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# Legal Reasons for Divorce in Massachusetts

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**READ THIS:**

Information provided in this packet IS NOT LEGAL ADVICE, it is information. This information is not a substitute for a competent lawyer.

When you sign a legal document or file any papers in court, it can seriously affect you in the future.

You should always try to get legal advice before filing documents.

Bar Association lawyer referral services are listed in our brochure "Legal Resources in and around Suffolk County." Also listed are free legal service providers. You may be eligible for help.

**Read this carefully. If you do not understand the information, consult an attorney or ask for help at the resource center.**

The only way to terminate a marriage and be able to marry someone else is to file for a divorce.

In order to obtain a divorce, there must be a legal reason that the marriage is over.

In Massachusetts, the reason can be either no-fault, called irretrievable breakdown of the marriage, or it can be based on proving the fault of the other party.

## **NO-FAULT DIVORCE**

A no-fault divorce is granted when the husband and wife together or either the husband or wife alone, allege to the Court, that the marriage is over due to differences between the husband and wife. The husband and wife are no longer able to live together and do not wish to continue the marriage.

## **FAULT DIVORCE**

In a fault divorce instead of saying that the marriage is over because the husband and wife no longer wish to live together, you are saying that it is the behavior of the other spouse that has caused the marriage to end. **In order to get a divorce on fault grounds, you must be able to prove *with evidence* that your spouse has done the things that you allege.** The fault you allege must be one which is allowed under Massachusetts law.

The following are the grounds for a fault divorce in Massachusetts:

***Cruel and Abusive Treatment.*** This is the most common fault ground. The allegations do not have to be physical violence. The cruel and abusive treatment needs to cause injury or harm to the victim's health or to create a fear that the spouse may harm the victim's health.

***Adultery.*** To prove this ground, you need to name the person with whom your spouse was unfaithful and serve that person with a copy of the complaint.

***Impotency.*** This is rarely used. You need to prove that your spouse is physically unable to have sexual relations.

***Desertion.*** Your spouse must have deserted you or left you for one continuous year prior to filing the complaint. The spouse must have left without justification or provocation.

***Nonsupport.*** You must prove that your spouse had the ability to support you and that his or her refusal to provide the necessities of life is cruel.

***Gross and confirmed habits of intoxication.*** This ground need not be daily substance abuse but does need to be regular and severe bouts of intoxication.

***Prison sentence for at least five years,*** even if the actual time spent in jail is less than five years.