Source:

Family Law Research Guide: Basic Divorce Infomation

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Basic information concerning divorce in Arizona

Arizona is a no-fault divorce state. This means that the court does not have to find that one of the parties is to blame for the divorce. Instead, the court need only find that the marriage is irretrievably broken. A.R.S. § 25-312(3). Thus, anyone who wants a divorce will eventually be able to attain one. In 1998, Arizona enacted a law establishing covenant marriages, a marriage where the parties essentially enter into a contract that they will not divorce each other. A.R.S. § 25-903. Covenant marriages have stricter requirements for divorce.

How do I file for divorce?

Divorce is governed by A.R.S. § 25-312 and subsequent sections. Either spouse may initiate a divorce proceeding by filing a petition for dissolution of marriage. A.R.S. § 25-314(B). The courts refer to this person as the petitioner. The court refers to the non-initiating spouse as the respondent. The petition must be filed with the clerk of the court in the Superior Court of the county in which the petitioner and/or respondent resides. Courts may require that additional pleadings accompany the petition. To determine what additional pleadings are necessary, contact the court in which you choose to file. Once the necessary pleadings are filed with the clerk, they must be served upon the petitioner's spouse. Arizona Rules of Civil Procedure (A.R.C.P.) 4(b). Arizona Rules of Family Law Procedure 40(b). See the Service of Legal Pleadings page.

What are the residency requirements?

In order to get a divorce in Arizona, one party must have been domiciled or residing within Arizona for 90 days prior to filing the petition for dissolution. A.R.S. § 25-312(1).

What are the filing fees?

The following link provides information on costs for filing for divorce in the Superior Courts of Arizona -http://www.supreme.state.az.us/fees/04FEESC.htm.

These fees can be deferred for individuals with financial need. The forms and guidelines for deferral can be obtained from the court where you intend to file for divorce.

How do I respond to a divorce petition?

Upon being served with a petition, the respondent has 20 days to file a response if served in state, and 30 days to respond if served out of state. Arizona Rules of Family Law Procedure 32(A) and 42(J).

The respondent responds by filing a response to petition. The purpose of the response is to either admit, deny, or allege lack knowledge of the allegations made in the petition, and to make affirmative allegations if necessary.

How do I get a decree of dissolution of marriage?

If the respondent does not respond within the appropriate time frame, the petitioner may file for a default entry of a decree of dissolution of marriage. Arizona Rules of Family Law Procedure 44. For more information, see our Default Divorce Decrees page.

Many divorce cases settle before going to trial. When a settlement is reached, the terms of the settlement are recorded in a settlement agreement. This agreement is a contract between the parties regarding all issues of the divorce. Both parties must sign the agreement before a notary. The parties must wait at least 60 days from the date of service or acceptance of process of the original petition for the court to issue a decree of dissolution of marriage. A.R.S. § 25-329. See Uncontested Divorce Procedures page for more information.

If the parties continue to disagree they will proceed to trial on the matters at issue. See Contested Divorce Procedures page for more information.

Can my spouse do anything to stop the divorce?

The parties involved in a divorce proceeding should be aware that either party can invoke the use of conciliation services. In order to this, one of the parties must petition the Court of Conciliation and request assistance in resolving an issue of controversy between the parties. A.R.S. § 25-381.09.

Once a party petitions the Court of Conciliation, the divorce proceedings will be suspended for 60 days. A.R.S. § 25-381.18(A). Divorce proceedings cannot be permanently stopped unless both parties agree to do so. The filing of a petition for conciliation counseling requires the parties to attend free counseling provided by conciliation services and conducted by a professional counselor.

Restrictions exist on a party's ability to file a petition for conciliation more than 60

days after the petition for dissolution of marriage was served. A.R.S. § 25-381.18(C). The court will only accept the petition if the filing will not delay the orderly processes of the pending action.

How do I get my maiden name back?

The female party in a divorce action can change back to her maiden name. She can request such relief in the petition for dissolution of marriage. A.R.S. § 25-325(C). If she does not complete the name change in the divorce action, then she will have to file a petition for name change at a later date which requires payment of another filing fee.

How soon can I get divorced?

In divorce actions, there is a sixty day waiting period after the date of service before an application for dissolution may be heard. A.R.S. § 25-329. Beyond that every case is different and there is no way to estimate how long the entire proceeding with take.

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