

## **Do New Jersey Divorces Require a Separation Period?**

When you are ready to dissolve your marriage, you do not want to wait long to file the paperwork. In some states, there is a time to wait before filing for divorce. Fortunately for you, New Jersey does not have a waiting period if you have been married for more than six months.

### **New Jersey Does Not Require a Separation Period**

When you want to obtain a divorce in New Jersey, you and your spouse do not have to live apart before filing the paperwork. One spouse can claim no-fault with irreconcilable differences. Under the irreconcilable differences, these conditions must have existed for over six months.

This time frame is usually not an issue for couples married for more than half a year. When a partner cites irreconcilable differences, it can be hard to litigate in court since these claims are subjective. If the couple has not been married for more than six months, the couple must wait until then to file the divorce paperwork.

### **No-Fault Divorces Are Still an Option**

The grounds of irreconcilable differences are a new addition to New Jersey divorce laws. However, you can still file your divorce under a no-fault basis. Under this type of separation, you and your spouse must have lived separately for more than 18 months. This stipulation means that both partners have separate residences with no chance of reconciling the marriage.

Under New Jersey law, the 18-month rule is a reasonable amount of time to presume the marriage cannot be repaired. If there is a willingness for both spouses to repair the marriage, then the separation cannot proceed under the no-fault grounds.

### **Parties Can Agree on the Settlement Agreement**

If you and your spouse have filed a divorce and have not met the 18-month time frame, you can still proceed with the drafting of a settlement agreement. Many of these agreements cover issues concerning child custody, marital debts and property, and spousal and child support. The agreement will act as a legal contract during the

separation period. Within the agreement, the language must be specific about each spouse's obligations. It is advisable to have the proper legal counsel to proceed with a settlement agreement. In certain cases, you may need the help of the courts to enforce the current terms of the agreement. Many couples have the settlement agreement incorporated into the divorce settlement when the divorce has been approved and finalized by the courts.

### **Waiting Periods for Fault Divorces**

If the no-fault ground of separation or irreconcilable differences does not work in your case, you can file under fault-based grounds. Under these grounds, you can file if your spouse has committed willful desertion, extreme cruelty, or adultery. The ability to file a fault divorce will depend on the specifics of your case.

With fault-based grounds, the couple does not need to live in separate residences, either. If one spouse was mentally and physically abusive, the divorce filing does not need a period of separation requirement. However, the act of cruelty must have occurred within the last three months. If there is a history of domestic violence, the court usually will grant a divorce on the fault-based ground. Willful and continued desertion can be filed if the one spouse has left the marital home for over 12 months. These at-fault grounds may seem like separation, but there is one difference. During the separation period, the two spouses set up separate residences. With willful and continued desertion, the spouse must have intentionally abandoned the other party.

### **Need a Divorce Attorney?**

Filing for and completing a divorce can be a complicated process for many couples. If you need help navigating through the New Jersey divorce process, you should contact the team at Morgenstern & Rochester. You can reach us by calling our office in Cherry Hill, NJ, at (856) 489-6200. You can also visit our website to get more information on your case.