



Home » Legal » Family Law » Divorce Law » Uncontested Divorce Rules

Uncontested Divorce Rules



By Mike Broemmel

eHow Contributing Writer

Contributor

Rate: ★★★★★ (1 Ratings)



Uncontested Divorce Rules

There are instances in which a divorce can be uncontested. In other words, the parties involved are able to reach an agreement on the essential issues surrounding the termination of a marriage without the court making those decisions.

There are some specific rules associated with an uncontested divorce that must be followed.

Time Frame

Whether a divorce is contested or not, each state has certain time frames that must be followed in order for a divorce decree to be entered or issued by a court. For example, in many states, a court simply is unable to grant a divorce decree--even if the parties to the case are in agreement regarding all of the issues associated with the case--for a period of 120 days from the date the initial period is filed.

Monetary Issues

In order for a court to conclude that a particular case truly represents an uncontested divorce, the parties must be in full agreement as to all issues pertaining to the [assets \(#\)](#) and debts of the marriage. The parties to a divorce case must prepare (or have prepared by legal counsel) a settlement agreement that allocates the assets and the debts accumulated during the marriage between the parties. There can be absolutely no dispute as to any matters relating to assets and debts if the divorce is to be uncontested.

Children

In a similar vein, the parties must also be in full agreement to all issues surrounding a child or children (<http://www.ehow.com/children/>), born during the marriage. This includes custody, parenting (<http://www.ehow.com/parenting/>) time (formerly known as visitation) and support. There can be no dispute as to these issues pursuant to the applicable rules if a decree is to be issued in an uncontested manner in a divorce case.

Comprehensive Settlement Agreement

All of the issues arising out of the divorce case (not simply those relating to [financial \(#\)](#) matters) must be put into a written settlement agreement. In most instances, people seeking a divorce are best served by seeking the assistance of qualified and experienced attorneys in developing an appropriate settlement agreement.

The settlement agreement must be executed (signed) by both parties, normally in front of a notary public in advance of the final hearing in the case. The document can also be signed in front of the judge at that hearing in lieu of executing the agreement before a notary public.

Final Hearing

Even if the parties to a divorce are able to reach a full and complete agreement and settlement of the case, at least one of the parties will need to appear before the judge to conclude the case. Such an appearance must occur in order for the court to be in a position to issue a divorce decree in an uncontested case. Both parties need to be present if the settlement agreement is not signed before the final hearing.

The purpose of the appearance of one or both of the parties at a final hearing is to permit the court the ability to obtain what is known as jurisdictional evidence. This consists of testimony pertaining to the residency of the parties, the fact that the parties are incompatible (or that the marriage otherwise should be terminated for a sufficient [legal](#) (#) reason) and that the couple has reached a full and complete settlement of all issues associated with the termination of the marriage.

References

- Cornell Law School, Divorce and Separation: An Overview
- The Divorce Organizer & Planner, Brette Sember, 2004

Resources

- American Bar Association, Section of Family Law

Who Can Help

Sponsored

- eFax is the world's #1 Internet fax service. Send and receive faxes by email and kiss your fax machine goodbye. 30-Day Free Trial

Photo Credit

Zela, Everystockphoto.com