visit [www.Pittsburgh-Divorce-Lawyer.com](http://www.Pittsburgh-Divorce-Lawyer.com) or contact **Notaro & Associates, PC** at **412-281-1988** for a free phone consultation with an attorney. You can also schedule online by clicking [here](#).)*