



## **How Can I Get a Divorce in Virginia?**

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Once you begin to consider getting a divorce, it can be a difficult idea to shake. For many unhappy married couples, it is the best option available. It allows them to gain the freedom and peace of mind they have been missing in their marriage, and gives them a second chance at a happy life. While it is a difficult decision to make, it is a normal event - over half of all American marriages end in divorce, and the numbers only go up when looking at second and third marriages.

Getting divorced is a different process in every single state. In Virginia, you have to have lived in the state for at least six months in order to file for divorce. You also have to file in the county where you last cohabitated with your spouse. That means that if you moved to another part of the state after breaking up, you still have to file for divorce in the county where you last lived together.

If you qualify with everything so far, then all you need is a grounds for divorce. The “legal grounds” is the reason that you are citing for getting a divorce. If you have met one of the grounds for divorce, then you can file to start the process immediately.

### **What Are the Grounds For Divorce in Virginia?**

Here they are:

- **Adultery**, meaning that your spouse had sex with someone else outside of your marriage.
- **Felony**, when your spouse has been charged with a felony and sentenced to more than a year in prison and cohabitation has not resumed since the sentencing.
- **Desertion**, when your spouse ends the marriage by leaving you and you have not cohabitated with them for more than a year. If the other spouse is entirely absent and does not respond to the divorce notice, the process moves on without their involvement.
- **Desertion Coupled With Cruelty**, meaning that your spouse was abusive or cruel to you, causing cohabitation to end.

## **How Does the Grounds Process Work?**

If one of the above grounds applies to your marriage, you can file for a divorce immediately. You should seek the help of an experienced family law attorney to help you file. Once you have filed, you will have to prove to a court that your reason was legitimate. Sometimes you will have your spouse arguing against you in the court, claiming the cruelty or adultery did not occur.

This process is important, but can be very long. The initial court date for most cases will be over a year after the divorce was filed. Proving your grounds in court is an intense and involved process.

## **What If None of Those Apply to Me?**

Plenty of marriages fall apart for reasons other than cheating on each other, being abusive, or getting convicted of a felony. These couples can file under the fifth grounds for divorce, **Separation in Excess of a Year**. This is the option that the majority of Virginians file under. It simply means that it has been at least an entire year since the last time you cohabitated with your spouse. It is not uncommon for

someone to file under a different grounds and then switch to Separation, since it requires no further proof and can be finalized more quickly than the others.

## **How Do I Start My Separation?**

In some states, couples go from being married to legally separated to divorced. In Virginia, there is no such thing as legal separation. When you are married, you remain legally married even when you stop cohabitating. You simply have to make it a year without cohabitation to file for divorce.

There is an exception to this policy known as the Six Month Rule. If both spouses sign a Separation Agreement, and they do not have any children together, they can file for divorce after six months instead of after a year. This is common in couples without children.

There is nothing you have to do in order to formally begin the year of separation. Once you have hit a year since your last cohabitation, go visit an experienced family law attorney to start the divorce process.

## **How Do I Make It a Whole Year?**

Marriage establishes a way of life, and getting divorced upends that established status quo. Most couples have tons of logistical questions right off the bat: Who do the kids live with? Who gets to keep the house? Who gets to keep the car? How am I going to live off of my salary alone?

While divorce establishes legal answers to all of these questions, some couples cannot afford to wait through a year of separation to get those answers. For these couples, you can go to Juvenile Court after a single day of separation. With the help of a family law attorney, Juvenile Court can establish temporary orders for custody, spousal support, child support, and visitation. This is a great option for families to immediately establish a new sense of normalcy in the wake of a separation.

## **Do I Still Have to Go to Court At the End?**

At the end of your year of separation, a Judge has to approve and finalize your divorce. There are many different methods of getting to that point.

One option is to work towards a Property Settlement Agreement, which is where you navigate all of the divorce decisions without the help of a court. If you successfully collaborate with your spouse and your family law attorney to complete a Property Settlement Agreement, you can ask for it to become a court order at the end of your year of separation. This makes the order enforceable and legally binding.

If you do not work anything out during the year of separation, you will have to reach a settlement. This does not mean going to a full court trial. You may be able to settle in a temporary hearing or in mediation. Mediation is a process where an independent third party, known as the mediator, facilitates a discussion between you and your ex. While the mediator does not make the final decision on any of the issues, they try to allow the spouses involved to make compromises and come to an agreement.

Finally, if you cannot reach a settlement through any other methods, you will go to full litigation and argue your side in front of a Judge. Most marriages with custody battles end up being litigated, while most without reach an earlier settlement. Either way, your divorce will eventually be finalized and approved by a court order.

## **How Do I Get Started?**

You may have noticed that several of the steps involve the help of “an experienced family law attorney.” While some aspects of the divorce process can technically be handled without the help of a lawyer, you want to make sure someone who understands the process is taking care of the future of your family.

Here at Rinehart Bryant, PLLC, we will treat you like family would. We want nothing less than the best for you and your family. No matter what your family situation is, we will ensure you make it through the divorce process together. Contact Rinehart Bryant, PLLC today to get started!