



Frequently Asked QUESTIONS

Can I handle my divorce without an attorney?

Yes, but an experienced attorney will be able to make the process easier and smoother. A divorce is permanent and as such, you want to make sure all your interests and agreements are properly adjudicated. In addition, legal informa-

tion you obtain is no substitute for good legal advice.

My husband/wife and I are in the midst of a divorce but my husband/wife cannot afford an attorney. Can you give my husband/wife advice?

No. Your attorney cannot represent both you and the opposing party in any court matter simultaneously.

If there is a question of paternity regarding a child, can we still get divorced and resolve custody issues?

Yes, however, an experienced attorney can assist you in resolving the paternity issues before the divorce and custody issues are finalized.

What if I'm unsure if my situation requires the services of an attorney?

Deciding to hire an attorney is a personal decision. Call and make an appointment with an attorney for a free consultation regarding your situation.

COSTS

Legal fees

\$950 and up - *uncontested divorce*

\$1,500 and up - *contested divorce*

Court fees

\$215 - *filing fee*

\$35 to \$50 - *service of summons*



Gabriel Cheong, Esq.

Infinity Law Group serves a unique client base of businesses, entrepreneurs and individuals from diverse ethnic, cultural and social backgrounds. We are a general practice law firm with a concentration in family law and estate planning. Our attorneys and staff bring compassion, focus and dedication to each and every matter that we work on for our clients.

Legal aspects of DIVORCE

INFINITY LAW GROUP

Call to make an appointment

Tel.: 617-273-5110

Fax.: 617-273-0136

gabriel@infinlaw.com

www.infinlaw.com

One Adams Place

(859 Willard Street)

Suite 400

Quincy, MA 02169

Note: The materials contained in this brochure are for information and educational purposes only and do not constitute legal advice.

Basics of Divorce

The process of divorce can take anywhere from a few months to several years depending on the complexity of the parties' issues. Every divorce is unique because every couple's situation is unique. Below is a basic outline of the divorce process in Massachusetts.

Initiating the Divorce

A divorce can be filed jointly (where both parties agree to be divorced) or it can be filed as a complaint by one party (where there hasn't been an agreement to be divorced).

In a joint petition, both parties agree that there has been an irretrievable breakdown of the marriage (otherwise known as "no fault" divorce).

In a complaint for divorce, the party initiating has to allege a reason (ground) why they wish to get divorced. Grounds for divorce include adultery, impotence, desertion by a spouse, gross and confirmed habits of intoxication, cruel and abusive treatment, refusal or neglect to support, and incarceration. However, the most common ground alleged is irretrievable breakdown of the marriage.

Answer & Discovery

In a joint petition for divorce, the parties enter into a Separation Agreement and proceeds to the final hearing.

In a contested divorce, the opposing party typically answers the complaint for divorce, either affirming or denying the allegations. If the opposing party does not answer the complaint, then the divorce becomes uncontested and will proceed to a hearing as such.

Note: Both parties to a divorce need not consent for a divorce to occur.

If the opposing party answers, then a period of time called discovery occurs where both parties gather financial information from each other, negotiate over support and custody issues, and prepares for trial.

Hearing or Trial

If a divorce is uncontested, a judge will hold a final hearing to review the Separation Agreement and allow the divorce.

If a divorce is contested, a judge will hold a trial where issues of support, custody, and division of assets will be decided by the court.

After the hearing or trial, the court will issue a Judgment of Divorce whereby the parties will be legally divorced within 120 days or 90 days, respectively.

Support

There are three basic types of support that a court can order: separate support, alimony, and child support.

Separate Support

During the time between separation and when the divorce can be finalized, support can be granted for one of the parties in a pending divorce.

An order for separate support can be granted by the court for the following:

- *support for yourself*
- *custody and support of your children*
- *health insurance for you and/or your children*
- *payment of the children's educational expenses*
- *orders for your spouse to vacate the marital home*
- *orders to convey property to you*
- *restraining orders protecting you from abuse by your spouse*

Alimony

Alimony is support for a former spouse. Whether a court will grant alimony for either party depends on many statutory factors, some of which are:

- *length of the marriage*
- *conduct of the parties during the marriage*
- *age, health, occupation and financial condition of the parties*
- *needs of the parties*
- *present and future needs of dependent children of the marriage*

Child Support

Courts apply the Massachusetts Child Support Guidelines in determining how much child support is paid by the non-custodial parent. The amount of child support ordered will depend on both the non-custodial and custodial parent's income, number of children born of the marriage, age of the children, and certain expenses of the custodial parent. The judge also has the discretion of adjusting the Child Support Guidelines amount upwards or downwards by 2%.

Custody

One or both parents can have legal and/or physical custody. Gone are the days when the mother is automatically granted custody of her children. Usually, the parents will share legal custody but one parent will have sole physical custody. The non-custodial parent will then be allowed visitation in lieu of physical custody.

If the custody of the children are not in dispute, then the parents can agree and incorporate into their Separation Agreement, the terms of the custody agreement. Custody in this situation would depend on whatever the parents agree and feel comfortable with. The court generally will not modify an agreement that the parents have agreed upon.

If the custody of the children are disputed, then the issue is presented at trial. The court will decide based on witnesses, testimony, and reports of a guardian ad litem (a court appointed attorney representing the interests of the children) what type of custody would be in the best interest of the children.

Unwed Parents, Adoption & Same-Sex Parents

As a practical matter, there is no legal difference in custody and visitation issues between unwed parents, adopted children, and children of same-sex parents in Massachusetts.

Modifications

Parties always have the option of going back to court at a later date to modify a court order. Circumstances of the parties or the children might warrant a court to reconsider its original order.

The court may make changes to orders regarding alimony, custody, visitation, child support and any other provision except for division of property.