

Divorce in the USA: A Comprehensive Exploration

*Asal Xayrulina*¹

The family is the main unit of society and family values, as throughout the world, play an important role in people's lives. The concept of family is multifaceted and can vary depending on cultural, social and legal factors. Despite the various forms and structures, the family remains the basis of society, playing an important role in the support, education and development of its members.

Marriage is the main way in which family legal relations arise, establishing legal ties between spouses and their potential children.

Of course, when people get married, they often do so with the hope of a long and happy life together. However, sometimes circumstances change and the relationship can become unstable or even harmful and then divorce becomes a necessary step for both spouses to move forward and build a new life.

Divorce procedures include the legal and administrative steps that must be taken to officially end the marriage relationship. These procedures may vary depending on the country and its laws, including the grounds for divorce, filing requirements, length of the process and legal consequences.

Let's look at the process of marriage and divorce using the example of the United States to identify the main features.

Marriage in the United States is governed by the laws of each state, and requirements may vary by jurisdiction. However, there are general requirements for marriage that apply in most states:

1. *Age.* In all states, the minimum age for marriage without parental consent is 18 years.

In most states, persons under 18 years of age can marry with the consent of their parents or guardians. However, the minimum age at which this is possible varies. For example, in some states you can get married at age 16 with parental consent, and in some states you can even get married at age 14 or 15 if you have court approval.

In some states, if one or both partners are under 16, court approval is required in addition to parental consent.

2. *Marriage license.* The couple must obtain a marriage license from the local County Clerk's Office. Typically, the personal presence of both partners and the presentation of identification documents (passport, driver's license, etc.) is required. Some states may also require birth certificates. Some states may require proof of civil status (such as a divorce certificate or death certificate of a previous spouse).

A marriage license has a validity period that varies from state to state. Usually this is from several days to several months. It is important to get married within this period. For example, in California, a marriage license is valid for 90 days, and during this time the marriage must be consummated. New York requires a 24-hour waiting period between getting a license and getting married, while Texas requires a 72-hour waiting period, although there are exceptions for military personnel and

3. *Waiting period.* Some states require a waiting period between obtaining a license and getting married. This period can vary from one day to several days, although this is not necessary everywhere.

¹ Senior Lecturer of the Department Civil Procedural and Economic Procedural Law Tashkent State University of Law



4. *Medical examination.* In the past, some states have required medical examinations (such as tests for infectious diseases). Such requirements have now virtually disappeared, but may still occur in individual states.
5. *Ceremony and registration.* Marriage must be performed through a formal ceremony performed by an authorized person. After the ceremony, the marriage license must be registered with the relevant authorities.
6. *Obtaining a marriage certificate.* Once registered, the couple can receive an official marriage certificate, which confirms the legality of the marriage.

Of course, marriage is concluded with the intention of creating a strong and long-term family, but, unfortunately, everything does not always work out as planned, and sometimes the life paths of spouses diverge. When this happens, divorce proceedings begin. Divorce proceedings are the legal process by which spouses formally end their marriage and can be difficult and emotionally stressful for everyone involved, including children. This process can include many stages and features, depending on the circumstances of the particular marriage and the laws of the states where the divorce process is taking place.

The main stages of the divorce process are:

1. Deciding on divorce. One or both spouses decide to divorce and begin the process by contacting a family law attorney.
2. The divorce procedure itself begins with filing a divorce claim (Filing the Petition). One of the spouses (plaintiff) files an application for divorce in the appropriate court. The statement indicates the reasons for the divorce and the basic requirements for the division of property, child custody and alimony.
3. Notification of the second spouse (Service of Process). The second party (the defendant) receives notification of the submitted application and has a certain time to submit a response (opinion). This is usually done by serving a copy of the complaint and a subpoena. The defendant must respond to the claim within a specified time period (usually 30 days). Then follows the response to the claim (Response)
4. Feedback on the application. The defendant submits his/her opinion on the claim (Response), within a specified period (usually 30 days), agreeing or disagreeing with the stated requirements. At this stage, counterclaims may be filed.
5. Temporary Orders. The court may make temporary orders regarding alimony, child custody, and residency while the divorce proceeding continues.
6. Exchange of information (Discovery). The parties exchange financial and other important information that will be used in the case to ensure a fair trial. This stage may include requests for documents, depositions, and other forms of evidence collection.
7. Mediation and negotiations (Negotiation and Mediation). The parties may attempt to resolve the dispute through negotiations or mediation. In many states, mediation is a mandatory step before trial. If the parties reach an agreement, they submit it to the court for approval.
8. Trial. If the spouses cannot agree, the case goes to court, where the judge makes decisions on controversial issues based on the evidence and testimony presented.
9. Final Judgment. The court issues a final decree of divorce, which officially ends the marriage. The final decision includes all the conditions of the divorce (division of property, determination of child custody, alimony and other obligations) and comes into force from the moment it is issued.

It should also be noted that divorce proceedings in the United States are governed by state laws, not the federal government.. Only the state has the power to enter into, recognize and dissolve a marriage., which means there are some differences in procedures and requirements depending on the jurisdiction. This raises the question, in which state can you get a divorce?



At the time of divorce, the laws of the state of residence apply, not the laws of the place where the marriage itself took place. All states have rules regarding jurisdiction, which generally determine the length of time the person filing for divorce has resided in the state. Most states require the person filing for divorce to physically reside in the state for six months, some states require twelve months and some e.g. in Nevada and Idaho currently the shortest stay is 6 weeks. Without proper jurisdiction, the state cannot grant a divorce.

In United States exist different types of divorces, including disputed and uncontested, and fault and no-fault divorces.

What is a contested and uncontested divorce?

When a couple getting divorced, there are usually many decisions to be made. They may cover issues such as division of assets and debts, spousal support/alimony, child support, custody and communication arrangements, as well as grounds for divorce and other issues. If a couple can agree on all major issues before trial, it is called an uncontested divorce. Conversely, if there are one or more important issues that the couple cannot agree on, it is a contested divorce. A divorce may start out as contested but then become uncontested when the parties fully resolve their differences.

The court may also consider a divorce contested if one spouse wishes to end the marriage and the other wishes to remain married, or if one spouse wishes to file for a fault-based divorce.

There are two ways to obtain an uncontested divorce. The first is when couples reach a unanimous decision on all the major legal issues involved in the divorce.

The second path to an uncontested divorce occurs by default. This occurs when one spouse does not respond to the request for divorce, and the spouse filing the petition can continue the divorce process without the participation of the other spouse.

Both contested and uncontested divorces begin with filing for divorce one or both spouses. Depending on whether the couple can come to an agreement on all issues, this process will vary.

Unlike an uncontested divorce, the outcome of a contested divorce is in the hands of the judge. Because if one or both spouses disagree on any aspect of the divorce, a contested divorce goes to court. A contested divorce proceeding is similar to any other type of civil proceeding: two parties meet in court, present evidence, and then a judge decides on the terms of the divorce.

Because a contested divorce involves the court system, it tends to be a longer and more expensive process. Spouses wishing to contest a divorce may incur additional legal fees and attorney's fees, if they decide to hire a divorce lawyer. Contested divorces are also a more complex process and sometimes involve time-consuming legal procedures such as a trial, discovery (the legal process of gathering information and evidence) and settlement proposals, as well as negotiations with an attorney.

One of the biggest differences between a contested and uncontested divorce is the time it takes to finalize it. Uncontested divorces usually proceed relatively quickly. However, a "quickie" divorce in a divorce situation can still be lengthy, depending on the state and courthouse. Additionally, an uncontested divorce does not require litigation, discovery, or other time-consuming legal procedures. This means that legal fees will be much cheaper for an uncontested divorce than for a contested divorce.

Another difference between contested and uncontested divorces is the degree of possibility of appeal results. Since both parties agree to this type of agreement in an uncontested divorce, the terms of the divorce cannot be appealed. However, this does not mean that the parties will remain within the agreement forever. If circumstances change significantly and/or a certain period of time passes, depending on the state, the parties may modify the agreement. However, since the parties make their own decisions, they are more likely to be happy with the outcome of the proceedings.

In a contested divorce that is not settled, the judge is the one who is ultimately responsible for making decisions for the couple. The judge may end up favoring some issues over others, but this may not always align with the couple's priorities. For example, one spouse may be very interested in keeping



the house, while the other spouse may prefer a car. However, a judge may order the house to be sold and the car to be transferred to the other spouse. The more control spouses have in this process, the more likely they are to come to an agreement they can both live with.

Benefits of an Uncontested Divorce

An uncontested divorce has two main advantages: it saves time and money.

If a settlement is reached, it could be filed within weeks and approved by the court within a month, compared to the months and possibly years that a contested divorce can take.

Uncontested divorce settlements will also save money. If spouses can agree on everything without hiring a lawyer, it will obviously be cheaper than hiring a lawyer. However, even if both spouses hire a lawyer, avoiding litigation will save a significant amount of money.

If the spouse does not respond to the divorce petition, the process will also be quick and inexpensive. There will be no negotiations, no trial and no conflict. Legal costs will be extremely low for just the preparation of documents and a brief appearance in court and the divorce will be finalized quickly.

Alternatives to a Contested Divorce

If the parties want to avoid a contested divorce, they have the following options:

As stated above -**uncontested divorce**. The parties enter into a settlement agreement or agree to all the terms, avoiding trial, or one of the parties simply does not respond to demands or does not appear in court.

Mediation. The couple meets with a neutral mediator who helps resolve all issues related to the divorce so that the parties can take the agreement to court.

Arbitration. The couple agrees to have a retired judge or a prominent local divorce attorney hear both sides of the case and render a binding decision.

Collaborative divorce. Each party hires lawyers, who agree only to negotiate the agreement and not take the case to trial. The collaborative divorce process shares many of the same features and goals of mediation. Mediation and collaborative divorces are cheaper mainly due to a reduction in paid time for professional legal assistance.

Each US state has its own grounds for divorce. A person must state the reason why they want a divorce at the trial and be able to prove that this reason is valid. Some states require a couple to live separately for several months before obtaining a divorce. However, in many states, separation is not considered grounds for divorce.

Divorce law has changed greatly over the past few centuries. Many of the grounds for divorce available in the United States today are rooted in policies established by early British board After the American colonies gained independence, each settlement typically defined its own acceptable grounds for divorce. IN colonial times grounds for divorce were more limited in scope, both in terms of what complaints could qualify as grounds and in terms of who could benefit from them. In the 18th century, issues such as infidelity, alcohol abuse, and abuse were among the few reasons that could qualify as grounds for divorce. For most of American history, wealthy people were the people most able to obtain and get the divorce they wanted. However, by the 1960s, women and citizens with less means found divorce provisions more accessible. At the time, the law required that one partner be at fault for the breakdown of the family in order for the couple to be granted a divorce. This limitation arose from a desire to ensure that all grounds for divorce were adequate. Before this, people used problems such as incompatibility or decreased awareness. However, the court ultimately concluded that these issues were not serious enough to justify divorce. In the 1970s, no-fault grounds for divorce gained support in many states, and in 2010NY became one of the last of the fifty states to allow no-fault divorces even in cases where there was no mutual consent of the spouses to dissolve the marriage. Other states that still require mutual consent for no-fault divorce are Tennessee (unless there are no minor children and the couple has been separated for 2 years), Mississippi, and South Dakota.



In the past, most states allowed fault-based divorces only, but today all states have adopted no-fault divorce. Fault and no-fault divorces require certain grounds.

Fault divorce is a divorce that is granted after the party seeking the divorce has sufficiently proven that the other party has done something wrong to justify ending the marriage. For example, in Texas, grounds for “fault” divorce include cruelty, adultery, felony conviction, abandonment of the household, separation, or mental hospitalization. The party filing for divorce must prove that the other party did something to justify ending the union. Different states have different requirements for obtaining a fault-based divorce, but in each state, the spouse filing for divorce must establish the reason for the divorce and provide evidence of the other party's fault. The specific grounds for obtaining a fault-based divorce are: adultery, infertility, homo sexuality on the other hand, conviction for serious crime or imprisonment one of the parties for a certain period of time; abandon mentor desertion, cruelty or mental instability one of the parties.

Divorce courts require evidence that grounds actually exist. This may be accomplished by providing testimony from a hired detective documenting the spouse's bad behavior or from someone who witnessed or has direct knowledge of the spouse's bad behavior.

Fault divorces are becoming less common today as all states now recognize no-fault divorces. No-fault divorces are more common because there is no requirement to prove the spouses were at fault. They are not as expensive, can be completed more quickly, and can be less stressful for family members. However, fault divorces are beneficial if a quick divorce is desired. This type of divorce is granted quickly, without a waiting period for no-fault divorces, where the parties are ordered to live separately for a certain period of time until the divorce is finalized. Another benefit of a marital fault divorce is the monetary benefit. Proof of wrongdoing by the accused party may result in the court awarding the petitioning spouse a larger portion of the marital assets or increased support and alimony. However, marital fault divorces are significantly more expensive than no-fault divorces.

It is also important to note that states vary in their rules for dividing property in a divorce. In the United States, there are two main approaches to dividing property in a divorce: community property and equitable distribution. In community property states, community property is owned equally by both spouses. The following states use the community property regime: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. Alaska law gives couples the opportunity to create community property through a written agreement.²

Most states follow the principle of “equitable distribution,” in which property is divided based on various factors to achieve a fair, but not necessarily equal, division. Some states that apply this principle are Alabama, Alaska (option between community property and equitable distribution), Florida, New York, Pennsylvania, etc.

In equitable distribution, the court considers several factors to determine how to divide property:

1. Duration of marriage.
2. Age and health of the spouses.
3. Income and ability to earn money.
4. Each spouse's contribution to the marriage (including domestic labor).
5. Future financial needs.
6. Nature of property (for example, personal or joint).
7. Debts and obligations.
8. Any agreements between spouses (for example, a marriage contract).

² Tanza Loudonback (January 5, 2018). "In 9 US states, a divorce means you'll lose half of everything you own — here's why". Business Insider. Retrieved January 6, 2018.



The court may also consider other factors that may be relevant in a particular case in order to reach a fair decision.

Divorce without fault (no-fault divorce) is the most common type of divorce and is legal in all states on grounds such as irretrievable breakdown of marriage, irreconcilable differences, incompatibility, or after a period of separation, depending on the state. For such a divorce, it is not necessary to prove the guilt of one of the parties and neither of them is responsible for the breakdown of the marriage. Mississippi, South Dakota And Tennessee are the only states that require mutual consent for no-fault divorce. Other states allow unilateral no-fault divorce.

Irreversible breakdown of marriage, as a basis for divorce without fault, is when, despite all the efforts of the spouses, their marriage is irretrievably destroyed and the relationship between them cannot be restored. In other words, spouses have irreconcilable differences which will continue as long as the parties remain married. Therefore, the only solution is to legally dissolve the marriage. It is often used as a basis for no-fault divorce, meaning that neither party has to prove that the other is at fault for the breakdown of the marriage.

Irreconcilable differences is a deliberately vague and broad term. It is intended to cover all types of problems that can lead to the irretrievable breakdown of a marriage.

Examples of irretrievable decay may include, but are not limited to, the following:

- Spouse starts an affair and falls in love with another person
- Loss of a sense of security or trust in another person
- Differences of opinion regarding religion, politics, finances, or parenting
- Disagreements about relocation or career
- Personality differences and conflicts
- Desire to have or not have children
- Differences of opinion regarding values and lifestyle
- Constant disputes
- Physical or emotional abuse

For example, Florida is a no-fault divorce state, this does not mean that there is no fault in the breakdown of a marriage, one or both spouses may be to blame for the breakdown of a marriage.

No-fault divorce refers to the fact that a person does not have to prove that the other person did something that led to the irretrievable breakdown of the marriage. For example, a spouse who commits adultery may be the “culprit” for the breakdown of the marriage. However, the other party does not need to prove that the spouse was unfaithful in order to obtain a divorce in Florida. Instead, all that needs to be stated is that the marriage is irretrievably broken when a petition for dissolution of marriage is filed, such a petition is sufficient for divorce.

Living separately

Divorce cannot happen overnight. In fact, in many states there is a period of what is called the “divorce waiting period.” State laws vary regarding legal separation before a couple can end their marriage. This means that a certain amount of time must pass between the moment of separation and the filing of an application for divorce. The waiting period before getting a divorce can range from a few weeks to a year, although some places have no waiting period at all.

Separation in a US divorce is also an important aspect of the divorce process and can be informal or formal.

An informal separation does not require a trial; the couple decides to live separately while they work through the divorce process.



Legal separation, also called Legal Separation, is a formal process in which the court deems spouses to be separated but not divorcing. This may be the preferred option for those who, for religious, financial or other reasons, do not want a formal divorce. In this case, one of the spouses submits an application to the court, as in the case of a divorce, and the court makes a decision on separation and resolves issues such as alimony, child custody, division of property, etc. For example, during separation, one spouse may be required to pay alimony and child support if ordered by the court, and during separation, spouses may enter into property division agreements, which may subsequently be included in the final decree of divorce, the court may determine temporary conditions of custody of children and the procedure for communicating with them during separation.

Separate living means that spouses live separately and maintain separate households, although they formally remain married. Separation laws and divorce requirements vary from state to state. Some states require a period of separation before filing for divorce, and some states, such as New Jersey, do not require separation.

P Duration of separation as grounds for divorce:³

State	A period of time
California	6 months
Texas	3 years
NY	1 year
Illinois	6 months
Georgia	30 days
North Carolina	1 year
Virginia	1 year (6 months if no children)
Maryland	1 year
Missouri	30 days

What is the cost of divorce in 2024?

The cost of divorce in the United States in 2024 may vary depending on various factors such as state, complexity of the case, and whether you have children. Average:

1. Overall average cost: About \$11,300 per spouse, with about 40% of people spending less than \$5,000.
2. Divorces involving children: Can increase the cost by 36.7%, bringing the total to approximately \$19,458 per couple.
3. Divorces without children: usually cheaper. The average cost without children is about \$8,929.

In some states, such as California and New York, costs can be significantly higher. In California, the average cost of a divorce is about \$14,435, and with children involved the cost is up to \$19,639.

Factors that affect the cost of a divorce include legal fees, attorney fees, and additional costs for property division and alimony.⁴

Perhaps the most important factor affecting the cost of a divorce is whether the couple can agree on the terms of the divorce. The more controversial the issue becomes, the more expensive the divorce will be. This is mainly due to increased legal costs for cases involving complex and time-consuming issues.

³[https://en-m-wikipedia-org.translate.google/wiki/Grounds_for_divorce_\(United_States\)?_x_tr_sl=en&_x_tr_tl=ru&_x_tr_hl=ru&_x_tr_pto=sc](https://en-m-wikipedia-org.translate.google/wiki/Grounds_for_divorce_(United_States)?_x_tr_sl=en&_x_tr_tl=ru&_x_tr_hl=ru&_x_tr_pto=sc)

⁴<https://www.prudential.com/financial-education/cost-of-divorce#:~:text=URL%3A%20https%3A%2F%2Fwww.prudential.com%2Ffinancial,100>



Divorce in the United States is a process that requires careful planning, legal preparation, and emotional support. The complexity of the case can range from simple amicable divorces to complex contentious proceedings regarding the division of property and child custody.

It is important to remember that each state has its own unique rules and procedures that must be followed when filing for divorce. Spouses should be prepared to discuss and agree on the terms of the divorce, including division of property, custody and contact with children, as well as financial issues.

