

## **Divorce in Virginia FAQs**

### **1. When can I file for divorce?**

If you have been separated less than 6 months, you cannot file for divorce. However, you can enter into a property settlement agreement (PSA) at any time.

If you have been separated at least 6 months, you can file for divorce if you have a PSA and no minor children.

If you have been separated for more than 12 months, you can file for divorce at any time.

One of the parties must also have lived in Virginia for more than 6 months before filing.

### **2. How does one qualify for an uncontested divorce?**

You and your spouse can qualify for an uncontested divorce if the following requirements are met:

You or your spouse has been a resident of the state of Virginia for at least the last 6 months before filing;

You and your spouse agree to a divorce;

You have been separated for at least 12 months, or six months if you have an agreement and no minor children.

### **3. Do I really need a property settlement agreement?**

You don't need a PSA if you are filing after the 12-month separation period. A PSA would be recommended, however.

If you are filing after 6 months of being separated, you need one because it's the law.

### **4. My ex and I don't live in the same town. Where do we file for divorce?**

If both parties are in agreement, under Virginia law your divorce can be filed in any jurisdiction in Virginia, but preferably in the jurisdiction where one spouse is a resident.

## **5. I don't know where my spouse lives – what can I do?**

If you have a social security number, your spouse may be found by paying a professional locator service.

If your spouse cannot be found, a divorce can be obtained by filing an order of publication and having a notice published in the newspaper.

## **6. How can I get my name changed?**

Your attorney can submit an Order for Name Change along with your divorce pleadings so that when the judge signs the Final Decree for Divorce, your name can be changed as well. Many circuit court clerks will provide you with the necessary forms, if you wish to pursue a name change on your own.

## **7. Can you explain the divorce process for an uncontested divorce?**

You hire an attorney, who gathers information from you. The attorney drafts a complaint and files it in the clerk's office. You will receive a waiver of service and notice for your spouse to sign. If the spouse signs the waiver, the divorce may take about a month. If he or she won't sign it, the process may take several months.

Once the waiver is received, you and your witness will go to your attorney's office, where depositions are held. During depositions, the attorney will ask you factual questions about the dates of your marriage and separation, and other data.

Next, the depositions are transcribed, the Final Decree is drafted, the Bureau of Vital Statistics form is completed, and your papers are filed with the Court. Once the judge approves the paperwork, and endorses the decree, the divorce is final.