

PROCESS OF DIVORCE

IN PENNSYLVANIA



 EIDELMAN & ASSOCIATES
FAMILY LAW ATTORNEYS IN THE LEHIGH COUNTY AND THE SURROUNDING AREA

Call for an appointment
Toll Free: **877-398-7694**
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Welcome

Thank you for considering us to assist you in promoting and protecting your legal rights in relation to your pending divorce, or the issues relating to your marriage and family. At Eidelman & Associates, we strive to make the divorce and dissolution process as stress free as possible for you, by using our experience and knowledge to guide you in the most effective manner.

We will assist you in every step of the proceeding including instituting or defending any action filed by you or against you in the course of the entire proceedings. We have many years and a wide range of experience in all family matters including divorce, child custody, child and spousal support, division of assets, alimony, and any other matter relating to the dissolution of the family. Our insight and experience will provide you with answers to all of your questions, and assist you in making the very important and life changing decisions with which you may be faced. We also provide representing in adoptions, whether those be by a step-parent or involve third parties.

We can also assist you in providing mediation services you may request so as to avoid the time and cost involved in a courtroom.

Our firm has practiced almost exclusively in family law, with combined experience of over 50 years. Our owner and principal, Mary J. B. Eidelman, is the former Master in Divorce in Lehigh County, Pennsylvania. In this position, she heard and presided over hundreds of contested divorce cases. With her guidance and experience, she was able to accomplish settlements in even the most contested and acrimonious cases in a respectful and knowledgeable manner. She and her associates have applied the same respectful and knowledgeable manner in representing all of their clients. Their highest priority is the promotion and protection of their clients' interests

Our promise to you is that as a client of our firm, we will treat you like family and give your file the highest degree of attention and care that you deserve. Going through a divorce and the dissolution of the family can be an overwhelming experience, particularly in the last several years of financial instability. The laws and regulations concerning family matter are constantly changing and adapting to the particular issues involved in each family, and in the society as a whole. Rest assured we are knowledgeable all recent changes to the law. We are always up to date on the Courts most recent decisions that may affect you and your family's particular needs during this emotional and difficult time.

We welcome all inquiries and are happy to answer any questions you may have regarding family law and all of the issues that may result from the dissolution of the marriage.

Thank you for your consideration.

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Although divorce is often an emotional and difficult process, it is also a legal one. For this reason, specific rules must be followed and certain requirements must be met in order for someone to pursue a valid divorce. Divorce in Pennsylvania proceeds with the following process:

Meeting Initial Criteria

In order to pursue a divorce, the following initial criteria must be met:

Residency Requirement

Either you or your spouse must have resided in Pennsylvania for at least six (6) months before officially filing a complaint for divorce. Therefore, if you and your spouse recently moved to the state, you may need to wait for the requisite period of time. You and your spouse can reside in different states. Only one of you needs to satisfy the residency requirement in order to file an action in Pennsylvania.

There are also certain requirements for filing an action in a particular county in Pennsylvania. Usually the county in which you both or you both resided before the action was filed; or in which your property is located is the property county for filing the action.

Grounds for Divorce

The other criterion that must be met is that the spouse filing the complaint must have legal grounds to request a divorce. In Pennsylvania, there are three (3) grounds upon which a divorce may be granted. Divorce may be based on fault or no-fault grounds.

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No-Fault Grounds

Filing for divorce on no-fault grounds is the most common. A divorce in Pennsylvania is based on no-fault grounds when the parties mutually consent to the irretrievable breakdown of the marriage and at least 90 days have passed since there has been service of the complaint. However, with no-fault grounds, as with any other grounds that are established, the financial issues must be resolved in order for the divorce to be granted.



Two Year Separation Grounds

When one of the parties will not agree that the marriage is irretrievably broken, then you must wait for a separation period of two years. The separation period can begin before the divorce is filed or upon the filing of the divorce complaint. The filing of the divorce complaint is the last possible date of separation, unless the divorce complaint is formally withdrawn. Attending counseling or attempting reconciliation after the filing of the divorce complaint does not interrupt the separation period. Only a formal withdrawal of the complaint will stop the two year separation period.

Fault Grounds

Fault grounds in Pennsylvania include:

- Desertion
- Cruel and barbarous treatment
- Adultery
- Incarceration of at least two years
- Institutionalization in a mental hospital for at least 18 months.

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Filing on fault grounds requires the additional step of establishing that such a ground exists. A hearing before the divorce Master must be held before moving on to other aspects of the divorce.

Filing of the Divorce Complaint

After ensuring that the filing party has the legal right to request a divorce, he or she can proceed with filing the divorce complaint. The complaint sets out the factual basis for the divorce and specific requests by the moving party. Requirements for the complaint and attached documentation may vary by each county. The moving party is required to attach a Notice to Defend and Claim Rights and a Verification form to the complaint. Additional documentation may be required where the complaint adds additional counts such as for support or child custody. A domestic relations information sheet may need to be filed as well. The moving party pays a filing fee with the court clerk when the divorce complaint is filed.

Service of the Complaint

In order for the complaint to be valid, it must be legally served on the other spouse within 30 days of the filing date. Service can be personal service in which an approved individual serves the other spouse or by certified mail, return receipt requested, restricted delivery. The other spouse can also sign an affidavit stating that he or she accepts service.

Response

Once the other spouse receives the complaint, he or she has twenty days from the date of service to respond to the complaint.

Discovery

The next step in the process is usually discovery. This is a process in which each side has an opportunity to learn about the other side's case. This is also the point in the process when the parties provide certain financial inventories, appraisals and disclosures. This is the phase of the process that is the most time-consuming. Even when both parties agree to the divorce, it can often take several months, even years, for the discovery process to end. It all depends upon the types of assets involved and how those assets are valued.

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Master's Hearing



More often than not, when the discovery process is complete, settlement discussions are held between the parties and settlements are reached. However, if a settlement cannot be reached directly between the parties, a Master's Hearing may then be requested by either party. There is an additional fee to request that the Master be appointed. The initial conference with the Master is generally between just the parties' attorneys. The Master reviews the financial documents submitted by the

parties and sets a schedule for further proceedings. A Settlement Conference is usually held with the Master who makes a recommendation on how to resolve the dispute. If the Settlement Conference does not provide a resolution, the case proceeds to a full hearing in front of the Master. The Master hears all testimony of the parties and receives evidence. He then does a written recommendation to the Court to which either party has a right to file exceptions. If no exceptions are filed, the Master's recommendation is adopted by the Court and the final decree in divorce is entered incorporating the Master's recommendations on all other issues. Most all of the Pennsylvania counties use this procedure.

3301(c) Consent Divorce

For couples who consent to divorce and agree on how the marital estate is to be divided, a different process is available. Under this process, the parties wait for 90 days after the complaint is served. During these 90 days, and sometimes longer, the parties exchange financial information and negotiate a resolution. When a resolution of the financial issues is achieved, a written agreement is prepared for the parties to sign. If there are no financial issues to be resolved, no written agreement is necessary.

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Then, they file affidavits that show they consent to the process. The parties also file waivers of notice or send a Notice of Intention to Request Entry of Section 3301(c) Divorce Decree. The parties also send a proposed divorce decree. If a written agreement has been entered into by the parties, the divorce decree incorporates the written agreement. After the court receives all of the necessary paperwork, the case is reviewed by the assigned Judge's court review officer. The judge signs the divorce decree and sends it to the parties if there are no mistakes.

Legal Assistance

The above information is merely a brief overview of the process. Filing for divorce in Pennsylvania is often a complex process. It is even more complicated when spouses disagree about important aspects of the case, such as the division of property, spousal support or child custody. In order to receive the guidance that they need, both spouses often retain their own lawyers. Lawyers can help explain the process and ensure that all of the necessary forms are filed with the court. Additionally, they can help protect the legal interests of their client.

Before meeting with a family law attorney, you may be asked to gather some documentation and other evidence, such as you marriage certificate, biographical data for you, your spouse and children, any applicable pre or postnuptial agreement, tax returns and other financial documents.

About Mary Eidelman

Mary Eidelman is the founder and principal of the firm Eidelman & Associates. Her legal career has spanned more than 30 years during which she represented numerous parties involved in divorce, mediation, and other family law disputes. She has also served as a Divorce Master and a mediator, giving her a unique perspective into Pennsylvania's divorce laws.

If you would like more information about the process of divorce in Pennsylvania, contact Mary at 610-437-7850 or email her at mjbe@eidelmanassoc.com to schedule a confidential consultation.

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