

DIVORCE PROCESS OPTIONS

This brochure has been created to assist the public with a better understanding of Divorce Process Options and not to provide legal advice.

--The Ohio Chapter of the Association of Family and Conciliation Courts



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INTRODUCTION

Many couples entering the process of terminating their marriage are not sure where to begin. Every situation is different and there is no “one size fits all” in the process.



Additionally, this process can be very emotionally challenging and impact the entire family, not just the couple ending the marriage. This brochure introduces you to process options as well as support options to address your family's needs.

KITCHEN TABLE NEGOTIATIONS

There is no requirement that spouses need to use a lawyer when ending their marriage. Some people prefer to make proposals or to simply sit down together to make agreements. The agreements include decisions regarding how to allocate their assets and debts, share time and responsibilities of minor children, and handle any future exchange of financial support or expense sharing.

Every county in the State of Ohio has approved forms for couples to complete and to file with the court for a dissolution of marriage. These forms are usually found on the county court website. After the couple completes, signs, and files the forms, the court will assign a date for a hearing to terminate the marriage.

It is possible to complete this process without a lawyer—self represented. However, a lawyer can provide important legal advice to help the couple complete the process more efficiently and to make better, more informed decisions.

LAWYER-LAWYER NEGOTIATIONS

Any spouse may prefer to hire a lawyer to negotiate an out of court settlement. Legal representation is especially helpful when the spouses have complex issues or differences in what seems fair. The lawyer(s) may negotiate the settlement and file the paperwork for the clients. A lawyer can never represent both spouses.



MEDIATION

Mediation is a voluntary, confidential process. A mediator is a neutral third person to facilitate communication and document agreements. Mediation includes assistance for the spouses to understand the issues that need to be resolved, identify all of the information needed to develop options, and to assist with the negotiations.

At the conclusion of mediation, agreements may be made into the legal documents needed to file with the court to terminate the marriage.

The spouses may hire the services of other neutral professionals to support the mediation process as needed, such as a child specialist, business evaluator, or real estate appraiser. Additional participants may include a lawyer or a support person.

COLLABORATIVE PRACTICE

Collaborative Practice is an option for spouses who want to use the services of lawyers who are trained to work together without going to court. As a full commitment to settlement, the spouses sign a participation agreement preventing their lawyers from representing the clients if negotiations break down and the clients file in court.

The Collaborative option is highly structured and allows the spouses to control many aspects of the process. Additionally, the process requires full transparency, full and voluntary disclosure of all financial information, and supports only good-faith negotiations.



The lawyers in Collaborative Practice have special training to advocate for the client's best interests and to work together with the other lawyer to support the overall goals of the family. Other professionals also work with the spouses to provide neutral support to meet the family's needs. Family coaches work with the spouses regarding the children's issues and assist with transitioning out of the marital relationship, and financial professionals create the financial reports and information that helps the spouses make monetary decisions.

LITIGATION

Litigation begins when a spouse, or lawyer on behalf of a spouse, files a request with the court to begin the divorce process. Divorce litigation involves formal processes to gather information. Each spouse, or lawyer on behalf of the spouse, works to obtain the most advantageous outcome.



The court has hearings to try to reach resolutions. If complete resolutions are not reached, the judge or magistrate will have a trial to determine the outcomes of the disputed issues. If the spouses do not agree on major issues involving the children, the court may assign a Guardian ad Litem or order a custody investigation to help determine the best interests of the child(ren).

PROFESSIONAL RESOURCES

Family transitions can be emotional and stressful for everyone involved. A therapist or coach helps integrate your family and life goals into your legal decision making. Professional guidance offers clarity of each family member's needs with the goal of incorporating everyone's best interest in moving forward. If your family has complex needs, you may benefit from a team of professionals. Below, is a description of therapy options that support your family's needs:

- **Individual Therapy (adult or child)** provides support for looking at life challenges. Therapeutic processes focus on cognitive, emotional, and behavioral patterns that interfere with positive outcomes. The goals of therapy are outlined in a written plan. State of Ohio licensed professionals include social workers, counselors, psychologists, and marriage and family therapists.
- **Family Therapy** provides support for improving communication, enhancing skills, and resolving conflict within the family. The goal of family therapy includes discovering how each member of the family can contribute to healthy family functioning. Just like Individual Therapy, there is a written plan and State of Ohio licensed professionals.

PROFESSIONAL RESOURCES

Other options that are available to assist with your family's transition are parent coaching and the family assessment. The following provides an explanation of each option and its benefits:

- **Parent Coaching** provides a process for parents to develop skills and effective approach for parenting and co-parenting. Coaches also educate parents on strategies to reduce the negative impact of divorce and separation on children. The goals of coaching are determined by the parents in the context of their dynamics. Coaches are certified through coach-training programs or are specially trained therapists.
- **Family Assessment** identifies the needs for healthy functioning in the family. The assessor is a Family Intervention Specialist (FIS) and provides a recommendation of therapy, coaching, education, or other resources needed to create effective strategies for meeting the best interests of the children and family. The FIS may continue in any of the above roles as well as provide case management. The FIS is a neutral, licensed mental health professional experienced with extensive experience working with complex court-involved families.

NEUTRAL EVALUATION

Neutral Evaluation is a confidential process in which a team of trained professionals provides an unbiased recommendation of likely court outcomes. The professional team may include a financial professional, a parenting specialist, and a magistrate or attorney.



The full process typically takes from two hours to a half day, depending on the complexity of the case. Each spouse presents a summary of their case, including financial and other information that may impact the outcome of their case. The professional team meets to review the information and verbally make recommendations for the spouses to consider in reaching settlement.

PARENTING COORDINATION

Parenting Coordination is a process in which a trained professional assists parents with implementation of their parenting plan. The parenting coordinator serves to educate parents about the needs of children, mediates resolution of disputes in a timely manner and makes decisions if necessary, within the scope of the parenting coordination appointment court order. Parenting coordination is not available in all counties.



GLOSSARY OF TERMS

Answer: A defendant's formal written response to plaintiff's complaint stating defendant's defenses.

Complaint: The first filing in a contested legal action which begins the divorce process.

Defendant: The person against whom the lawsuit is filed.

Deposition: A formal proceeding where a party and/or witness is placed under oath and has to answer questions asked by the opposing party or their attorney.

Discovery: A process where the parties request information and documents from each other. Discovery includes requests for interrogatories, requests for admissions, and documents.

Dissolution: A legal action where spouses have agreed on all the terms to terminate their marriage.

Divorce: A legal action where spouses have not agreed on all the terms to terminate their marriage.

GLOSSARY OF TERMS

Guardian ad Litem (GAL): A trained professional appointed by the court to investigate and make recommendations to the court regarding the best interests of the children.

Hearing: A formal proceeding before the judge or magistrate to make progress on the case.

Judge: An elected official authorized to carry out the duties and obligations of the court and preside over all matters properly before the court.

Judgment Entry: A court order signed by a judge.

Jurisdiction: The power or legal authority of the Court to hear and decide a case.

Local Rules: A set of court rules adopted by each county court division to govern matters that are not already determined by the Ohio Rules of Civil Procedure.

GLOSSARY OF TERMS

Magistrate: An attorney appointed by the judge to hear certain cases. A magistrate can hear evidence and make rulings in a case. At the end of a case, the magistrate will issue a Magistrate's Decision which is a recommendation to the judge about how the issues should be decided.

Magistrate's Decision: A written Decision issued by the magistrate that resolves all of the matters assigned to be heard by the magistrate. A judge can then either accept the recommendations made by the magistrate or modify them.

Magistrate's Order: A written order that generally relates to matters that regulate the proceedings, such as continuances, deposition orders, and temporary support. Magistrates' orders are effective without a judge's approval.

Marital Assets: In general, property acquired by a married couple during the marriage. Some exceptions may exist.

Marital Debts: In general, debts and liabilities incurred by a married couple during the marriage, regardless of which party incurred the debt.

GLOSSARY OF TERMS

Motion: Usually a written request for some type of action or decision to be made by the court. Written motions are filed with the clerk of court and sent to the opposing party/attorney.

Ohio Revised Code (ORC): The written laws of the State of Ohio.

Ohio Rules of Civil Procedure: Rules that all trial courts must follow in Ohio in civil (non-criminal) matters.

Parental Rights and Responsibilities: The rights and responsibilities of a parent to determine those matters affecting a child's welfare and upbringing, such as medical decisions, religious upbringing, etc.

Plaintiff: The person who begins a lawsuit by filing an action with the court.

Pro se: Latin term which means someone who is proceeding in a legal action without an attorney.

Residential Parent: The parent with whom a child physically lives according to a court order. In a shared parenting plan, the "residential parent for school purposes" is the parent in whose school district the child can attend school.

GLOSSARY OF TERMS

Shared Parenting Plan: A plan that addresses all child related issues such as physical living arrangement, child support, medical and dental care, school placement, and parenting time, Under a Shared Parenting Plan, both parents are considered to be the residential parents and legal custodian of the child. A Shared Parenting Plan becomes an order of the court.

Venue: The geographical location within the state where a case is filed, determined by law and court rules.

A full glossary can be found at:

<http://www.courtnewsOhio.gov/glossary/a.asp#.X3dDnC9h3L8>



