

7 Things You Should Know When Going Through a Divorce in New York



BADANES
LAW OFFICE

The Law Firm With A Difference

DAVID P. BADANES, ESQ.
842 ROUTE 25A, NORTHPORT, NY 11768
OFFICE: 631-239-1702
FAX: 631-651-2859

NASSAU
1225 FRANKLIN AVENUE, SUITE 325
GARDEN CITY, NEW YORK 11530
OFFICE: 631-239-1702

Call Today: 631-239-1702

Welcome



Thank you for considering me in your divorce. The Badanes Law Office prides itself on recognizing that each divorce is different and that each divorce requires different skills. We understand that a marriage with no children, but, with significant assets is much different than a marriage with children and typical middle-class assets.

The Badanes Law Office has the experience, track record of success and passion for excellence in representing all of our clients. We provide excellent legal representation and personal service to all our clients. We pride ourselves on being very accessible to you and responding quickly to your needs. All phone calls and emails are typically responded to in the same day, but, in all instances by the next business day.

Getting divorced can be an overwhelming experience. The Badanes Law Office will guide you through the process and give you practical advice on how to manage the process.

Several attorneys refer their matrimonial and family law cases to the Badanes Law Office. They trust that we will do the right thing for their clients, friends and family. We can do the same for you. In the Badanes Law Office, your needs come first and we listen to your concerns and address them head-on. We recognize that you want a family, matrimonial and divorce lawyer that is attentive, responsive, diligent, intelligent and talks to you in plain English. We pride ourselves in exceeding your goals.

The Badanes Law Office provides free consultations.

David P. Badanes, esq.

David P. Badanes, Esq.

<http://www.dbnylaw.com/> (631) 239-1702

BADANES
LAW OFFICE
The Law Firm With A Difference

7 Things You Should Know When Going Through a Divorce in New York

Divorce is common across the United States, but it is important you understand the divorce laws in your state before you file. Even when laws are similar from state to state, there are slight differences that can alter the process for you and your soon-to-be-former spouse. If you plan to divorce in New York State, what do you need to know?



1. New York State Has a Residency Requirement

Like most states, in order to file for divorce in New York you must establish that you have met New York State's residency requirement. If you file for divorce and the Court determines you do not meet the legal residency requirement, the Court will not have jurisdiction over your case and it will be forced to dismiss your case. This extends the time it takes you to finalize your divorce and can create complications further down the road.

There are several ways to meet New York State's residency requirement:

- If either you or your spouse were a resident in New York State for the last two years OR
- You were married in New York State and either you or your spouse have been a resident in New York State for one year OR
- You and your spouse have been a resident in New York State for one year and at some time you and your spouse resided in New York State as a married couple OR
- The cause of action (i.e. grounds for divorce) occurred in New York State and either you or your spouse have been a resident in New York State for one year.

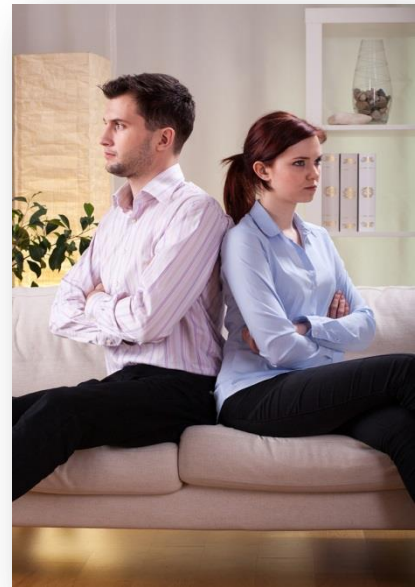
You should note that you do not have to be a United States citizen in order to file in New York State.

7 Things You Should Know When Going Through a Divorce in New York

2. New York State Requires Grounds for Divorce

In order to qualify for divorce in New York, you must declare grounds for divorce in the Complaint. New York State now allows a "no fault" divorce. This means that one of the grounds for divorce is to simply state that there has been an "Irretrievable breakdown of the relationship for at least six months." The other legal grounds for divorce in New York include:

- Cruel and inhuman treatment that endangers the physical or mental well-being of the filing spouse
- Abandonment of at least one year of the filing spouse
- Incarceration of at least three or more years of one spouse
- Adultery
- Living apart for at least one or more years
- Spouses lived apart and agreed to the terms of a legal, written separation of one or more years



3. New York State is an Equitable Distribution State

Like many states, New York is an equitable distribution state, which means marital assets and marital property will be divided according to what the court thinks is fair. Keep in mind this does not mean division will be exactly equal. In many cases, one spouse may get slightly more marital assets or slightly more property than the other spouse. In very rare instances, one spouse may get much more assets or property than the other spouse.

4. New York State Awards Custody Based on the Best Interest of the Child

If divorcing parents are unable to come to agreement on the arrangement they want for their children following their divorce, the Court will intervene and determine what arrangement would be in the best interest of the children.

7 Things You Should Know When Going Through a Divorce in New York



In an agreement, parents are allowed to agree to joint legal custody and to a parenting time schedule for both parents. Joint legal custody means that both parents have certain legal rights and legal decision making for their children. The parenting time schedule will provide the times that each parent has with their children.

However, if the Court is forced to make a decision, usually after a trial, then in most cases the Court will award sole legal custody to one

parent. The Court will also issue a parenting time schedule.

5. New York State a Divorce Can Take From Six Months to Several Years

Each case is different and the specific circumstances a couple has will determine how quickly a divorce will be granted. However, the average length of time it takes for an uncontested divorce is about six months and the average contested divorce takes at least one year. However, a contested divorce can take several years before it is resolved. Most couples ask for legal assistance once they decide to divorce and issues involving spousal maintenance (i.e., alimony), child support, and custody may be determined on a temporary basis until the official divorce is finalized.

6. New York State Rarely Considers Wrong-Doing When Making Divorce Decisions

Though it might be nice to think that if your spouse does something to hurt you or engages in wrongdoing it will give you the means to “take him or her to the cleaners,” this is rarely the case. Only when a spouse’s actions “shock the conscious of the court” are those actions considered when the Court makes its decision regarding your divorce. Accordingly, it is extremely rare for the Court to consider wrongdoing when it makes its decisions on spousal maintenance (alimony), child support or in the division of marital assets.

Neither spouse should expect that the Court will exact revenge for the other spouse's wrong-doing. Similarly, neither spouse should use their divorce settlement as an opportunity to exact revenge.

7 Things You Should Know When Going Through a Divorce in New York

7. New York State Divorce is Not Free

In New York State, the filing fee for a divorce is \$210.00. In addition, even if you handle the divorce yourself, there will be additional court fees, such that in total, the court fees will be about \$400.

Of course, any legal fees and attorney fees are in addition to court fees. In New York, you have the option to hire an attorney for a contested divorce or you can consider divorce mediation.

Divorce Mediation provides an alternative method to the traditional contested divorce process. Mediation is typically much faster and much less expensive than hiring an attorney. However, divorce mediation is not for everyone, and in those cases, you should hire an attorney to represent your interests.

Are you considering divorce in New York State? David Badanes can help you. David has extensive experience in all matters related to divorce, child custody, child support, divorce mediation, orders of protection, distribution of marital assets, spousal maintenance (alimony), prenuptial agreements, and criminal defense. He is a compassionate, aggressive, and caring attorney with an impressive track record and he is willing to fight for you. His firm has offices in Northport, Suffolk County and Garden City, Nassau County, with satellite offices in Manhattan and Brooklyn.

To learn more or to schedule a consultation with David, contact him at 631.239.1702 or by email at david@dbnylaw.com.

Share this eBook:

