

NOW THAT THE KIDS ARE BACK IN SCHOOL, IS THIS A GOOD TIME TO FILE FOR DIVORCE?



By Mindy J. Snyder

Mindy Snyder is an attorney with Liebmann Family Law in Newtown, Bucks County. Each of the attorneys in the office has over 25 years' experience in handling domestic issues. We appear in Bucks and the surrounding counties, including New Jersey. Please contact our office to schedule an initial consultation. (215) 860-8200. www.Liebmannfamilylaw.com.

The decision to proceed with a divorce is obviously not solely based on the legal issues but is more of an emotional choice. However, to help make that decision, you should be aware of the legal issues that you may confront. You should know your rights, entitlement, and obligations. The answer to the above question is that there is not any specific time to proceed that affects your rights legally.

As Family Law Attorneys, we see waves and ebbs throughout the year in the volume of our practice. At the beginning of a calendar year, many people come to the decision that it is time to make a change. Also, once the school year starts, many parents schedule a consultation to discuss the best way or time to proceed in the event they would like to prepare for a divorce. Typically, there are three main issues to address: Divorce, Custody, and Support.

DIVORCE – There is a lot of predictability in divorce. Meeting with an experienced attorney offers you a road map of how a divorce will proceed. With this knowledge, if you and your spouse can resolve the economic issues, you may save yourself thousands of dollars in legal fees.

The process begins with the filing of a Divorce Complaint. A Divorce Complaint is a formal document filed with the Court advising that you are proceeding with a divorce.

The next thing to occur is the grounds or legal basis for the divorce. This can occur in three different ways. The first is by Consent. Ninety days after service of the Divorce Complaint, you can each sign a consent agreeing to move the divorce along. The second is one year of separation. The third is fault grounds. This is the only time that fault is relevant in a divorce action. It does not mean that you get more or less of the marital estate; it is just the basis for the divorce.

Once the grounds have been established, you can move to Court to resolve the economic issues. This is the division of all assets and liabilities accumulated during the marriage. In the ideal situation, you and your spouse can come to an agreement with the assistance of counsel. In that case, there would not be any reason to proceed to Court. If, however, you and your spouse cannot agree, the court system is there for you. It is at this time that alimony is also resolved as to amount and length of time. For some reason, many people think that alimony does not exist. That is not correct; alimony exists in Pennsylvania. The most important factors that affect alimony are the income of the parties and the length of the marriage.

Once these issues are resolved, you will be divorced. You will not be divorced until the economic issues of your marriage are resolved either by agreement or Court order.

CUSTODY – There are two components to custody. There is **legal custody** which is the obligation to consult one another for all major medical, educational, and religious decisions. This is usually shared. The second component is **physical custody** – who has actual possession of the child. The parent who has more

overnights in a calendar year has primary physical custody, and the parent who has less overnights has partial physical custody. The parent with primary custody does not have any more rights than the other parent; it only means he or she has more overnights. Another option is shared physical custody where the overnights the child spends with each parent are equal.

SUPPORT – This includes child support and spousal support. As to **child support**, the parent who has partial physical custody pays child support to the parent who has primary physical custody. Pennsylvania and New Jersey have in place Child Support Guidelines which determine how much support one parent pays to the other. Even with a shared (equal) physical

custody arrangement, if one parent earns more than the other, there still may be a child support obligation. This issue also includes contributions for child care, health insurance, and extra-curricular activities.

As to **spousal support**, if you are married and one spouse earns more than the other, you may be entitled to spousal support. This is based upon many factors, but the main points are the length of the marriage and the income of the parties.

This is just an outline of the issues that you may confront. For more information on each of these issues, I suggest a consultation with an experienced family law attorney. At **Liebmann Family Law**, we offer a free

initial consultation. We do this because making the decision to proceed and choosing an attorney is not easy. You must find someone who knows the law and someone you feel comfortable will protect your interest. Once you have the legal answers, you are better equipped to make the emotional decision whether to proceed or not.

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