

**What to expect...**  
**DIVORCE**

*in the*

**N I N T H**  
**J U D I C I A L**  
**C I R C U I T**  
**C O U R T**  
**O F**  
**F L O R I D A**

*The Ninth Judicial Circuit Court  
of Florida in and for Osceola County  
Office of the Court Administrator*

**FAMILY LAW INTAKE**  
717 West Bryan Street  
Kissimmee, Florida 34741  
(407) 943-7600

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***The Ninth Judicial  
Circuit Court recognizes that  
a divorce can be a painful  
and difficult experience.  
If you understand the  
functions and limitations of  
the legal system, the process  
becomes more tolerable.  
The Court hopes that this  
pamphlet provides you with a  
greater understanding of the  
process to help you get through  
your divorce with realistic  
ideas and goals.***

## LIMITATIONS

Florida's divorce system is based on the principle of "no-fault," meaning that a divorce will be granted if either party believes that the marriage is over. Generally, the causes of the failure of the marriage are not an issue in Court. All that matters is that the marriage needs to be ended.

It is impossible for us to heal the emotional wounds created by your divorce. The legal system is not a tool for punishment of your spouse. The courtroom is no place for revenge. Your case will be decided on the basis of its unique facts. In most cases, the law does not permit judges to compensate either of you for the other's misconduct.

Please do your best to keep emotions out of the case. Your feelings of anger, pain, and betrayal are understandable, but expressing them inappropriately in Court may interfere with your ability to provide the Judge with the information he/she needs.

## SETTLEMENT

The best way to conclude your case is to settle it. Through compromise and cooperation, a settlement can lead to greater mutual satisfaction and lessened animosity between you and your spouse. In most cases, negotiations toward settlement can be more productive and far less expensive than a trial. A settlement prior to trial reduces the expenses considerably, an important consideration if you come to the divorce with limited resources.

If negotiations fail and you must try your case, a judge will make rulings that will permanently affect you and your children. The judge's rulings must be made exclusively upon the limited evidence that is presented in court, and nothing else. Because the judge is restricted in what he/she can and cannot do, a settlement can offer a wider range of options.

## VARIATIONS

Every divorce is different. Your results may be very different from your neighbor's, friend's, or relative's. You cannot rely upon what happened in their cases and assume that your results will be the same. Cases that seem similar may, in fact, be very different and will be treated differently under the law. Your friends and relatives usually do not have a grasp of the law and your case, and accepting their advice may hinder you in the long run.

## FINANCES

Unless you settle your case, the judge must allocate the income and assets accumulated during the marriage. The law is that you and your spouse were financial partners during the marriage and are presumed entitled to share in both the assets and income the partnership made.

For most people, life-styles change after a divorce. Since divorces do not create property or income, the judge must divide the marital resources between two separate households. It costs more to run two households than one. If you or your spouse has not been employed during the marriage, it may be necessary to seek employment.

## ISSUES

A divorce generally involves four major issues: child custody/visitation, child support, alimony, and a division of property/debts. After the case is concluded, the judge may later be asked to modify custody, support, alimony, primary residence, or some other agent of the final judgement. To make this request, you must complete a Petition to Modify based on a substantial change of circumstance.

You need to understand each of these aspects of your case.

**Child Custody:** Most parents will share parental responsibility for their children after the divorce. In doing so, you must communicate and confer with each other in making decisions that will affect your children.

Usually, one parent will be given primary residential care (custody) of the children. Unless there is a good reason, the other parent will be granted frequent visitation. In determining primary custody, the judge will consider certain statutory criteria.

One of these is which parent is more likely to encourage the children to visit the other parent.

The issue of custody is decided solely on what is best for the children. Often, one of the parties is hurt by the judges' decision, especially if that party sees the decision in a "win/lose" light. In truth, there can be no loser if the children's welfare is protected.

In most custody contests, the judge will direct both parties to participate in mediation to resolve this issue. A mediator is an unbiased third party who can assist the parties in reaching agreement upon what is best for

the children. An agreement on custody will certainly make your case easier and help your children immeasurably in dealing with your divorce.

Both parents are required to attend a parenting course. A list of the various court-approved agencies is available at the Clerk of the Court's office and at Family Law Intake. This seminar focuses on the concerns parents have regarding their children and the decision to divorce. Parents will also learn effective ways to help their children adjust to the divorce.

**Child Support:** Aside from continuing to love your children and seeing them often, you have no higher obligation as a parent than to continue supporting your children after the divorce. Child support is more important than any other debt or financial obligation. Both parents are required to support the children, but the non-residential parent will be directed to pay his/her portion of the support to the other. This does not mean that the residential parent is not contributing to the support.

Florida has adopted guidelines for child support that the judge is required to follow. Your friends and relatives may have been involved in divorces years ago or in other states, and receive or pay lower support than the guidelines provide. The child support in your case will be based upon your income, your spouse's income, and the needs of your children under the guidelines established by the State.

**Alimony:** If it is necessary to award alimony, or spousal support, the court is required to consider two factors: one party's need and the other's ability to pay. Both of these factors must be proven in court by the requesting spouse. Alimony may be awarded to either a husband or wife and, depending on the length of the marriage and other factors, the alimony may be permanent or for only a short time.

**Property Division:** Under Florida law, the judge must try to make an "equitable distribution" of marital property and debts. "Equitable" does not always mean "equal", although that is the starting point. Many factors, including child support, custody, and alimony awards, can cause judges to make an unequal (but still equitable)

division of property. The judge will not generally divide the property and debts that arise outside the marriage.

## **FAMILY COURT SERVICES**

Staff in Family Court Services will provide you with basic information concerning court procedures and available community resources. Please understand that none of the Family Court Services staff members will be representing you nor appearing on your behalf in Court. The staff members work for the 9th Judicial Circuit and his/her role in the Family Court Services is to give needed procedural instructions to the unrepresented party in order to assist him/her in accessing the Court in a proper and effective manner.

Office hours are Monday through Thursday, 8:00 a.m. to 12:00 p.m., or you may call for an appointment.

**NOTE:** Family Court Services is not acting as your lawyer or providing legal advice to you. It is available to all persons who will be representing themselves in a family case in this county. The Family Intake program assistant can answer general questions and provide referral information only. All materials (including information, forms, and instructions for use of forms) made available by the Clerks Office are offered as a public service and are in no way guaranteed to obtain any particular result.

The following packets are available for purchase in the Domestic Relations Clerk's Office:

Simplified Dissolution .....	\$8.00
Regular Uncontested Divorce without Children .....	\$15.00
Regular Uncontested Divorce with Children .....	\$15.00
Modification of Child Support/ Residency/Visitation .....	\$15.00

## DO'S AND DON'TS

Please pay attention to these rules and your divorce will be easier and less painful for all involved. These rules are rather clear-cut and apply to every divorce.

**Have reasonable expectations.** You will certainly be disappointed if you expect to “win” on every issue. Rarely is either party happy about every ruling in a case. Even the best rulings leave both parties somewhat dissatisfied. Encourage your attorney to give you a realistic projection of the outcome of your case.

**Keep communication open with your spouse/ex-spouse.** As long as you have children, you and your (ex-)spouse will have to work together. Your children will suffer to the degree that you and your former spouse cannot cooperate and communicate.

**Do not write letters to the judge.** Judges are not permitted to read such letters nor can they speak with you or your friends/relatives on the telephone. If there is something they need to know, inform them by scheduling a hearing.

**Get professional help to deal with your emotions.** If you have trouble with the hostility, anger, or depression that often occur in divorces, don't hesitate to get counseling to help you through it. Use professional help to deal with your hostility. Don't use the judge or the system to vent your anger; that would be counterproductive. A good counselor can help you, and your children, get through this difficult time.

**Encourage and support visitation.** If you are the custodial parent, you have a duty to encourage visitation. You must do more than just stay out of the way or leave the choice to the children. Encourage your children to see your former spouse frequently and to enjoy the contact. Never use support or visitation as a lever or bargaining chip in dealing with the other parent.

**Give your children a chance.** The way you and your spouse handle your divorce will have an enormous impact upon your children. If you argue and fight, their problems and pain will be magnified. By acting civilly, you can help them through one of the most difficult events of their lives.

**NOTE:** In accordance with The Americans With Disabilities Act, if you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Court Administration at 717 West Bryan Street, Kissimmee, Florida 34741, Telephone: (407)847-1440 within two (2) working days of receipt of the notice to ensure that reasonable accommodations are available. If you are hearing or voice impaired, call 1-800-955-8771.

Information in this pamphlet has been adapted from  
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