

The Unity House Law Project serves victims of domestic violence and low-income residents of Rensselaer county and provides free consultation and representation in civil legal matters including orders of protection, custody, child support, divorce, separation, entitlements and landlord tenant matters.

The Unity House Law Project is a program of Unity House of Troy, Inc., a non-profit community organization committed to serving and empowering people in need. More at www.unityhouseny.org

COMMON TERMS AND QUESTIONS

In cases of divorce, it is important that you understand your rights.

If you are unable to obtain a lawyer or decide to represent yourself, you can go to court on your own. In this case, you are called *pro se*. Be aware that the divorce process is complicated, particularly if you and your spouse do not agree on all aspects of your divorce including custody, child support, spousal maintenance (a regular payment of money), and division of your financial assets and debts. Even if you do agree, it is always a good idea to know what you are entitled to under the law before you make a final agreement. If possible, consult an attorney.

Free Legal Resources

UNITY HOUSE LAW PROJECT

Families & Children | NY CourtHelp
(nycourts.gov) <https://nycourts.gov/courthelp/Family/divorce.shtml>

Free Legal Help in New York State | LawHelpNY www.lawhelpny.org

Fee Waiver Resources

<https://nycourts.gov/courthelp/GoingToCourt/feeWaiver.shtml>

Uncontested Divorce DIY Resources

<https://nycourts.gov/courthelp/diy/divorce.shtml>

Our Core Values

With passion and integrity, Unity House embraces the view that everyone deserves equal economic, political, and social rights. We work together to open the doors of access and opportunity for everyone, particularly to those in greatest need.



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DIVORCE IN NEW YORK STATE

Understanding the Process so You can Obtain the Best Outcome

- Common Terms and Questions
- Documents You May Need
- Free Legal Resources



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How to Start a Divorce

A divorce starts when one spouse, called the Plaintiff, files a *Summons with Notice* or a *Summons and Complaint* at the County Clerk's Office. Those papers must then be served on the other spouse. The spouse served is called the Defendant.

Fees

Getting a divorce costs money in fees, including at the time you file a *Summons with Notice* or *Summons and Complaint*. Sometimes the fees can be waived if you have low or no income. See the back of this brochure for resources.

What if I am Served with Divorce Papers

Find legal help immediately. If you cannot find an attorney, try and respond on your own or call the court and ask for more time. Pay attention to the due dates and do not miss them. If you are not able to speak to or obtain a lawyer, NYS has self-serve resources. See the back of this brochure.

Uncontested vs. Contested

Uncontested means you and your spouse agree on the terms of the divorce, including how your children and all of your things will be shared. *Contested* means that you and your spouse do not agree.

Grounds for Divorce

There are several grounds, or reasons, for divorce in NYS. The most common is divorce based on an irretrievable breakdown of the marriage for at least 6 months. Other grounds include cruel and inhuman treatment, adultery, imprisonment, abandonment, living separate and apart pursuant to judgment of separation and living separate and apart pursuant to a separation agreement. All of these grounds have specific requirements that you must meet in order to claim them as grounds for divorce. It is important that you meet all of the requirements and make sure you have enough information to support your grounds or your divorce could be dismissed.

Residency Requirements

In order to file for divorce in NYS, one of the following must be true; (1) you or your spouse must have resided in NYS for a continuous period of 2 years or more right before you file; OR, (2) you or your spouse must have resided in NYS for a continuous period of 1 year or more before you file AND (A) you got married in NYS, or (B) you lived as a married couple in NYS, or (C) the reason for the divorce happened in NYS; OR, (3) you and your spouse are NYS residents on the day you file and the grounds for your divorce occurred in NYS.

Things You Can Ask for in a Divorce

Examples of things you can ask for and that a court can decide or grant as part of a divorce case:

- Order of Protection
- Maintenance (a regular payment of money)
- Custody
- Division of Property and Financial Accounts
- Child Support
- Modifications of prior orders from Family Court
- Exclusive use and occupancy of the marital residence
- Temporary Relief

Court Dates

Attend all court dates. If you cannot make it, call the court and ask for it to be rescheduled, which is called requesting an adjournment. If you miss a court date, the court may proceed without you.

DOCUMENTS YOU MAY NEED



In addition to court forms, the following is a list of documents you may need in a divorce case. If you don't have the documents you need, an advocate or attorney may be able to assist you in obtaining what you need.

- ✓ Bank records
- ✓ Rent and Mortgage documents
- ✓ Credit card statements
- ✓ Medical Bills
- ✓ Bankruptcy records
- ✓ Household expenses
- ✓ Pay stubs
- ✓ Public benefits records, i.e. food stamps, public assistance, SSI, unemployment
- ✓ Loan applications
- ✓ Prior court orders
- ✓ Criminal records
- ✓ Any document related to your personal situation that shows your interest in or ownership of an asset
- ✓ Any document showing assets or debts