

DIVORCE

**What's Going To
Happen To Me?**

**A cooperative project
of a group of legal, judicial and
mental health professionals
presented as a public service**

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and Tulsa County Bar Association

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Introduction

The experience of divorce is one that personally touches many of us during some time in our lives. Statistics indicate that one out of every two couples marrying this year will be divorced within ten years, and more than two-thirds of all children born this year will spend some time in a single parent family. You are not alone!

This booklet has been compiled by mental health professionals, judges, and attorneys to assist those persons who are contemplating, involved in, or have finalized a divorce. The information and suggestions provided are designed to help you in dealing with the normal issues and stresses of divorce commonly experienced by adults and children.

Seeking help from a mental health professional during this process does not mean you are mentally ill or unbalanced. Everyone experiences, to varying degrees, stress-related symptoms from a divorce. Utilizing professional help during this time can be an invaluable aid to coping more effectively with your individual circumstances.

This booklet will also help you understand and anticipate some of the legal proceedings that are involved. It is not intended as a "cure all," nor can it be, but it is a guide to help you identify some of the questions you may have and to provide you with basic legal information.

Finally, this guide also provides a list of various resources available in the community that may be extremely beneficial to you at this time.

This booklet was compiled through the cooperative efforts of the Mental Health Association in Tulsa and the Tulsa County Bar Association. Sincere thanks to all those individuals who contributed their wisdom and energy to this project.

Should I Divorce?

Arriving at the decision to divorce is a very complicated process. Although it is natural to search for rules or formulas to magically assist you in making a decision regarding divorce, the reality is that the circumstances of every couple's marriage are highly individual. Everyone has different needs, priorities, and motivations that underlie the choice to stay married or get a divorce. What might constitute a sufficient basis for one person to seek a divorce might not be an adequate reason in another individual's situation. For example, some people think it is important to forego personal satisfaction in order to keep the family unit intact for the benefit of the children. Other people place less importance upon maintenance of the family unit and would be more likely to seek a divorce for personal reasons.

Divorce is generally less stressful and chaotic for both adults and children if the decision to end the marriage is well thought out and deliberate, rather than impulsive and reactive. Research shows that children cope best when their parents are successfully handling the divorce with minimal conflict and when they know that their parents took time and care in making the decision. For adults, a carefully thought out decision to divorce often minimizes feelings of guilt and resentment that can persist long after the divorce.

While divorce is a difficult emotional experience for anyone, it seldom is as emotionally distressing as an unhappy marriage or family life with a chronic history of continual conflict or extreme emotional repression. It is generally recognized that a child's psychological well-being may be enhanced by the decision to divorce in cases where significant marital difficulties cannot be resolved. A study of a large number of separated and divorced persons found that a majority of these individuals thought their decision was a good one and ultimately increased both their own and their children's happiness and level of functioning.

You may have been putting off divorcing because you do not feel completely certain about taking this step. However, unless your situation is unusually clear-cut, you will not feel totally decisive about ending your marriage and your thoughts about doing so may be fluctuating and confusing. Although you might like to defer this decision to someone else, you are the person who is best equipped to make this choice.

Sometimes marital dissatisfaction becomes confused with frustration or disenchantment in other areas of an individual's life. It is not unusual for a person who feels a lack of satisfaction and accomplishment to blame the marriage for this frustration. It is also not unusual for a person to choose divorce as a problem-solving alternative to exceedingly stressful circumstances that are unrelated to marriage. For example, a couple with a chronically ill child may divorce not because of excessive dissatisfaction with their relationship but because of highly stressful, non-marriage related circumstances.

Questions to Ask

If you are considering divorce, you may want to ask yourself the following questions:

- What are the identifiable problems in my marriage?
- What problems external to my marriage might be adversely affecting the quality of my life?
- What can be done to improve the quality of my marriage?
- What am I willing to do to improve the quality of my marriage?
- What resources, including counseling, can I utilize in learning more about my relationship?
- What is my best assessment of the potential for change in my marriage?
- How might my life be in five years if I remain

married?

- What will I gain and lose from divorce? Do the gains seem to outweigh the losses?
- What is my greatest fear regarding divorce? If I decide to divorce, what is my plan for dealing with this fear?
- How will divorce affect my children?
- Do I have adequate support systems available?
- If I decide to divorce, what arrangements (personal, financial, vocational, etc.) might I need to make before taking this step?
- Am I familiar with the divorce laws?
- Can I realistically expect life to be better in another relationship or when living alone?
- How satisfied am I with my daily life?

This last question is a particularly important one because the degree of satisfaction that you experience in daily living may be one criterion to use in evaluating the quality of your marriage. Satisfied people are generally mentally healthy and well-adjusted. Dissatisfied people may suffer from varying degrees of symptoms of depression, anxiety, and other psychological problems.

What About Marriage Counseling?

If you have uncertainties about your marriage, it may be very worthwhile for you and your spouse to engage in marriage counseling. Approximately sixty percent of couples who seek counseling experience improvement in their marriage relationship or in dealing with other family problems. The majority of persons who undertake counseling to explore their marriage and deal with marital problems ultimately make decisions that are best for all individuals involved. In addition to facilitating clarification of issues in one's marriage

as well as options for change and acceptance, the counseling process provides valuable emotional support and guidance.

If you want to seek counseling but your spouse does not, you may want to make an appointment with a therapist yourself. Although counseling with you and your spouse is optimally beneficial, seeking individual counseling can also be quite helpful if your spouse is reluctant. If you take the first step, your counselor may be able to assist you in encouraging your spouse to participate in the process.

What About Marital Separation?

Before a definite decision to divorce is made, a trial separation may be a viable option for troubled marriages. Such an arrangement can provide temporary relief from an unpleasant situation and can also provide some idea of what it is like to be single again. For some couples, a separation experience is revitalizing to their marriage. However, it is a fact that approximately eighty-five percent of those couples who do separate eventually divorce.

If you decide to try separation, it is important to have some clear understandings between yourself and your spouse during this time. It is vital to make regular arrangements to spend time together rather than to totally avoid each other's company. As much as possible, time spent together should revolve around enjoyable activities and pleasant experiences. One of the purposes of the separation is to provide an opportunity to rebuild enjoyment of one another's company. It is also important to have a well-defined agreement about whether or not you or your spouse will date others during this time. Problems can often arise during this period if no understanding regarding this matter is reached.

How Long Should A Separation Last?

Although the answer may be different for every couple, it is important to have some fairly flexible idea of the length of the separation time in mind. You will want to be apart long enough to get over your initial emotional reaction to the situation, whether it is primarily one of fear or excitement. If you decide to separate, a consultation with an attorney may be very beneficial in order to become aware of anything you might do during this time that may detrimentally affect your position if you decide to divorce.

Remember...

Divorce is an individual decision. Each marriage and family situation is a unique combination of the needs, values, and characteristics of the individuals involved and the external circumstances that affect their lives. In marriages where physical abuse, substance abuse, emotional abuse or other serious problems exist, the community resources included in this guide can be most helpful in obtaining additional information and support regarding various options for dealing with these problems.

What To Tell The Children

Talking with children about divorce is a common concern of all parents.. The following guidelines will be helpful in discussing this subject:

- Tell your children clearly and directly what the divorce means. Tell them in a generalized,

age-appropriate way what problems (not all problems—use discretion) have led to the divorce. The younger the child is, the more often this will need to be repeated.

- Describe some of your attempts to protect and improve your marriage.
- Emphasize that the parents are divorcing each other, not the kids. Let them know both parents will continue to love and care for them.
- Do not place blame. Do not ask the children to choose sides.
- Let your children know right away where they will live (if you know), go to school, and how often they will visit or spend the night with each parent. Let them know what effect the changes in finances may have on them. Little children especially worry about not having enough to eat or being left alone. These concerns should be eased to the extent possible.
- Let them know that both parents are working to solve the inevitable problems and that order will be restored as soon as possible.
- Emphasize that the children are in no way responsible for the divorce. Also, let them know that nothing they do can bring reconciliation.
- Assure the children that it will be acceptable for them to love both parents.
- Encourage your children to ask questions and to express their feelings. They may say things that are painful for you to hear. Let them know you are listening by repeating back in your own words the concerns they express to you.

Effects Of Divorce On Your Children

Marriages may end but families do not. Divorce begins a period of unparalleled stress and psychological pain for all involved. Few children are relieved by the initial decision to separate because, no matter how bad the family situation is, it gives them vital support and protection.

The effects of divorce upon children vary according to age, level of development, degree of conflict and individual circumstances of the family. The following are typical reactions that children may have to their parents' divorce:

In general, divorce for children means the following:

- An overwhelming sense of loss accompanied by tearfulness, moodiness, sleeplessness, restlessness and difficulty concentrating.
- Anxiety related to fears that their needs will not be met, their parents will abandon them, they will be alone, the world has become unpredictable, and concerns about money and their parents' health.
- Feeling rejected by one or both parents.
- Loneliness resulting from receiving less attention from both parents. They may be pre-occupied with thoughts of reconciliation or experience a longing for the absent parent.
- Anger or rage expressed by inappropriate behavior.
- Conflicted loyalties and fears that enjoyment and intimacy with one parent might seem to be betrayal of the other.

How To Help Your Children

As parents, you can make a positive difference in your child's reaction to the divorce by the manner in which you

respond to your child during this crucial period. Research suggests that two important factors that contribute to a child's satisfactory adjustment to the divorce are: 1. the emotional stability of the parent with whom the child lives most of the time and 2. regular contact with both parents. You can assist your child by doing the following:

- Maintain a consistent pattern of frequent visits.
- Respect your children's needs and activities when planning time with them. Remember, however, that children should not be allowed to have ultimate control over these arrangements.
- Avoid engaging in conflict with your former spouse in the presence of your children.
- Keep up child support payments.
- Subject the children to as few changes as possible.
- Communicate directly with your spouse rather than attempting to use the children as messengers or spies.
- Assure the children that they can continue to love and care about both parents and refrain from pressuring them to "choose sides."
- Allow children to express their anger about the situation in a reasonable manner.
- If it is necessary to talk to the children about a problem with the other parent, avoid speaking in a critical or condescending way.
- Avoid custody battles if at all possible; utilize mediation to the extent possible.
- Although it is normal for parents to be scared at times about the changes divorce brings, it is important to assure your children that you will handle the uncertainties of the future rather than burdening them with your own worries.
- Stay in the role of parent—don't force the children into the grown-up roles of decision-maker and confidant. If you are having problems with anxiety or depression or feel that you are not coping well, seek

professional help. Children need a parent who can cope.

Signals That Your Child May Need Professional Help

- Serious behavior problems at home or at school.
- Persistent anger, depression or anxiety.
- Failure to resume normal development after the first year.

Professional help for your child will likely include family therapy. Children's problems usually develop in response to the family situation as a whole and are rarely treated effectively without involving at least the primary parent and sometimes the siblings. Many times the other parent will need to be included.

Stages Of Divorce And Typical Emotional Reactions

No two people experience divorce in the same way; however, social scientists know there are predictable stages and typical emotional reactions to divorce. It is also important to realize this is a long process for everyone, varying from one to five years or even longer. Not everyone experiences all of the emotions or in the same order; however, everyone does experience some variations of these emotions. The emotional responses are similar to those experienced by people who are widowed or suffer other major losses.

The initiator of the divorce and the one who is left are both profoundly affected. The emotions are different but studies

have shown that both groups undergo emotional turmoil and chaos. The stages of divorce are:

1. Threat of Separation
2. Detachment/Separation
3. The Roller Coaster
4. Putting Life Back Together
5. A New Life or A Stuck Life

1. Threat of Separation

The process of a divorce may commence with a gradual growing apart. One or both of the partners begins to be disillusioned. The differences, irritations, loss of romance, and inability to settle problems cause slow loss of positive feelings and satisfaction in the marriage. Layers and layers of unresolved issues lead to a gradual emotional detachment. The weeks, months and years of detachment are often denied, until one partner is unable to deny the problems any longer. At that time, uncertainty over wanting out, anger, fear of change and/or guilt escalate until the person moves to the next stage. Typical emotional reactions are:

For the Initiator:

Disillusionment
Erosion of feelings
Guilt
Anger
Frustration
Ambivalence
Indecision
Fear of change
Mental preparation
Worry about consequences

For the One Who Is Left:

Denial
Fear
Dissatisfaction
Disillusionment
Erosion of feelings
Not making preparations
Panic

2. Detachment/Separation

When physical separation finally occurs, the initiator of the divorce is usually more prepared, having worked through some of the emotional aspects of separation. Reactions may be a sense of relief and freedom mixed with guilt and confusion over the pain being caused. One may also experience the agony of second thoughts and internal conflict.

The person who is left will often experience a wide range of intense emotions. The panic and fear may shake an individual to his psychological core. One may feel confusion, rage, hurt, clinging to one's spouse, and acting in ways that are out of character. Some people may find it difficult to function. Others may become depressed to the point of suicidal thoughts and/or attempts.

The intensity of these early emotions continues but begins to be mixed with some moments of stability and a sense of being in control of one's life again.

Typical emotional reactions are:

For the Initiator:

Relief
Freedom
Numbness
Denial
Second thoughts
Guilt
Worry about children
and/or finances

For the One Who Is Left:

Shock/Panic
Confusion
Hurt
Rage
Denial
Abandonment
Clinging
Anxiety and fear
Unpreparedness
Eating disturbances
Sleeping disturbances
Inability to perform daily
functions

For the One Who Is Left (cont.):

Suicidal thinking
 Feeling worthless
 Desperation
 Physical problems

3. The Roller Coaster (Life Falling Apart)

This stage is often the longest in the divorce process. During this stage, both the initiator and the one left will experience wide mood swings, bouncing from one emotion to another like a tetherball. There is so much uncertainty about the future; money is tighter; and there are so many changes in identity, living situations, and friendships that people are overwhelmed and stressed, often beyond their limits. At this stage it seems that life will never be stable and comfortable again.

Typical emotional reactions are:

For the Initiator:

Wide mood swings
 Guilt
 Mourning
 Uncertainty
 Pain
 Loss
 Joy
 Relief
 Second adolescence
 Sadness
 Depression
 Stress
 Reality of no perfect solutions
 Anger and bitterness

For the One Who Is Left:

Wide mood swings
 Wanting spouse back
 Never wanting to see spouse
 Anger
 Hurt
 Isolation
 Loneliness
 Feeling lost
 Feeling overwhelmed
 Self esteem problems
 Feeling Out of control
 Uncertainty
 Floundering
 Sadness

For the Initiator (cont.):

Anxiety over identity
Worry about children and
finances

For the One Who Is Left (cont.):

Bitterness
Changes in identity
Mourning
Worry about children and
finances

4. Putting Life Back Together

In order to get on with life, each partner must eventually accept the reality of the divorce and come to some kind of inner resolution. This requires examining one's own part in the divorce, learning new ways of feeling and behaving, and learning to let go of past hurt, anger, guilt, and bitterness. Then each one must begin to focus on the future, new identity, new goals, new sense of self-esteem, and new relationships.

Typical emotional reactions are:

For the Initiator:

Acceptance
Resolution
Examining one's own part
Loss, but less bitterness
Sadness, but no depression
Letting go of the guilt
Forgiving oneself
Learning to let go of the past
Learning new ways of feeling
and behaving
Stabilizing arrangements for
the children
Setting new goals for life

For the One Who Is Left:

Beginning to accept divorce
Sadness, but less often
depression
Loss with anger, but less
bitterness
Examining one's own part
Learning to let go of the past
Learning new ways of feeling
and behaving
Stabilizing arrangements for
children
Establishing a new working
relationship with ex-spouse
Feeling one's way, but not
floundering
Setting new goals for life

5. A New Life

This stage is when the hard work of the previous stage pays off. Life is actually beginning to look and feel better. The person feels as if a weight has lifted. There are still scars and disappointments over the divorce; however, there is also a sense of having endured, survived and come out on the other side.

Typical emotional reactions for both the initiator and the one who is left are:

- Acting on the hard work of the previous stage
- Pursuing new relationships out of strength rather than fear or insecurity
- New sense of identity
- New directions in life
- Emotional freedom

6. A “Stuck” Life

Some people stay stuck and are not able to put life back together. They remain in pain, unable to do the hard work of recovering. Professional help would be advisable to anyone in this stage.

Typical emotional reactions are:

- Anger has become deep bitterness
- Still fighting spouse over money and children
- Still depressed
- Not looking at one's own part of divorce
- Still focused on ex-spouse
- Revenge motives
- Unresolved guilt
- Hurrying into relationships without doing the hard work of assessment, learning and growing

Stress Relievers During Divorce

- 1. Use your support systems.** During divorce it is helpful to have the emotional support of family and friends. Don't be afraid to let caring friends and relatives know what they can do to help.
- 2. Have reasonable expectations.** Expect periods of tearfulness and anxiety. You cannot keep your emotions under control at all times.
- 3. Develop new habits.** Because marriage is so full of habits that relate to your spouse, it is important to develop new routines, especially on weekends.
- 4. Plan ahead.** It is especially important to plan well in advance for emotion-filled times such as holidays, birth days, or other special events. Having plans formulated well in advance is often helpful in relieving the anxiety that accompanies these occasions.
- 5. Take care of your physical well-being.** Plenty of sleep, exercise, and a healthful diet are necessary for emotional stability and a positive outlook.
- 6. Take time out.** Balance time with others with time for yourself. Learn to enjoy being alone.
- 7. Be kind to yourself.** Remember that no one copes perfectly. Some days will seem easier than others and some may seem impossible. You cannot adjust to all the changes immediately so allow yourself the time that you need.
- 8. Consider counseling.** Professional help for yourself and for your children can be useful in successfully resolving divorce issues and promoting adjustment.
- 9. Promote your own positive self-image.** Whatever your circumstances, remind yourself that you are a worthwhile person and you deserve to take care of yourself the best you can.

Do I Need Professional Help?

No matter who initiates it, divorce creates a crisis in a family. Each individual may feel as if she is on an emotional roller coaster, going from anger, to tears, to hysterical laughter, to relief, to terror, and back to anger again. Such extremes are frightening to people, and during these times, professional help can be an invaluable resource to you. Mental health professionals are specially trained to provide therapy to persons in crisis. Some examples are:

- Licensed Professional Counselors
- Marriage and Family Counselors
- Pastoral Counselors
- Psychiatrists
- Psychologists
- Social Workers

If you feel you need help, you probably do. If you tried working your problems out yourself and have tried talking to family, friends, or other people you trust and continue to be in emotional distress, you probably need the skills and objectivity of a trained professional.

How Do I Find A Mental Health Professional?

First of all, find out if your employer has counseling available. Also, verify that your medical coverage has out-patient mental health benefits and which professionals are covered. Many people seek the advice and recommendation of friends who have seen a professional or consult the Mental Health Association in Tulsa (585-1213), which has a comprehensive

listing of mental health professionals in private practice, counseling centers providing services on a sliding fee scale, and other community resources available for persons who are divorcing.

You may want to contact several professionals to ask about fees, office procedures, credentials, and professional experience. For a divorce-related issue, it is important to inquire specifically about the therapist's experience in working with adults and children who are affected by divorce.

Evaluating Therapy

Going through a divorce may often be a painful experience. Counseling may be helpful and yet uncomfortable at the same time. Counselors have different models of treatment and styles of working with clients. For counseling to be effective, it is important that you as a client feel you have the right "fit" with your counselor, that you feel jointly involved in the counseling, and that you find it helpful. As a client, you must trust yourself to know the degree of discomfort you can tolerate as you go through counseling. If you decide counseling is not helpful or too uncomfortable, you may want to consider seeking another counselor.

You may experience times when you will be resistant to dealing with feelings and problems that are painful. Many people experience this resistance at some point in the therapeutic process. However, if your resistance seems extreme or prolonged, you may want to try another therapist. It is also possible that you are simply not psychologically ready to be involved in therapy.

If, for any reason, your therapist's conduct seems questionable or inappropriate, you should contact the Mental Health Association for the name of the appropriate licensing board.

Divorce Questions

The following are some commonly asked legal questions about divorce.

Q. Can I get a divorce in Oklahoma?

A. If either party has lived in Oklahoma for six months, you can file for a divorce. You must file in the county where at least one party has lived for the past 30 days. There may be special rules, however, on whether the court can make decisions on the children. If your children have not been living in Oklahoma for the last six months, or a court action has been filed in another state concerning divorce, custody or visitation, then you should seek the advice of an attorney.

Q. Does it matter who files first?

A. No. A divorce may be granted to both parties regardless of who files. Additionally, the issues of property division, child support and support alimony are not fault-oriented and accordingly there is no impact upon these issues.

Q. Can I prevent my spouse from obtaining a divorce?

A. Usually there is nothing one can do to prevent his/her spouse from obtaining a divorce. There may be a jurisdictional problem which prevents the spouse from obtaining a divorce, but the fact that one person does not want the divorce will not prevent the other party from obtaining one.

Q. What are the grounds for divorce in Oklahoma?

A. There are several statutory grounds for divorce; however, incompatibility is the one most frequently used.

Q. Does it matter that my spouse is having an affair or is abusive?

A. Generally, the court will allow only enough testimony about “fault” to satisfy the requirement that grounds for divorce have been met. Adultery may be relevant in limited circumstances if, for example, the spouse has dissipated marital assets on the third party. Issues such as physical abuse or substance abuse may be relevant if custody of children is an issue.

Q.How long does a divorce take?

A. If there are no minor children, a divorce may be granted a minimum of ten days after filing, unless the time period is shortened by the court by reason of an emergency. When there are minor children, there is a 90 day waiting period from the date of service. This waiting period may be shortened or waived by the court for good cause shown if neither party objects. There are other itemized exceptions to the 90 day waiting period provided by law. However, even if the 90 day waiting period is waived, there is a minimum of 30 days from the date the petition is filed before a decree can be granted in a divorce involving minor children, unless this period is shortened by virtue of an emergency.

Beyond these minimum time periods, the time frame varies widely from case to case depending upon the extent of the property, whether custody is an issue, whether the parties resolve their differences by agreement or litigation, etc.

Q.Is there a waiting period for remarriage?

A. Yes. Although a divorce is final when the Judge announces that the parties are divorced, a state resident may not remarry except to the ex-spouse for a period of six months in the state of Oklahoma.

Q.What does a divorce cost?

A. The statutory fee for filing and issuance of summons is

\$89.00. There may be additional fees required to serve summons and notice of the action upon your spouse. Attorney's fees vary from attorney to attorney and from case to case.

Q. How long does one have to live with another person to establish a common law marriage?

A. The duration of time individuals reside together has no bearing on whether a common law relationship has been established. There are a number of factors that must be present to establish a valid common law marriage in Oklahoma. These include cohabitation, a mutual and exclusive relationship, present intent to be husband and wife, and acts evidencing that intent (such as joint bank accounts, filing of joint tax returns), etc.

Q. What is a restraining order?

A. A restraining order may prohibit parties from coming around or bothering each other, from disposing of property while an action is pending, or may otherwise forbid certain acts or conduct.

Q. What are the steps involved in a divorce?

A. If the divorce is in Tulsa County, you will be required to participate in a program called "Families in Transition" or "FIT." The FIT program was created to help families have better access to the court system. FIT encourages parties to reach an agreement, especially in situations where children are involved. In FIT, when a divorce petition is filed, a hearing date will be set for both parties to appear before a judge. Just as in other divorce proceedings, the defendant must either be served with a copy of the petition or must sign an acknowledgment that he or she has received a filed copy of the petition. However, in Tulsa County, the defendant must also be served with a FIT packet. The court clerk will give the FIT packets to

the plaintiff when the petition is filed. Both parties will receive a packet containing the initial hearing date, a parenting plan (if there are children), a financial declaration, and information on attending the seminar entitled "Helping Children Cope with Divorce." Both parties should fill out the forms provided in the packet and bring them to the hearing. At the hearing, a judge will meet with the parties and then, if there are children involved, the parties will be required to watch a short video on the divorce process. Following the video, both parties will be encouraged to reach an agreement for a Temporary Order. If the parties agree, the court will provide the forms for the Temporary Order and the judge will meet with the parties to discuss the agreement. If the parties are unable to agree on a Temporary Order, the judge will direct the parties to attend mediation.

Mediation is an informal process in which the parties will meet with a third party (a mediator) who will try to help them reach an agreement. Once an agreement is reached through mediation, the parties can then go back to the judge who will sign a Temporary Order that details the agreement that the parties reached in mediation. Once the mandatory waiting period has expired, the parties can reach an agreement on the divorce and obtain a Divorce Decree. If the parties cannot agree, a trial date will be set. If the parties cannot reach an agreement by the date of the trial, then the case will be tried before a judge who will then grant the divorce and decide on the issues that the parties cannot reach an agreement on. The divorce cannot be appealed until written order has been entered.

If the divorce is NOT in Tulsa County, the FIT program is not applicable. The divorce petition is filed, a copy is served on the defendant, and the parties must request a temporary hearing in order to receive a Temporary Order. Generally, both parties will conduct

discovery—that is each will ask the other for information regarding assets, debts, income, living expenses, etc. during this time. Just as above, once the required waiting period has expired, the parties can reach an agreement and obtain a Divorce Decree. If the parties cannot agree, mediation may be recommended again or a trial date will be set and the divorce will be final when the judge grants the divorce. As above, an appeal cannot take place until a written order has been entered.

Q. Are there any other requirements to getting divorced?

A. If there are minor children involved, then most counties require both parents to attend “Helping Children Cope With Divorce,” a seminar for divorcing parents. It is a four hour educational program designed to teach parents how to be co-parents even though they are not married. Marriages may end, but parenting continues.

Q. What should I do if I am upset by some of the language in the papers served on me, or if I do not understand the paperwork?

A. Often language contained in divorce paperwork is “standard” and may be difficult to understand or even objectionable. If you have any questions concerning language, you should consult with your attorney regarding this as well as other concerns.

Child Custody

Q. How is custody of children determined?

A. There are a number of factors that enter into a custody determination. A custody placement must be consistent with the best interests of the children. If custody of children is an issue, you should consult with an attorney.

Q. Will my children have to testify?

A. Although either parent may request the court to have the children appear before the judge, whether this is done or not varies from case to case. If the children have to appear, this is generally done in the judge's office rather than in a formal courtroom setting.

Q. Will my children have to choose which parent they want to live with?

A. Although as stated above a child may in some instances appear before the judge, their input will be only one factor used by the judge in determining custody of the children.

Q. Is there a certain age at which children can choose the parent with whom they want to live?

A. There is no specific age at which a child is free to choose; however, the older the child and the better the reasons for the child's wishes, the more weight that testimony may be given by the court.

Visitation

Q. My children do not want to visit my former spouse. Do I have to make them go?

A. In general, parties must comply with visitation orders. Children should be made to understand that staying home is not an option. Aside from the legal aspects, studies have shown that children with open access to both parents recuperate better from the effects of divorce.

Q. My former spouse does not see the children. Can he or she be required to do so?

A. No. Visitation with children is a privilege and generally if one chooses not to exercise this privilege, he or she cannot be compelled to do so. However, the obligation to

financially support the children continues even in the absence of visitation.

- Q.** My former spouse is not paying child support. Do I still have to let him or her see the children?
- A.** The issues of child support and visitation are separate and neither visitation nor child support may be withheld based upon the fact the other parent is not complying with the court order.

- Q.** What is "Supervised" Visitation?
- A.** Supervised Visitation means that the non-custodial parent cannot visit with the child alone—a relative, friend or someone that the parents hire is present during visitation. In most cases, the court orders supervised visitation when there is concern for the child's well being, such as when there are allegations of abuse. However, supervised visitation can also be ordered when the child is an infant and the non-custodial parent needs assistance in caring for the child. Also, supervised visitation may be a good idea in cases where the child has not had much contact with the visiting parent. Supervised visitation does not have to be permanent. Both parents can agree to have supervised visitation for a certain amount of time and then go to a standard visitation schedule. But, if the court orders supervised visitation, you must comply with the court's order.

Child Support

- Q.** How is the amount of child support determined?
- A.** Oklahoma has Child Support Guidelines used to compute child support based upon income of both parents. Costs of child care and health insurance coverage for the children are also taken into consideration. The court is required to use this formula except in very limited

circumstances.

Q.What if child support is not paid?

A. Most often an income assignment is placed in the child support order. This means that child support will be withdrawn from the other parent's paycheck by his/her employer. The child support will be sent directly to the Child Support Registry who will then send it on to you. Other ways of obtaining the child support can be discussed with you by an attorney. Public agencies also give assistance for a small fee. Contact the Department of Human Services or your local district attorney.

Support Alimony

Q.How is alimony determined?

A. Unlike child support, there is no specific formula for determining the amount or duration of support alimony. Whether alimony is awarded at all, and if so, in what amount and for what period of time, will depend upon a number of factors. These factors may include, among others, need of recipient, ability to pay of other spouse, and length of marriage. However, since the circumstances of each case vary and since alimony awards are discretionary with the Judge, one should consult with an attorney in this regard.

Attorney Involvement

Q.How do I find an attorney?

A. The best source for locating an attorney is frequently friends who have gone through a divorce. However, it may well be helpful to interview two or three attorneys before making a final selection. An additional referral source is the Tulsa County Bar Association, which has a lawyer referral service available for a small fee (587-6014).

Q. Do I have to have a lawyer?

A. No. There is no requirement that one be represented. However, an attorney is generally recommended in all but very simple divorces that involve no children and no property.

Q. What if I can't afford a lawyer?

A. For those who are without funds, or have very limited funds, Legal Services of Eastern Oklahoma (584-3338) may be able to provide representation, either through their offices or through the Volunteer Lawyer Program, which utilizes private attorneys. "Kit" divorces are not recommended, particularly in cases involving children or property.

Q. What if I feel my attorney has acted improperly or unethically?

A. Any questions concerning possible unethical conduct on the part of your attorney may be referred to your local Bar Association or to the Oklahoma Bar Association for review. Additionally, it is sometimes helpful to obtain a "second opinion" from another attorney if you have questions about specific legal advice.

Protective Order Questions

General Protective Order Information

Q. What is a protective order?

A. A protective order is an order issued by the court to prevent future abuse and/or harassment or stalking in cases where there is evidence of prior abuse or harassment or stalking.

Q. Who can file for a protective order?

A. As a victim of domestic abuse, you must be a family or household member, which means spouses, ex-spouses, present spouses of ex-spouses, parents, foster parents, children, persons otherwise related by blood or marriage, a minor household member through an adult household member, persons living together or who formerly lived together, and biological parents of the same child, regardless of whether they were ever married or lived together. In contrast, as a victim of harassment or stalking, you do not need to be related to the defendant.

Q. What grounds are required in order to obtain a protective order?

A. You must be the victim of domestic abuse, stalking or harassment, which means an adult, emancipated minor, or minor age 13 or older must have committed an act of physical harm or must have threatened imminent physical harm against you or engaged in stalking or harassment.

Q. What does it cost to file for a protective order?

A. No filing fee is charged at the time of filing the petition. At the hearing, the judge may order that one or both of the parties pay the costs.

Q. Do I need an attorney to get a protective order?

A. No. In fact, most persons obtaining a protective order do not have an attorney.

Q. What information is required to file a protective order?

A. The defendant's name and address and a statement of facts to justify the protective order.

Obtaining a Protective Order

Q. What are the steps involved in filing a protective order?

A. First, a petition for the protective order must be filed in the county where you live or the defendant lives. At the time you file for a protective order, you will go before a judge who will review your petition and give you an “Emergency Protective Order” which is a temporary protective order in effect until your hearing date. The judge will then set a hearing date on your protective order petition. This date is usually within the next 15 days. You must have the other party served with the protective order petition and the hearing date. Usually, the sheriff in the county that you live in takes care of this, but it is important to ask. At the hearing, the judge will want to hear from both sides. The judge will then make a decision to grant a “Permanent Protective Order” or deny your request.

Q. Where do I go to get a protective order in Tulsa County?

A. To the court services office of Domestic Violence Intervention Services, located in Room 3190 of the Federal Building at 333 W. Fourth St. in Tulsa.

Q. What if I am in immediate danger and the courthouse is closed?

A. A police officer that has reason to believe that you were the victim of domestic abuse as a result of physical injury or impairment within the last four (4) hours, after arresting the alleged assailant, may assist you in preparing a petition of an emergency temporary protective order on the spot. The officer will contact a judge and advise you whether your request for an emergency protective order was granted. If so, it will only be effective until the courthouse closes on the next business day.

Q. After the judge signs the emergency protective order, when does it become enforceable?

A. Not until the defendant is served with a copy of the

emergency protective order by a deputy, police officer or private process server.

- Q.**What happens at the hearing if the defendant does not appear?
- A.** If the defendant was served prior to the hearing and does not show, you may be given a permanent protective order.
- Q.**What happens if the defendant does appear at the hearing?
- A.** If the defendant has no objection, you may be given a permanent protective order. If the defendant does object, the judge will hold a hearing and listen to the testimony of both sides. The judge will then make a decision on whether to issue a permanent protective order.
- Q.**How long does a permanent protective order last?
- A.** For three years, or until it is dismissed.

After You Have a Permanent Protective Order

- Q.**Can the defendant and I continue to live together after the defendant has been served with the emergency protective order?
- A.** No.
- Q.**If the defendant and I reconcile after the permanent protective order has been granted, can we resume living together?
- A.** Not until the protective order has been dismissed. Both parties should go to the courthouse, request that the protective order be dismissed before a judge, and pay whatever costs are required.
- Q.**What happens if the defendant and I are parents of a minor child?

- A.** Unless the child is covered by the protective order, the court will grant an exception to the protective order to allow communication to facilitate visitation between the parties to exchange the child for visitation.
- Q.** Will a protective order prevent the defendant from taking our child?
- A.** Ordinarily it will not. Unless the protective order covers the child, the protective order will only keep the defendant away from you and your residence.
- Q.** What if I see the defendant in a public place while my protective order is in effect?
- A.** It is not a violation of the protective order for both parties to be in a public place at the same time, regardless of who arrived there first. Neither party is required to leave. However, the defendant may not visit with or interfere with you at the public place.

Community Resources

In the greater Tulsa area, there are many excellent resources to assist individuals and families experiencing the divorce process. Community mental health professionals in private practice and in community agencies, churches, and other community service organizations offer individual and family counseling, seminars, workshops, support groups, reading resources, and other valuable services. Additionally, legal services are provided by attorneys in private practice or through public service organizations.

A list of some resource numbers follows:

Child Abuse Hotline (918) 584-1222

DHS Child Support Enforcement Division
(918)581-2203 (West) (918)439-2400 (East)

Domestic Violence Intervention Services (918)585-3143

DVIS Protective Order Office (918) 592-2060

Helpline (918) 836-4357

Mental Health Association in Tulsa (918) 585-1213

Oklahoma Bar Association 1-800-522-8065

Tulsa City-County Library Community
Information and Referral Service (918) 596-7979

Tulsa County Bar Association Lawyer Referral Service
(918) 587-6014

Legal Services of Eastern Oklahoma (918) 584-3338

Family & Children's Services (918) 493-5438

Resonance and YWCA Women's Resource Center (918) 587-3888

For persons living away from the metropolitan Tulsa community, the above listed numbers can also provide you with resource referrals in your immediate area.

Helping Children Cope with Divorce: A Seminar for Divorcing Parents. This is a four-hour educational seminar for parents to have an opportunity to experience divorce from their child(ren)'s perspective. Much attention is placed on the fact that even though the marriage is over, the family continues. Trained licensed male and female co-presenters use videotapes, roleplay, and lecture dealing with co-parenting

and the developmental stages and needs of children during the divorcing process. Call Family & Children's Service at 493-5438 for more information about this program. Attendance is mandated in Tulsa, Pawnee, Osage, Washington, Nowata, Rogers, Mayes, Craig, and Wagoner counties.

Glossary Of Terms

Child Custody – refers to two legal situations concerning a child.

Physical custody – refers to where and with whom the child lives.

Legal custody - refers to a parent's right to make decisions about the child's education, medical care, religion, etc. In either case, the court can award either sole or joint custody. The different types of physical and legal custody are:

Sole Legal Custody – only one parent has the right to make legal decisions for the child about education, health care, religion, etc;

Joint Legal Custody – both parents have the right to make legal decisions for the child about education, health care, religion, etc;

Sole Physical Custody – the child lives with one parent and the other has specific visitation rights; or

Joint Physical Custody – the child resides with each parent for a substantial amount of time during the calendar year.

Child Support – the amount of money that a non-custodial parent must pay to the custodial parent to assist with the care of the children

Divorce – is the term for the legal steps that you must take in order to terminate a marriage. Even common law

marriages must be dissolved by divorce.

Filing Fee – is the amount of money that the court charges to file a divorce or any other legal document.

Financial Declaration – is a form that the Tulsa County Court requires divorcing parents to complete so the court can be informed about the financial capabilities of both parents. This will be used, along with other documentation, to calculate child support. This is only used in Tulsa County.

Mediation - is an informal process in which the parties will meet with a third party (a mediator) who will try to help them reach an agreement.

Parenting Plan – is a document used by the Tulsa County Court to help parents create a plan for the care of their children. This is only used in Tulsa County.

Petition – is the term for the paper that an individual files with the court to “ask” for a divorce.

Protective Order – is an Order from the court prohibiting an individual from having any type of contact with another individual.

Service – is the term used to describe the method by which the parties to the divorce receive the notice that they are being sued for divorce. Service can be by certified mail, the sheriff or a private process server.

Summons – is the term used to describe the legal document used to notify the other party that he/she has been sued for divorce and must appear in court at a specific date and time.

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