

Divorce Steps Questions & Answers

The divorce attorneys at Feinman & Childs Family Law understand that divorce can be overwhelming and confusing. We hope that this guide will help with some of your basic questions if you are considering divorce or separation. Our family and divorce attorneys are available to consult with you about specific questions you have that may not be covered in this guide.



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Separation

What does it mean to be separated?

You are separated from your spouse when you cease living together as husband and wife. The fact that you want to live separate and apart from your spouse should be communicated. If you separate from your spouse for other reasons, you may not be deemed living separate and apart for establishing the required time for separation to proceed with a divorce.



A letter from your divorce lawyer to your spouse stating that you intend to live separate and apart should be sufficient to establish your date of separation. Sometimes telling a spouse that you want to have some space to find yourself, or for other reasons, coupled with conduct, may not be sufficient to establish a date of separation.

The filing of a divorce complaint and serving the divorce complaint on your spouse will always determine the latest date of separation.

Can I be separated and live in the same house?

A married couple can be living separate and apart in the same house. There are certain rules of conduct that must be associated with the separation of a couple in the same house. There must be communication between the spouses about the meaning of the separation in the same house. For example, if a couple takes separate bedrooms simply because one of the spouses snores, that may not establish a date of separation for the purpose of a divorce.

What happens when you are separated?

In Pennsylvania, there is no "legal" separation but married couples separate and when they do, there are legal results. Once a married couple separates, rights and obligations are created by law. Income earned after separation no longer is part of the marital estate or marital "pot," which would be shared if earned after marriage but before final separation of the couple. Conversely, obligations incurred after separation, such as credit card charges, may only be the obligation of the spouse making the charge. Of course, there are certain exceptions, which you can discuss with your divorce lawyer.

An obligation to provide spousal support or child support to a spouse and children could arise after a couple separates depending on the circumstances. To determine if you have a right to spousal support or to child support after separation, review the circumstances with one of our divorce lawyers. Keep in mind that rights to spousal support or even to child support can be lost if you don't make the appropriate request for support.

Are there different rules if a couple is separated living in the same house?

The rules concerning the ownership of income earned after separation or the obligations incurred after separation should not change for a couple living separately in the same house. However, a spousal support or child support order will not issue if the needs of the family are being met. Living separately in the same house poses many challenges to a divorcing couple. It's not right for every family. Consideration must be given to the effect that this situation is having for the children living in a house with divorcing parents. Rules of conduct and boundaries must be established for the family.

Unmet expectations cause problems. Obligations and responsibilities must be defined. Time with the children may also be divided. If you plan to separate and continue to live in the same house, you need to discuss your situation with one of our divorce attorneys for guidance.



Divorce Complaints

When should I file a divorce complaint?

The timing of the filing of a divorce complaint can be complex. A spouse may want to establish a date of separation by filing and serving a divorce complaint. A spouse may want to demonstrate the determination he or she has in proceeding for a divorce. Another spouse may want to delay the filing of a divorce in the hopes of reconciliation. Timing issues in filing a divorce complaint can be discussed with one of our divorce attorneys.

Does it matter who files the divorce complaint?

For the most part, it doesn't matter which spouse files a complaint for divorce, although there may be important reasons determining when you need or want to file a divorce complaint. The divorce code provides remedies and relief to divorcing couples. It may be important for you to take advantage of the protections offered by the divorce code.

What do I ask for in a divorce complaint?

The rules of court for divorce actions delineate what relief may be requested in a divorce complaint. In addition to asking the court to enter a divorce decree under the no-fault or fault grounds under the Divorce Code, you may ask the court, among other things to:

- Equitably divide the marital property acquired during the marriage
- Award spousal support to a spouse with lower income than that other spouse
- Freeze the marital assets
- Maintain the beneficiary designations on life insurance policies
- Award alimony after the divorce is granted
- Require one spouse to pay the other spouse's counsel fee or attorney fees
- Approve any settlement agreement reached by the divorcing couple

If my spouse files for divorce, can I file a counter-suit for divorce?

Yes, if your spouse files for divorce, you can file a counterclaim asking for any relief provided in the Divorce Code.

What can I do if I don't want a divorce and my spouse has filed a complaint for divorce?

If your spouse is seeking a no-fault divorce, you can ask the court to order your spouse to go to marriage counseling with you. Many times, your spouse's attorney will recommend to your spouse to attend three counseling sessions with you if you ask.



Divorce FAQs

How can I get my spouse to leave the house when a divorce is pending?

The court may award to the husband or the wife, the right to reside in the marital residence exclusive of the other spouse. A petition for exclusive possession of the marital home must be filed with the court after the divorce complaint has been filed. Our divorce attorneys will discuss your situation to advise you of the likelihood of having a judge order your spouse to leave the marital home while the divorce is pending.

Can I get a divorce so that I can re-marry before the property is divided?

If both husband and wife agree that a divorce can be granted before the remaining property and alimony issues are resolved, they can ask the court to bifurcate the divorce, that is permit the divorce to be entered while the court retains jurisdiction to resolve the outstanding issues. If both parties don't agree to bifurcate the divorce, the spouse seeking the divorce, for example because he or she wants to remarry, a petition can be filed with the court seeking a bifurcated divorce. Before bifurcating a divorce, by finalizing the divorce decree and reserving the property and alimony issues for resolution at a later date, you will need to discuss with your divorce attorney the many protections that need to be put in place concerning life insurance, retirement benefits, and other economic interests. Note that under current Pennsylvania law, the court rarely awards a bifurcation and instead generally requires that the financial issues be resolved prior to entering the divorce decree.

What do I need to do to become legally separated?

In Pennsylvania, there is no form or paperwork that needs to be filed with the Court to achieve a legal separation. It simply needs to be clear that one (or both) parties plans to move forward with a divorce. If a divorce complaint has already been filed, then that could be your date of separation. However, it is very likely that separation may have occurred prior to that, although not a physical separation. Parties can live separate and apart under the same roof during the entire pendency of a divorce, as is often the case due to financial reasons and the inability of parties to be able to sustain and afford two households, prior to the distribution of the marital estate. In fact, you might already be separated and not even be aware.

Our divorce attorneys will be able to assess your situation and either confirm that you are already legally separated from your spouse or provide you with the tools to achieve such a separation. Your date of separation is most relevant for valuation of the marital estate, which our family lawyers will evaluate for you in determining what there is to be divided and what you may or may not be entitled to receive as part of the divorce settlement.

Attorney Profiles



Sarinia M. Feinman Esq.

Has held many positions including President of the Montgomery Bar Association, and as of July 2025, took office as Treasurer of the Pennsylvania Bar Association Family Law Section.



Lindsay H. Childs Esq.

Served as Director of the Montgomery Bar Association from 2017-2020 and sits on the Board of Directors for Legal Aid of Southeastern Pennsylvania.

Contact Us

For more detailed and individualized information, please contact our office to set up a consultation with one of our divorce attorneys. Each of our attorneys will have your best interest, and the best interest of your family, as the top priority. We will work with you to achieve the most beneficial, and if possible, amicable resolution to your situation.

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