

**What to expect...**  
**DIVORCE**

*in the*

**N I N T H**  
**J U D I C I A L**  
**C I R C U I T**  
**C O U R T**  
**O F**  
**F L O R I D A**

*The Ninth Judicial Circuit Court  
of Florida in and for Orange County  
Office of the Court Administrator*

**FAMILY COURT SERVICES**  
425 North Orange Avenue, Suite 510  
Orlando, Florida 32801  
(407)836-6054

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***The Ninth Judicial  
Circuit Court recognizes that  
a divorce can be a painful  
and difficult experience.  
If you understand the  
functions and limitations of  
the legal system, the process  
becomes more tolerable.  
The Court hopes that this  
pamphlet will provide you with  
a greater understanding of the  
process which will then help  
you get through your divorce  
with realistic ideas and goals.***

## LIMITATIONS

Florida's divorce system is based on the principle of "no-fault," meaning that a divorce will be granted if either spouse believes that the marriage is over. Generally, the reasons why the marriage failed are not an issue in court. All that matters is that the marriage needs to be ended.

It is impossible for us to heal the emotional wounds created by your divorce. The legal system is not a tool for punishment of your spouse. The courtroom is no place for revenge. Your case will be decided on the basis of its unique facts. In most cases, the law does not permit judges to compensate either of you for the other's misconduct.

Please do your best to keep emotions out of the case. Your feelings of anger, pain, and betrayal are understandable, but expressing them inappropriately in court may interfere with your ability to provide the judge with the information he/she needs.

## SETTLEMENT

The best way to conclude your case is to settle it. Through compromise and cooperation, a settlement can lead to greater mutual satisfaction and lessened animosity between you and your spouse. In most cases, negotiations toward settlement can be more productive and far less expensive than a trial. A settlement prior to trial reduces the expenses considerably, obviously an important consideration if you have limited resources.

If negotiations fail and you must try your case, a judge will make rulings that will permanently affect you and your children. The judge's rulings must be made exclusively upon the limited evidence that is presented in court and nothing else. Because the judge is restricted in what he/she can and cannot do, a settlement can offer a wider range of options.

## VARIATIONS

Every divorce is different. Your results may be very different from the results your neighbors, friends, or relatives achieved. You cannot rely upon what happened in their cases and assume that your results will be the same. Cases that seem similar may, in fact, be very different and will be treated differently under the law. Your friends and relatives generally are not trained in the law and your case. Accepting their advice may hinder you in the long run.

## FINANCES

Unless you settle your case, the judge must allocate the income and assets accumulated during the marriage. Generally the law considers that you and your spouse were financial partners during the marriage and are presumed entitled to share in both the assets and income the partnership made.

For most people, life-styles change after a divorce. The judge must divide the marital resources between two separate households. Obviously it costs more to run two households than one.

## ISSUES

A divorce generally involves four major issues: child custody/visitation, child support, alimony, and a division of property/debts. After the case is concluded, the judge may later be asked to modify custody and/or support.

You need to understand each of these aspects of your case.

**Child Custody/Visitation:** Most parents will share parental responsibility for their children after the divorce. In doing so, you must communicate and confer with each other in making decisions that will affect your children.

Usually, one parent will be given primary residential care (custody) of the children. The other parent will usually be granted frequent visitation. In determining primary residential care, the judge will consider certain statutory criteria.

One of these is which parent is more likely to encourage the children to visit the other parent.

The issue of primary residential care is decided solely on what is best for the children. Often, one of the parties is hurt by the judge's decision, especially if that party

sees the decision in a “win/lose” light. In truth, there can be no loser if the children’s welfare is protected.

In most primary residential care contests, the judge will direct both parties to participate in mediation to resolve this issue. A mediator is an unbiased third party who can assist the parties in reaching an agreement upon what is best for the children. An agreement on primary residential care will certainly make your case easier and help your children immeasurably in dealing with your divorce.

Both parents are required to attend a parenting course. A list of the various court-approved agencies is available at the Domestic Clerk of the Court’s office and at Family Court Services. This course focuses on the concerns parents have regarding their children and the decision to divorce. Parents will also learn effective ways to help their children adjust to the divorce.

**Child Support:** Aside from continuing to love your children and seeing them often, you have no higher obligation as a parent than to continue supporting your children after the divorce. Child support is more important than any other debt or financial obligation. Both parents are required to support the children, but the non-residential parent will be directed to pay his/her portion of the support to the other. This does not mean that the residential parent is not contributing to the support.

Florida has adopted guidelines for child support that the judge is required to follow. Your friends and relatives may have been involved in divorces years ago or in other states, and receive or pay lower support than the guidelines provide. The child support in your case will be based upon your income, your spouse’s income, and the needs of your children under the guidelines established by the Legislature.

**Alimony:** If it is necessary to award alimony or spousal support, the judge is required to consider two factors: one party’s need and the other’s ability to pay. Both of these factors must be proven in court by the requesting spouse. Alimony may be awarded to either a husband or wife and, depending on the length of the marriage and other factors, the alimony may be permanent or for only a short time.

**Property/Debts:** Under Florida law, the judge must try to make an “equitable distribution” of marital property and debts. “Equitable” does not always mean “equal,” although that is the starting point. Many factors, including child support, custody, and alimony awards, can cause judges to make an unequal (but still equitable) division of property. The judge will not generally divide the property and debts that arise outside the marriage.

## **FAMILY COURT SERVICES**

Staff in Family Court Services will provide you with basic information concerning court procedures and available community resources. Please understand that none of the Family Court Services staff members will be representing you or appearing on your behalf in court. The staff members work for the 9th Judicial Circuit and his/her role in the Family Court Services is to give needed procedural instructions to the unrepresented party in order to assist him/her in accessing the Judicial System in a proper and effective manner.

Office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. However, if you are filing paperwork, you should be here no later than 3:30 p.m. on the day you file. Notary services are provided at no charge for court approved forms from 8:00 a.m. to 4:00 p.m., Monday through Friday.

**NOTE:** Family Court Services is not acting as your lawyer or providing legal advice to you. It is available to all persons who will be representing themselves in a family case in this county. All materials (including information, forms, and instructions for use of forms) made available by Family Court Services are offered as a public service and are in no way guaranteed to obtain any particular result.

## DOs AND DON'Ts

Please pay attention to these recommendations and your divorce will be easier and less painful for all involved. These suggestions are clear-cut and apply to almost every divorce.

**Have reasonable expectations.** You will certainly be disappointed if you expect to “win” on every issue. Rarely is either spouse happy about every ruling in a case. Even the best rulings leave both spouses somewhat dissatisfied. Encourage your attorney to give you a realistic projection of the outcome of your case.

**Keep communication open with your spouse/ex-spouse.** As long as you have children, you and your (ex-)spouse will have to work together. Your children will suffer to the degree that you and your former spouse cannot cooperate and communicate.

**Do not write letters to the judge.** Judges are not permitted to read such letters nor can they speak with you or your friends/relatives on the telephone. If there is something they need to know, inform them by scheduling a hearing.

**Get professional help to deal with your emotions.** If you have trouble with the hostility, anger, or depression that often occur in divorces, don't hesitate to get counseling to help you through it. Use professional help to deal with your hostility. Don't use the judge or the system to vent your anger; that would be counterproductive. A good counselor can help you, and your children, get through this difficult time.

**Encourage and support visitation.** If you are the primary residential parent, you have a duty to encourage visitation. You must do more than just stay out of the way or leave the choice to the children. Encourage your children to see their parent frequently and to enjoy the contact. Never use support or visitation as a lever or bargaining chip in dealing with the other parent.

**Give your children a chance.** The way you and your spouse handle your divorce will have an enormous impact upon your children. If you argue and fight, their problems and pain will be magnified. By acting civilly, you can help them through one of the most difficult events of their lives.

**NOTE:** In accordance with the Americans With Disabilities Act, if you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration at 425 North Orange Avenue, Suite 2130, Orlando, Florida, 32801, Telephone: (407)836-2303 within two (2) working days of receipt of the notice to ensure that reasonable accommodations are available. If you are hearing or voice impaired, call 1-800-955-8771.

Information in this pamphlet was adapted from  
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