

Commonly Asked Questions About Divorce

Q: What is the difference between a divorce and a dissolution?

A: "Divorce" and "dissolution" are two different legal actions used to terminate a marriage. In a dissolution, the spouses must agree that the marriage is over and should be terminated. The couple also must agree to divide their assets and agree on such issues as child custody, child support, spousal support, and parenting time. A dissolution will not be granted when the parties cannot agree on all the issues. When spouses cannot agree, the marriage must be terminated by divorce.

Divorce is based on the concept of a fault and is considered an adversary proceeding. A spouse must allege one of the eleven grounds for divorce. That is, one spouse asks for a divorce from the other based on a wrong committed against the first; this wrong becomes grounds for divorce. Having said this, at least two of the grounds for divorce are considered to be "no-fault" provisions. These are "living separate and apart without cohabitation and without interruption for one year" and "incompatibility, unless denied by either party."

Q: Are the child support guidelines just guidelines?

A: The term "guidelines" may be misleading. The Ohio Child Support Guidelines are more than just "guidelines" to be used in determining a child support obligation. They are the very means by which a child support obligation is calculated in Ohio. Ohio law further provides that the amount of child support calculated using the guidelines is presumed to be the correct amount of child support due. However, courts are allowed to deviate from the calculated amount if that amount would be unjust or inappropriate and not in the best interest of the child.

Q: Can a parent collect unpaid child support after the child turns 18 and the support order has expired?

A: Yes. The fact that a parent's obligation to pay support has terminated does not prevent the other parent from trying to collect past unpaid support. Also, it does not prevent the court from holding any person in contempt for failing to pay any previous support order.

Q: Can my ex-wife's new husband adopt my child without my permission?

A: A child cannot normally be adopted away from a parent without that parent's consent. However, an adoption could occur over a parent's objection if that parent has failed, without justifiable cause, to provide more than minimal contact with the minor or to provide for maintenance and support as required by law or judicial decree for a period of at least one year immediately preceding the filing of the adoption petition. In these situations, the adoption cannot proceed unless the natural parent is notified and given a chance to object and explain why there has been a failure to have contact or provide support.

If an adoption occurs, it will terminate all *legal* relationships between the adopted person and his or her biological parent and relatives. Also, the natural father would no longer have the duty to support his child; the adopting step-parent would become responsible for the care and support of the child.

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This "Law You Can Use" consumer legal information column was provided by the Ohio State Bar Association. It was prepared by John Gilchrist, a Columbus attorney and the author of Divorce in Ohio and How To File for Divorce in Ohio.

Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.

