

WHEN IS A GOOD TIME TO FILE FOR DIVORCE?



As an experienced litigator, Mindy Snyder has represented clients throughout Bucks, Montgomery, and Philadelphia Counties, as well as throughout New Jersey. As part of her practice, Mindy has handled complex trial issues and negotiations in divorce matters, child and spousal support, alimony, equitable distribution, pension issues, and adoption matters. She also represents clients in New Jersey for matrimonial issues.

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As family law attorneys, we do find that certain times of the year are busier than others. However, legally, there is not one time that is better than any other to initiate divorce filings. The decision to proceed with a divorce is obviously not solely based on the legal issues but is more of an emotional choice. However, in order to help make that decision, you should be aware of the legal issues that you may confront. You should know your rights, entitlements, and obligations.

Divorce – There is a lot of predictability in divorce. The benefit of meeting with an experienced attorney is to offer to you a road map as to how a divorce will proceed. If you and your spouse can discuss the economic issues, you may save yourself thousands of dollars in legal fees.

A divorce process typically begins with the filing of a complaint. It does not matter who files first. This 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 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 reach an agreement with the assistance of counsel. Then, there would not be any reason to proceed to court. If 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. Again, this depends on many things—the most important of which 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 – Just like divorce, there is not one time that is better than any other to file for custody. If you and the other parent can mutually agree on a schedule, you never have to go to court. I do suggest that any agreement that you have made be written up by an attorney and made into an Order of Court.

There are two components to custody. There is **legal custody** which is the obligation to consult one other for all major medical, educational, and religious decisions. This is usually shared. Each parent has a right to know what is going on with the child. Then there is **physical custody**, pertaining to 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 of the overnights has partial physical custody. The parent with primary physical custody does not have any more rights than the other parent; it only means that he or she has more of the overnights. Another option is shared physical custody where the overnights the child spends with each parent are equal.

Support – If one parent does not pay child support to the other parent, it is the right time to file for child support. If you and your spouse are living separate and apart and one spouse earns more than the other, the income-inferior spouse may be entitled to **spousal support**. The determination of spousal support is based on many factors, but the main points are the length of the marriage and the income of the parties.

As to **child support**, the parent who has partial physical custody pays child support to the parent who has primary physical custody. There are Child Support Guidelines that determine how much support

one parent pays to the other. Even with a shared physical custody arrangement, if one parent earns more than the other, there still may be a child support obligation.

I recognize that I may have raised more questions than answers for you. However, this is just an outline of the issues that you may confront. That is why 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 are not easy. You must find someone who knows the law and someone who you feel

comfortable will protect your interests. Once you have the legal answers, you are better equipped to make the emotional decision whether to proceed or not.

Mindy Snyder is an attorney with Liebmann Family Law in Newtown. Each of the attorneys in the office has over 29 years of experience handling these issues. We appear in Bucks and the surrounding counties, including New Jersey. Please contact our office to schedule the initial free consultation to make this decision easier. 215-860-8200. www.Liebmannfamilylaw.com.

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