

3. A Divorce Decree with no other relief granted where neither party makes a claim for equitable distribution, alimony, counsel fees, costs or expenses in a pleading or otherwise.

4. An Order approving the grounds for divorce and referring the matter for a Hearing on unresolved claims. A Divorce Decree will not be entered until those unresolved claims are settled by the parties or are resolved by the Court after hearing.

Once the Court notifies you that the Divorce Decree has been entered, you may send for a certified copy by writing to the Prothonotary and enclosing a \$4.50 check and a self-addressed, stamped envelope.

IV. PROCEDURE FOR OBTAINING A DIVORCE ON FAULT GROUNDS

A motion for the Appointment of a Master is filed along with payment of \$185.00 to the Prothonotary. Then a Master is appointed and a hearing is held.

If the matter is contested, you must prepare evidence and proceed to trial. If the matter is not contested, you should submit notes of testimony which you have prepared in advance setting forth the support for your grounds for divorce.

V. DO YOU NEED AN ATTORNEY?

Although it is not necessary to retain an attorney in order to file and serve the Divorce Complaint, it is highly recommended that you do so. You can call the Montgomery County Lawyers' Referral Service at 610-279-9660 for the name of an attorney who may be able to help you in your divorce proceedings. The attorneys who participate in the Lawyers' Referral Service charge an initial consultation fee of \$40.00 for the first one-half hour. The remainder of the fee charged must be worked out with the individual attorney whom you decide to retain.

Montgomery County Commissioners

Thomas Jay Ellis, Esq.,
Chairman

James R. Matthews
Ruth S. Damsker

*Child Custody
Child Support
Divorce*

*Equitable Distribution
Protection from Abuse*

Alternative Ways to Resolve Conflict

contact: Montgomery County Commission
on Women and Families

PO Box 311

Norristown, PA 19404-0311

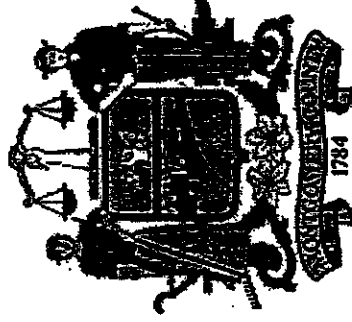
Phone 610-292-5000 Fax 610-278-3356

revised 09/02

A GUIDE TO DIVORCE

IN

MONTGOMERY COUNTY



One in a series of
informative pamphlets
developed by

The Montgomery County Commission
on Women and Families
in partnership with
Montgomery Bar Association
The Family Law Section

I. GROUNDS FOR DIVORCE

You can file for divorce on Fault and No-Fault Grounds.

- A. Fault Grounds - the Court may grant a divorce to the innocent and injured spouse whenever it is judged that the other spouse has:
- committed a willful and malicious desertion for a period of one or more years;
 - committed adultery;
 - by cruel and barbarous treatment, endangered the life and health of the injured and innocent spouse;
 - knowingly entered into a bigamous marriage while a former marriage is still subsisting;
 - been sentenced to imprisonment for a term of two or more years upon conviction of having committed a crime;
 - offered such indignities to the innocent and injured spouse as to render that spouse's condition intolerable and life burdensome;
 - confined to a mental institution for at least 18 months, due to insanity or serious mental disorder.
- B. No-fault Grounds - the Court may grant a divorce where:
- it is alleged that the marriage is irretrievably broken and both parties have filed an affidavit consenting to the divorce action;
 - or
 - the parties have lived separate and apart for a period of at least two years and the marriage is irretrievably broken.

II. PROCEDURE FOR FILING DIVORCE COMPLAINT ONCE GROUNDS HAVE BEEN CHOSEN.

The Complaint is filed with the Prothonotary's Office which is located on the first floor of the Court House. The Divorce Complaint filing fee is \$224.50 plus \$28.00 for each additional count, e.g. Alimony, Alimony *Pendente Lite*, Equitable Distribution, Spousal Support, Child Support and Visitation. The filing fee for Custody/Visitation count is \$33.00. Notice to Defend as well as Counseling Notice and a Family Court Cover Sheet must be placed on top of the Divorce Complaint for filing.

There are certain claims that should be incorporated into a Divorce Complaint. These claims may include Equitable Distribution, Alimony, Alimony *Pendente Lite*, Spousal and/or Child Support, Costs and Counsel Fees, Custody and Special Relief.

Your spouse must be served with the Divorce Complaint so it is important that you have an accurate address. The Divorce Complaint may be personally served by the Sheriff's Department in Montgomery County for \$43.00 if the Divorce Complaint is filed in Montgomery County. The cost will vary if your spouse is to be served outside of Montgomery County. You may also serve your spouse by certified mail, return receipt requested, to his or her home or work address.

III. PROCEDURES FOR OBTAINING NO-FAULT DIVORCE DECREE

A divorce by mutual consent or irretrievable breakdown may proceed without a Master's Hearing so long as no economic issues are raised.

Twenty days' notice must be given to your spouse of your intentions to ask the Court for a Divorce Decree. This form is called a *Præcipe* to Transmit Record which must be filed with the Court once the twenty-day period has run. The cost for filing a *Præcipe* to Transmit record is \$38.00. Once a *Præcipe* to Transmit record is filed, the Court will automatically enter an Order.

There are four different types of Orders which the Court may enter:

1. A Decree in Divorce incorporating a Property Settlement Agreement where the parties have submitted the Agreement to the Court and requested that its terms be incorporated into the Divorce Decree.
2. A Bifurcated Decree in which the Court grants the divorce but retains jurisdiction over unresolved claims of equitable distribution, alimony, counsel fees, costs and expenses. This requires an agreement of the parties or an Order of Court to bifurcate the action. A Hearing will be scheduled to determine the unresolved claims.