

5 Things You Must Know Before Getting Divorced in North Carolina



1. Six Months Residency Before Filing

In North Carolina you will need to have been a resident of the State for six (6) months before you can file for an absolute divorce or a divorce from bed and board. The Court needs something called jurisdiction in order to issue a ruling on your requests. Jurisdiction is the power of the court to make orders you have to follow. If you have not resided in North Carolina for six (6) months, the court has no authority to make orders that govern you or your family. (Some exceptions apply in emergency situations).

2. One Year Waiting Period

In North Carolina you cannot be officially and completely divorced until you have been separated for one (1) year. To be officially divorced you need what is called an "Absolute Divorce" in North Carolina. The Court will not grant an Absolute Divorce until you have separated and stayed separated for a full year. There is no need to despair. Even though your divorce will not be official until after one year of separation, you are able to pursue orders governing property distribution, custody and visitation, child support and other orders during your year of separation.

3. Multiple Types of Divorce Exist in North Carolina

In your research of how to get divorced in North Carolina you probably came across multiple types of divorces. You likely saw the term "Absolute Divorce" that we discussed earlier. An Absolute Divorce is the term used when you are officially legally divorced from your spouse. You will likely have also seen the term "Divorce from Bed and Board." Divorce from Bed and Board is a little different. When you seek a Divorce from Bed and Board you are not legally divorced after. Instead, this is a term that is used when someone wants to end cohabitation with their spouse and create a legal separation. You will always want to ensure that an Absolute Divorce has been signed by the Court so that you are legally divorced. You will probably only seek a Divorce from Bed and Board if your situation requires it.

4. Separation Agreement

In North Carolina you can spend your one year required separation settling the terms of your divorce. A Separation Agreement can deal with almost all of the issues that arise in a Divorce including property settlement, custody, visitation, alimony, child support, retirement division, etc. with some exceptions. The Court continues to have power over custody and visitation agreements after your divorce, so it is important that your settlement agreement meet certain requirements to protect it against a challenge in court. Separation agreements in general have various rules to make them binding. It is important to consult a knowledgeable attorney before signing any type of legal document.

5. Making Your Absolute Divorce Absolute

In the process of settling your divorce you may reach a settlement agreement regarding division of your home and cars, a custody agreement regarding custody, visitation and child support, an alimony agreement, and then think all that is left is to file for Absolute Divorce. The problem is under certain circumstances all of those agreements need to be incorporated into the Absolute Divorce decree to maintain their validity. For example, if you have not brought a legal claim for division of your marital property, and you allow an absolute divorce to be signed by the Court, you actually waive all claims for division of marital property. While there are some exceptions to this rule, it is important to be sure that whatever agreement you have reached with your ex outside of court are properly formalized and properly incorporated into the Absolute Divorce. A competent family law attorney can help you sort through the many agreements you may have during your case and ensure everything is official when the Absolute Divorce is finally signed.

Ammon G. Nelson
Attorney



Call Now!
919-415-4709