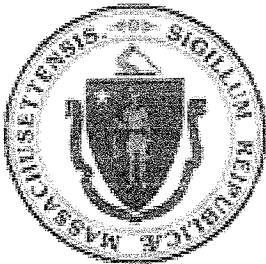


A SELF-HELP GUIDE TO:

***Grounds for Divorce
in the Commonwealth
of Massachusetts***

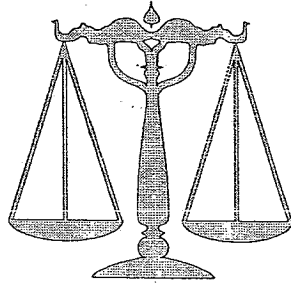
- What is the difference between a “1A” and a “1B” divorce?
- What is a ‘no fault’ divorce?
- What is meant by “irretrievable breakdown of the marriage?”
- What are the “fault” grounds for divorce?



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GROUNDS FOR DIVORCE

When you file for divorce, you will need to choose a legal reason for the divorce which fits the facts of your situation. Legal reasons for divorce are called the “grounds for divorce.”

There are two “no fault” grounds and seven “fault” grounds for divorce in Massachusetts. Most divorces in Massachusetts are filed under “no fault” grounds.

“No Fault” Divorces

A “no fault” divorce is a divorce in which the marriage is broken beyond repair but neither party wants to blame the other. The legal term for a “no fault” divorce is “an irretrievable breakdown of the marriage.” There are two ways to file a divorce based upon an irretrievable breakdown of the marriage. These are often referred to by the section of Massachusetts General Laws Chapter 208 in which they are found. They are as follows:

1A - Irretrievable Breakdown of the Marriage:

In this type of divorce both parties participate in the filing of a document called a Joint Petition for Divorce. In order to file for this type of divorce, you must have reached an agreement as to all issues (for example, custody, visitation, child support, alimony, division of property and debts, and health insurance coverage.) This agreement is called a Separation Agreement (a sample Separation Agreement is available on the General Information Board located outside the Registry Office). When you file the Joint Petition for Divorce, you file your Separation Agreement (which each of you sign before a separate notary) and a document called an Affidavit of Irretrievable Breakdown of the Marriage. An "Affidavit of Irretrievable Breakdown" is a statement made under oath which states the reasons the marriage is irretrievably broken down and states whether or not there is any chance you will reconcile. You should list any efforts you have made at reconciliation in this Affidavit.

There are other documents required to be filed with the Joint Petition for Divorce. These documents will be provided to you in your Joint Petition packet which is available in the Registry Office.

As soon as all of the required documents are filed, the court will schedule a hearing before the judge.

1B- Irretrievable Breakdown of the Marriage

In this type of divorce, one party files a document called a Complaint for Divorce claiming “irretrievable breakdown of the marriage.” This type of no fault divorce is used where you do not have an agreement. It may be used if you are unable to reach an agreement as to all issues (for example, custody, visitation, child support, alimony, division of property and debts and health insurance coverage,) or if the other party does not agree that there is an irretrievable breakdown of the marriage. There is a six month waiting period before a final hearing on this type of divorce can be held.

A Separation Agreement and Affidavit are not required at the time of filing the Complaint for Divorce and you will be required to have a summons “served” (which means “delivered”) on the other party by a sheriff.

There are other documents which must be filed with the Complaint for Divorce. These documents will be provided to you in your Complaint for Divorce packet which is available at the Registry Office.

“FAULT” GROUNDS FOR DIVORCE

There are seven “fault” grounds for divorce in Massachusetts. They are seldom used. They are as follows:

CRUEL AND ABUSIVE TREATMENT

This is the most common “fault” ground for divorce in Massachusetts. In order to be divorced on this basis, you need to prove to the judge that your spouse did something which caused you harm. This ground for divorce is sometimes used in situations of domestic violence.

UTTER DESERTION CONTINUED FOR ONE YEAR

In order to be divorced on this basis, you need to prove to the judge that your spouse left home voluntarily, that she or he has no intention of returning home and that she or he has not lived with you for at least one year prior to the date the complaint for divorce was filed.

The following grounds are rarely used and may be complicated to file and difficult to prove. You should obtain legal advice if you are considering filing under any of these grounds.

SENTENCE OF CONFINEMENT IN A PENAL INSTITUTION

In order to be divorced on this basis you need to prove that your spouse has been sentenced to prison for life or for five years or more. This ground is based upon the length of the sentence, not the actual time spent in prison.

**GROSS AND CONFIRMED HABITS OF INTOXICATION CAUSED BY
VOLUNTARY AND EXCESSIVE USE OF INTOXICATING LIQUOR,
OPIUM OR OTHER DRUGS**

In order to be divorced on this basis you need to prove your spouse has voluntarily and excessively used drugs or alcohol in such a way that it has become a pattern.

**GROSS OR WANTON AND CRUEL REFUSAL OR NEGLECT TO
PROVIDE SUITABLE SUPPORT AND MAINTENANCE FOR THE OTHER
SPOUSE**

In order to be divorced on this basis you need to prove that your spouse has refused or neglected to provide support or maintenance for you and that she or he has the ability to provide said support.

ADULTERY

In order to be divorced on this basis you need to show that your spouse had sexual intercourse during the marriage with someone other than you. You will have to prove that sexual intercourse occurred, which makes this a difficult ground on which to obtain a divorce.

IMPOTENCY

This ground is rarely used. In order to be divorced on this basis you need to prove that your spouse is incapable of having sexual intercourse.

***Deciding on a basis for your divorce can be very
complicated. If you have questions about the grounds***

for divorce and what you need to prove, you should seek legal advice from an attorney.



THIS INFORMATION IS PROVIDED TO YOU AS A PUBLIC SERVICE AND DOES NOT CONSTITUTE LEGAL ADVICE. WHEN YOU SIGN A LEGAL DOCUMENT OR FILE ANY DOCUMENTS WITH THE COURT IT CAN SERIOUSLY AFFECT YOUR FUTURE. YOU SHOULD ALWAYS TRY TO GET LEGAL ADVICE BEFORE SIGNING ANY DOCUMENTS, FILING ANY DOCUMENTS WITH THE COURT OR APPEARING IN COURT.