

Q: *What does Pro Se mean?*

A: Pro Se means that you are representing yourself.

Q: *What's a Dissolution?*

A: A Dissolution is the term used by the Nebraska Statutes for a divorce.

Q: *Can I get an annulment since my spouse and I never lived together after our marriage.*

A: No.

Under Nebraska law, any one of the following five reasons will allow you to get an annulment: 1) the marriage between the parties is prohibited by law (for there to be a valid marriage, both parties must be at least 17 years of age and free from venereal disease); 2) either party is impotent at the time of the marriage; 3) either party had a spouse living at the time of the marriage, 4) either party was mentally ill or was mentally retarded at the time of the marriage; or 5) force or fraud.

The fact that you and your spouse never lived together and/or consummated your marriage does not give you a reason to ask for an annulment.

Q: *What's the difference between Legal Separation and Divorce?*

A: There are two differences between a Legal Separation and a Divorce. Nebraska law requires that at least one party to a divorce has lived in this state for one year immediately prior to the filing of a Petition for Divorce. There is no such requirement for a Legal Separation.

A Legal Separation decides custody, support, property/debt division, etc. just like a Divorce, but the parties still remain married to each other.

Q: *My spouse and I have been separated for a long time and I have had children during this time that are not my spouse's. Is this a problem?*

A: No, not necessarily. Under Nebraska law, any child born while his or her mother is married is presumed to be a child of the marriage. To prove otherwise, there must be some sort of evidence that the husband is not the father. For example, if identity of the father (paternity) has been established by the Court or the real father has signed a document stating he is the father, this would be enough to show that the husband is not the father of the children. If the husband or wife states that the child is not the husband's, this is not enough proof for the Court.

If there is no evidence that the child is not the husband's, the Court must find that he

is the father and the Court will order the husband to pay child support.

Q: *What if I don't know where my spouse is?*

A: The law requires that you must serve a copy of your Petition for Divorce upon your spouse. Service (notice that the divorce was filed) is generally obtained by having the sheriff give a copy of the petition to the other party either at home or at work.

Nebraska law provides that service may be obtained by "publication" with approval from the Court. This means that there will be a notice in your local newspaper that you have filed for divorce. Before the Court will let you publish your notice, you must have made a good effort to locate your spouse. You will have to complete an affidavit (a statement given under oath) describing the efforts you have made to locate an address where your spouse can be served. Unless you have tried all reasonable means to locate your spouse, the Court will not allow you to publish the notice.

Some examples of reasonable efforts are: contacting friends or family members to see if they can assist you in locating your spouse; internet searches; a letter sent to spouse's last known address that is returned as undeliverable.

You should also know that if you get service by publication, the Court **can not** enter any orders dealing with money issues (i.e. child support, alimony, debt division). If you are able to locate your spouse at some point in the future, you can go back to Court so that your judge can decide these issues.

Q: *My spouse and I have divided all of our property and debt. Why do we have to include that in the divorce papers?*

A: Every Petition for Divorce should contain some statement asking the Court to approve of the property and debt division. Many times, parties have been separated for a long period of time and things have already been split between them. In that case the Court simply wants to approve of the division. As a practical matter, the Court is not going to worry about the distribution you and your spouse have agreed to unless one of you objects or the Judge believes the distribution is not fair.

You should be aware, however, that certain debts may be your responsibility regardless of how you decide to divide them. For example, car loans and home mortgages that were obtained by both of the parties will likely continue to be the responsibility of both parties. Lenders are not eager to remove a party's name from a note, since they have the right to seek repayment from either or both of the parties who signed the loan document.

If the Court orders your spouse to pay a debt and he or she does not the creditor can require you to pay. If you do pay, all you can do is try to have the Court find your former spouse in contempt for not paying the debt and try to collect the money you had to pay on the debt.

Again, if you obtain service on your spouse by publication, the Court can not make any orders regarding property and debt division. Those issues can be addressed if you are able to locate your spouse at a later time.

Q: *Shouldn't I be able to get alimony?*

A: Alimony is not automatically given. The decision as to whether or not alimony is given and/or how much is to be paid is decided on a case-by-case basis. Some of the things that Courts consider in deciding whether alimony should be ordered are:

- The length of the marriage
- What each party has provided during the marriage. This includes the care and education of the children
- Interruptions in work or school
- Ability to work and earn enough to live on
- Each party's personal or financial situation
- A need for job training
- Contributions to the spouse's education

- Each party's income and ability to earn money
- Property division
- Future inheritances
- Pensions and trust funds
- Income during the marriage and how it was spent
- Physical or mental disability of the spouse asking for alimony
- What is the fair thing to do

Q: *My spouse and I have worked out most of our issues, but we still have some things we haven't decided. Can I still do the Clinic?*

A: If you and your spouse have agreed upon all of the major issues (getting divorced, child custody), you may be able to go through mediation to work out an agreement on the rest (for example, setting up a visitation plan, etc.). If you are income eligible to participate in the Clinic, the Mediation Centers will provide you with mediation services at no cost. Some Centers are able to do telephone mediation if one party is out of state or far away.

Q: *How long does all this take?*

A: Under Nebraska law, the soonest a person can get a divorce is 60 days after papers are filed in Court. Realistically, the time is closer to 90-120 days.

If you are having the sheriff serve your spouse with the Petition for Divorce, the sheriff has 20 days from the date the summons is issued to get service. Once your spouse receives the Petition, he or she has 30 days in which to file an Answer. Nebraska law requires that a total of 60 days must pass after the date of service before a party can go in front of the Judge for a final hearing.

If you and your spouse are on good terms and he or she is willing to sign a Voluntary Appearance (a paper stating that he or she has received a copy of the Petition and does not wish to be served by the sheriff), you could cut out the 20 days the sheriff has to serve the Petition.

The Decree of Divorce will become final for purposes of appeal, 30 days after it is signed. For purposes of continued health insurance and remarriage, the Decree is not final for six months. This means you cannot remarry anywhere in the world for six months after the Judge signs the Decree.

*The Pro Se Divorce Clinic of Nebraska Legal Services is funded in part by a grant from the Nebraska Commission for Public Advocacy. The staff at Nebraska Legal Services prepared this brochure.*

# Do It Yourself Divorce

## Frequently Asked Questions



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