



OFFICE OF THE JUDGE ADVOCATE GENERAL **LEGAL ASSISTANCE POLICY DIVISION**



DIVORCE AND SEPARATION

Divorce and separation, each term has a different legal status and may also differ in terms of custody of children. A divorce is a court judgment that ends a marriage. A separation is a condition where a couple live apart without getting a divorce. At the time of a divorce and separation, various issues, such as custody of children, financial burden, asset control etc. have to be settled between a couple. In a divorce, the court decides these issues while in a separation, the couple themselves have to agree upon them.

What is a Separation Agreement?

Separation simply means living apart. You do not need to file court papers to separate. The law does not require you to live with your spouse. However, separating from your spouse may affect your legal rights. The best way is to talk to a lawyer before separating. If you do separate, you will need to work out arrangements for the care of the children, support, and payment of bills. A lawyer can advise you on your legal options if an informal agreement is not possible.

What is a Legal Separation?

Legal Separation is a major change in the status of your marriage. To get a legal separation, you must file a petition in your Superior or Family Division Court. It is a distinct legal product rather than being a first step to getting a divorce. In fact, legal separation takes as long as a divorce and costs just as much. In many ways, a legal separation is the same as a divorce. Both include final custody, visitation, child support, and, if appropriate, alimony orders. All the family assets and debts are permanently divided. In both types of cases, it is possible to get temporary orders regarding support and custody early in the case, if you need them. The major difference is that if you have a legal separation, you are still married. The wife may not resume her former name.

Do I need to live in the state where I file to get a divorce?

Yes, one spouse must be living in the state where the divorce is filed and must have lived there for the minimum required consecutive months prior to filing.

My spouse and I agree on all matters concerning the divorce. Do we still need a lawyer?

You can represent yourself, which is known as proceeding "pro se." To navigate the legal system and file the appropriate documents, you'll need to know your court's rules. You can probably get help from your local court's website and from the court clerk's office.

For more information on divorce and separation, contact your local legal assistance office to speak with an attorney.