

DIVORCE IN VERMONT

Divorce - A Common Experience

- Divorce is a time of intense conflict and change for many people. The psychological impact of divorce is one of the most stressful life experiences people face in living in our modern society.
- Divorce is a common experience. An average of **3000** divorces are granted in Vermont each year. Most of the marriages ending in divorce lasted 8 years, with some lasting five months and some lasting over fifty years. **About half** of the divorces involved at least one child under the age of 18.

Help is Available to you in the Community:

- Divorce is probably the most difficult emotional experience people have in their lives. Anger, hurt and depression are normal reactions to the breakup of a marriage but may make it difficult to make decisions. Ask the court staff for their **Community Resource Information**, which should have information on programs that may assist you.

How Decisions are made in the Divorce:

- Once the divorce has been started in the Family Court, decisions must be made regarding parenting of children, support and what to do with property. Contrary to popular belief, judges rarely decide the difficult questions in the divorce. Most people do not like giving up their right to determine for themselves how to take care of their children and how to divide up their property and income. Therefore, most cases are resolved by agreements made by the people involved rather than the judge.
- In a contested hearing (trial), the parties present their case to a judge, never to a jury. Each spouse has a limited amount of time in which to present information. The judge follows rules (known as the Rules of Evidence,) that often limit the type of information that may be presented. As a judge can never learn in a trial as much about a family and what is best for the children as the families know, people who let the judge make the decisions are not always happy with the result.

Most People Decide for Themselves how to Divorce:

- Conflicts that bring people to Family Court are personal. Together, the people can create solutions that are sensitive to the specific details of their lives and their problems. Parents may divorce each other, but they do not divorce their children. Except in exceptional circumstances, the spouses must maintain a relationship with each other as parents after the divorce. By working together to reach a divorce agreement, parents can resolve many of the conflicts that could appear in future years.

- Once agreed to, decisions reached on how to divorce can be written down in a document called a "Stipulation." The judge will review the stipulation, and if complete and fair, will most likely sign it and make it part of the court order without a lengthy hearing.

Getting Help to Reach an Agreement:

- You may choose to hire a lawyer to help negotiate agreements with your spouse, or to represent you at a trial if agreement cannot be reached. The Family Court has pamphlets called "Do I Need a Lawyer?"(#18) and "I Need a Lawyer: How do I Find One?"(#19), which may help you with this decision.
- You may also choose to represent yourself (this is called *pro se*, which means "For Oneself") and attempt to resolve the issues in your divorce without hiring a lawyer. If you decide to represent yourself, the Family Court also has a pamphlet called "I will Represent myself in the Divorce: What are my Responsibilities? What is expected of the Pro Se Spouse?"(#20)
- You should also visit the court website at: www.vermontjudiciary.org to find out more information about representing yourself in the divorce.
- If you choose to represent yourself, the Family Court offers an educational course for litigants not represented by lawyers, known as the "**Pro Se Education Class**". The court has information and schedules for these classes, which are offered at various times during the month. The course is open to the public.
- You may choose to consult with a trained, neutral third party, called a mediator. A mediator will **not** tell the parties what the best settlement is. The mediator will guide the parties through the emotions and underlying issues of your conflict and help you reach an agreement satisfactory to each spouse. Mediation is a good approach when there is dispute regarding the children. Mediation may not be a good idea when one person has a substance abuse problem. The use of drugs and alcohol interferes with a person's ability to make commitments and live up to the conditions of the agreements.
- Mediation also may not be useful when there is a history of abuse and violence. When one spouse feels afraid or intimidated by the other, the spouse may feel pressure to reach agreement out of fear and anxiety rather than by choice. A good agreement is one that is entered into freely by each person without pressure and fear.
- **The Vermont Family Court Mediation Project** has qualified mediators available to litigants in Family Court. There are also subsidies available to qualifying parties. The court has information about this program, or you may go to their website: www.vermontjudiciary.org/mediation
- Once an agreement is reached, the parties can present it to their lawyers (if they have lawyers) and to the judge in the form of a stipulation. The judge needs to approve the agreement before it can become an order.

Court Orders:

- Court orders are created in two ways: You can make your own agreements which can be approved by the judge and are made part of a court order, or the judge can make an order after a contested hearing. Both orders are treated the same way and the purpose of court orders is to insure that the plan agreed to, or directed by the judge, is followed. Court orders are enforced through the process of contempt, which in the most extreme circumstances may result in a jail term for the violator.

Unanticipated Changes after the Divorce: What happens if you want to change the Final Order?

After the court has issued a Final Divorce Order, you make wish to make changes to it. By law you have to show to the Court, that it is because of important "unanticipated changes in circumstances."

You CANNOT make changes to a Final Order dealing with your property. Property distribution in a Final Order is final.

You can request the court change child support, spousal maintenance (alimony) and parental rights and responsibilities.

- If there have been important, unanticipated, changes in circumstances after the order was issued, you may request the court to change part of the divorce plan. You cannot change the plan outlining how to divide your property, but child support, spousal maintenance (alimony) and parental rights and responsibilities may be modified. (See pamphlets on Modification of Child Support (#32) and Modification of Court Orders (#31). The court must approve changes to the divorce order before they are valid. Therefore it is important that an agreement reached to change court orders be put in writing and that you ask the judge to change the divorce order.

**You can obtain helpful information, as well as court forms at:
www.VermontJudiciary.org.**