

# Florida Law on Divorce: 7 Things You Need to Know Before Procedures Begin

Although the process of divorce is confusing, upsetting, and overwhelming, it can help you to feel more at ease if you familiarize yourself a little with Florida law on divorce. So today we're sharing a few legal facts that you need to know before your divorce proceedings begin.

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### 1. There Are Two Types of Divorce Proceedings

The state of Florida refers to divorce as a dissolution of marriage. There are two types of dissolution proceedings - a regular dissolution of marriage and a simplified dissolution of marriage.

A regular dissolution of marriage is what we traditionally think of when we think of a divorce.

A simplified dissolution of marriage is (as the name implies) a simpler process in which attorneys are generally not required. In this type of dissolution, however, it is up to both parties to file the necessary paperwork. In order to file for a simplified dissolution, certain requirements must be met:

- Both parties must agree to a simplified dissolution proceeding.
- They must have no minor (under 18) or dependent children.
- They must have no adopted children under the age of 18.
- Neither party must be pregnant.
- At least one of the parties involved must have lived in Florida for the past six months.
- The parties must have come to an agreement on the division of all of their property (assets) and obligations (debts).
- Neither party may be seeking alimony.

- Both parties must agree that the marriage is irretrievably broken.

To find out more detailed information about each of these two types of divorce, you can visit the Florida Bar Association website.

## **2. Florida is a “No-Fault” State**

Florida is what we refer to as a “no-fault” state. This means that a married couple may get divorced without proving that either party caused the split to happen. In order to get a “no-fault” divorce, one party in the divorce simply has to give a court-recognized reason for the divorce to take place. Even though Florida is a “no-fault” only state when it comes to divorce, that does not mean that a judge won’t require evidence that a marriage is irreparably broken before they will grant a divorce. A “no-fault” divorce also requires a period of separation before the divorce will be granted. Unlike some states, Florida does not outline a specific period of separation before a couple may be granted a divorce.

All states allow for “no-fault” divorces. Conversely, only some states allow for “fault” divorces. Florida is not one of them.

## **3. The Courts Have “Acceptable” Reasons For Divorce**

In the state of Florida, one party of the divorcing couple must give a court-accepted reason for the divorce. These reasons include:

- “for whatever reason or cause the marriage relationships for all intents and purposes ended, no longer viable, a hollow sham beyond hope of reconciliation or repair”
- “Mental incapacity of one of the parties. However, no dissolution shall be allowed unless the party alleged to be incapacitated shall have been adjudged incapacitated according to the provisions of s. 744.331 for a preceding period of at least 3 years.”

## **4. A “No-Fault” Divorce Cannot Be Contested**

In the state of Florida, a “no-fault” divorce cannot be contested. This means that should one party want to get a divorce and is able to prove grounds for that divorce, the second party has no means of preventing the divorce from taking place.

## **5. “No-Fault” Does Not Mean No Wrongdoing**

Although Florida is a “no-fault” divorce state, this does not mean that wrongdoing will not be considered during divorce proceedings. Depending on the specifics of a case, a judge may take wrongdoing of one party into consideration when it comes to custody, alimony, asset division, and liability.

If you are filing for a divorce in the state of Florida and your spouse is guilty of wrongdoings, it is helpful to consult an attorney. Your attorney will be able to guide you through the court process and let you know what to say and how to present information to the court so that it is taken into proper consideration.

Some examples of marital misconduct which may be considered by a judge when making final determinations of awards to one party of the divorce include:

- Alcoholism or addiction,
- Adultery
- Domestic violence
- Physical or mental abusive behavior
- Economic misconduct

## **6. Additional Considerations in Divorces Involving Marital Misconduct**

Even in “no-fault” divorce cases, there are additional considerations that a judge will take into account when making specific determinations in addition to marital misconduct noted above. These additional considerations include:

- The length of the marriage
- The character of the misconduct
- The time period during the marriage when the misconduct occurred
- If the misconduct was continual or what was the frequency of it

## **7. Proving An Irreparable Marriage**

It may seem impossible to prove that a marriage is irreparable in order to seek a divorce, but in most cases, this is a fairly simple process. In fact, many courts will simply accept a statement saying "I don't love them anymore and don't want to stay married". Even when this isn't the case, the courts are not going to spend time digging around for evidence in the case of a divorce, so the requirements of proving an irreparable relationship are nothing to fixate on.

## **Want to Know More About Florida Law on Divorce?**

If you're interested in finding out more about divorce in the state of Florida or family law in general, we encourage you to contact Weidner Law and attorney Matthew Weidner at 727-954-8752.