



## A Step-By-Step Guide to Alabama Divorce

Do not allow your lack of knowledge or fear of the unknown to have a harmful impact on your Alabama divorce case. The more you know about how the process will play out, the more you can prepare for whatever you will face.

Thus, we have put together a detailed, step-by-step guide to the Alabama divorce process to help you better understand your rights and know what to expect when pursuing a marriage dissolution.

Please keep in mind that every divorce is unique, and this guide is not intended as advice for your specific circumstances. If you want to get a divorce, you should always enlist the services and guidance of a skilled family attorney to advise you on how you should proceed. And that leads us into our first step in the Alabama divorce process:

### **Get an attorney**

Is it possible to get a divorce without the help of an attorney? Yes.

Is it prudent? Absolutely not.

The fact is, there are very few divorces that are simple enough to be handled without the guidance of an experienced Family Law attorney. There are so many pitfalls, risks, and nuances involved, and even a miniscule misstep in the divorce process can have major consequences on your future—not to mention the future of your children. In nearly every case, as soon as you decide that you are going to get a divorce, you should immediately enlist the services of a skilled attorney like John Totten who will guide you throughout the divorce process, negotiate on your behalf, and fight to ensure your rights and wishes are protected.

The more conflict you expect to occur in your divorce, the more important it becomes to have an attorney advocating for you, but even low conflict divorces can benefit from the professional expertise of an attorney.

### **Contested vs. Uncontested**

The next step in the divorce process is deciding whether your divorce will be Contested or Uncontested. In some cases, couples will be able to agree upon all the major decisions inherent to the dissolution process, such as the division of property, division of debts, child custody, spousal support, etc. When there is nothing that needs to be contested or settled, divorcing couples can streamline the process and keep their case out of court by pursuing an Uncontested divorce. However, most marriages are not going to end in agreement on every aspect of the split, and these divorces will be Contested. If your divorce will be Uncontested, your attorney can help you fill out the proper paperwork and follow the proper steps to file and



obtain the finalized divorce from the state. In the case of the more common Contested divorce, there will be much more to do.

### **Fault vs. No Fault**

While some states are solely “No-Fault” divorce states, meaning the only grounds upon which a couple can file for divorce is irreconcilable differences, Alabama still allows couples the option to file based on specific fault grounds or file a no-fault divorce.

“No-fault” does not mean that aspects of the divorce are not contested. It simply means that the divorce is occurring due to irreconcilable differences, incompatibility, or voluntary abandonment rather than a specific cause. A no-fault divorce can still be contested, but your spouse does not need to agree to the divorce in order for you to be granted the dissolution, and there will be no requirement for you to prove fault in court in order to obtain a divorce.

You may choose to pursue a divorce based on fault grounds, however, meaning you want to end your marriage due to specific actions taken by your spouse. According to Alabama statutes, there are ten types of fault which are grounds for divorce, including drug addiction, adultery, abandonment, and more. A judge may factor fault into his or her judgments regarding disputes over division of property, spousal support, and other contested aspects of the divorce.

### **File Complaint for Divorce**

The next step in the divorce process will be filing the actual Complaint for Divorce paperwork with the Clerk of Court in the proper county. On this document you must specify whether you are filing for divorce based on fault or no-fault grounds, and confirm that you or your spouse has been a resident of the State of Alabama for at least six months. If you have resided in Alabama for less than six months, you cannot get a divorce in the state. The complaint will also include any details which need to be addressed by the court—namely the potentially contested details like child custody and support. Your attorney will help ensure that you properly fill out and file the required paperwork.

### **Serve spouse**

Next, you must serve your spouse with notice of the Complaint for Divorce filing. Your spouse or your attorney must accept a copy of the Complaint. This is usually a simple process, but in some cases your spouse may try to avoid being served with the notice, and you may have to enlist the services of professionals to serve them. Either way, it is your legal responsibility to ensure your spouse receives proper legal notice of the divorce filing.

### **Spouse response**

After being legally served, your spouse will have 30 days to answer the Complaint. If they do not file an official answer, then a judge may rule in your favor by default, granting you whatever was



requested in the complaint. In most cases, however, your spouse or your spouse's attorney will respond and the divorce process will proceed to the next step.

### **Discovery and motions**

Prior to any negotiations or court hearings, attorneys will conduct a legal process known as discovery. In any court case, discovery is the process whereby each party's attorneys are entitled to request information from the opposing party, and the opposing party is required to share it. Your attorney will conduct research and work to ensure that all pertinent information regarding things like your spouse's finances are found and potentially used as evidence if need be. Neither you nor your spouse can legally withhold anything that could be considered evidence in your divorce hearing.

At this point in the divorce process, your attorney or your spouse's attorney may also file specific motions—usually temporary—meant to govern the actions of you and your spouse in the interim period before your divorce is finalized. For example, if you depend on your spouse's income, you may request temporary spousal support in order to handle your living expenses during the divorce. Or, perhaps you want to maintain full custody of your children during the divorce process. In such a case your attorney would file a motion with the court for temporary custody. Any relevant motions like these will be filed by your attorneys and ruled on by a judge throughout this period of time after the Complaint for Divorce has been filed but before the final divorce decree has been granted.

### **Negotiations, ADR, and Hearings**

There are several ways the next step in the divorce process could proceed, and this step could vary drastically from divorce to divorce based on the specific circumstances surrounding the case. At this point, some form of negotiations will likely be conducted between your attorney and your spouse's attorney. After looking at the evidence and fully understanding the wishes of their clients, each attorney will work towards achieving those goals for their clients. Some couples may choose or even be required by a judge to participate in what's known as "Alternative Dispute Resolution (ADR)." Some forms of ADR include mediation and collaborative law, and they are meant to resolve disputes without having to take the case to court. However, if there are aspects of the divorce which cannot be agreed upon through negotiations or ADR, a court hearing will be set.

At your divorce hearing, each attorney will argue their respective client's case to a judge who will hear all the pertinent evidence regarding the divorce, your family's finances, your children's needs, and much more. You and your spouse may both be asked to testify, and your lawyer may choose to call experts to testify on specific subjects like child psychology or other relevant subjects.



## **Final Decree**

Once all requirements have been fulfilled and the case has been heard, the court will issue a Final Decree. This court order will officially grant the divorce and provide judgments on the various disputed elements of your divorce. For example, the final decree may grant full custody to one parent or split custody 50/50. It may dictate whether one spouse has to pay alimony to the other. It might grant some sort of disputed property like a home to one spouse or the other. Whatever issues were disputed between you and your spouse will be settled, and your divorce will be finalized.

Once a Final Decree is issued in your divorce, you must adhere to the court order or face serious consequences for contempt of court. You or your now ex-spouse may be able to appeal any aspects of the Final Decree within 42 days of its issuance.

We hope you've found this step-by-step guide to Alabama divorces helpful. If you are facing a divorce in the State of Alabama, we encourage you to please contact the law firm of John M. Totten, P.C today and let us fight to protect your rights and work to achieve your goals so that you can finalize your divorce fairly and efficiently, and move on with your life. Give us a call at (256) 233-2025 or email us at [info@johntottenlaw.com](mailto:info@johntottenlaw.com) to set up an initial consultation regarding your Alabama divorce or other Family Law issue.