How to Get an Agreed Divorce in Tennessee

If you have NO children who are under 18, disabled or in high school and you do not own buildings or land or a business with your spouse, or have retirement benefits.

What is an agreed divorce?

Agreed means that you and your spouse agree on all points of your divorce **AND** you must meet all the rules below. An agreed divorce is easier and faster. It costs less than a regular divorce because:

- There are fewer court papers to fill out.
- You don't **have to** have a lawyer. But it's best to talk to a lawyer before starting any divorce.

Can anyone get an agreed divorce with this packet?

No! It is **only** for couples if **ALL** of these are true:

- One or both of you lived in Tennessee for at least the past 6 months **OR** you lived in Tennessee when you decided to divorce;
- You and your spouse have no children together who are:
  - Under age 18 or
  - Disabled or
  - Still in high school

  Children together means children you had together that were born before your marriage **AND** any children born during your marriage or adopted.
- Neither party is pregnant now;
- You both want to end your marriage;
- You don't own buildings or land or a business together or have retirement benefits; AND
- You can agree on alimony and how to divide your property, and will **both** sign a Divorce Agreement (Form 5).

If <u>any</u> of these are **not** true for you, you **can't** use this packet! Talk to a lawyer.

Do I need a lawyer?

You need a lawyer if:

- You find the court papers hard to understand;
- You or your spouse have an IRS qualified pension or retirement plan;
- You or your spouse own buildings or land (this is called **real property**);
- You or your spouse own a business;
- Your spouse won't sign the Divorce Agreement;
- Your spouse has a lawyer;
- You have questions about your divorce. The court can't give you legal advice; OR
- You don't know how to locate your spouse.

Important! Only want a lawyer for part of the case? Having a lawyer look at your Divorce Agreement may protect you.

Where can I find a lawyer?

- **Your county's Bar Association.** This is a group that lawyers join. They may have programs that can give you free advice. Or they can refer you to a lawyer.
- Look under "lawyer" in the yellow pages.
- Search for "lawyer" on the internet.
- Ask divorced friends which lawyer they used.
- Check the Administrative Office of the Court's website at www.tncourts.gov.

Free Legal Help for Domestic Violence Victims

Does your spouse hurt or threaten you? There are special programs that can help you get free legal advice. They can also help if your spouse won't agree to a divorce. Call these **FREE** hotlines to find help near you.

- Tennessee Coalition for Domestic and Sexual Violence – **1-800-356-6767 / www.tcadsv.org**
- Domestic Violence hotline – **1-800-799-7233**

This packet has the court forms you will need to get an agreed divorce. It also explains:

- What an agreed divorce is.
- Who can get an agreed divorce.
- Steps to get an agreed divorce.
- How to get ready for your court hearing.
- Answers to common questions about divorce.
- What goes in a Divorce Agreement.

Steps to Get an Agreed Divorce

Tip! Make extra copies of the blank forms in this packet. This is in case you make a mistake. Also, make copies of all papers you give the Court Clerk. Ask the Clerk to date-stamp your copy. Keep all your date-stamped divorce papers in a folder or envelope. Bring it with you when you go to court.

Step 1	**You and your spouse MUST fill out these papers. The Court Clerk can't do it for you. When they are filled out, go to the Court Clerk's office and give them (file) these papers:**
	❑ Request for Divorce, Form 1. Must be signed and notarized. ❑ Spouses' Personal Information, Form 2A Fill it out and put it in a letter-size envelope. On the outside, write both spouses' names and your case number. The Court Clerk will give you your case number. ❑ Check with your Court Clerk to see if you need to fill out a Civil Case Cover Sheet.
Step 2	**If you can't afford to pay the filing fee, also fill out and give the Court Clerk (file):**
If you need it	❑ Request to Postpone Filing Fees and Order, Form 3 The court may let you pay the filing fees at the end of your case. You and your spouse must decide how you will split the cost of the filing fees
Step 3	**Complete the Health Insurance Notice for Divorcing Spouses (Form 4):**
	❑ Health Insurance Notice, Form 4 Fill it out, file with Clerk and mail a copy to your spouse by certified mail. Keep a copy for your records. Not on each other's health insurance or don't have health insurance? Then write that on the paper.
Step 4	**Fill out these papers and give them to the Court Clerk (file):**
	❑ Divorce Agreement, Form 5. Must be signed and notarized by both you and your spouse. ❑ Final Decree of Divorce, Form 6. Must be signed by both you and your spouse. ❑ Court Order for Divorcing Spouses, Form 7 Must be signed by both you and your spouse. Both spouses must obey this order! ❑ Divorce Certificate Ask the Clerk for this paper. Don't use a copy. Fill out as much of it as you can. Ask the Clerk about the deadline for this paper. ❑ Notice of Hearing to Approve Irreconcilable Differences Divorce, Form 8
Step 5	**Wait at least 60 days after filing your Request for Divorce (Form 1) then:**
	❑ Call the Clerk. Has it been more than 180 days since the last person signed the Divorce Agreement? Then you must fill out a new Divorce Agreement. ❑ Ask the court clerk how to get a court date for the Final Divorce Hearing. Ask if you need any other papers to set the hearing date. ❑ If needed, complete and file the Notice of Hearing to Approve Irreconcilable Differences Divorce with the court clerk, Form 8. Mail your spouse a copy.
Step 6	**Go to the Courthouse on the date of your Final Divorce Hearing.**
	❑ It's best if both spouses go, but if you are the spouse who filed the divorce, you may go alone. What if only one spouse goes and the judge changes something? You will have to go back to court later. Bring copies of all the date-stamped divorce papers with you. Bring the Final Decree of Divorce, Form 6
Step 7	**After the hearing, go to the Court Clerk's office. Ask how to get the signed copy of the Final Divorce Order. You may have to pay for copies. You will have to pay for certified copies.**
	If your spouse did not go to the hearing, you **must** mail him/her a copy of this Order.

Get ready for your Court Hearing

Before the hearing:

- Dress neatly. Wear clothes that look like a businessperson. Wear clothes that show respect for the court. This means:
  - ⃠ No shorts.
  - ⃠ No tank tops or low cut tops.
  - ⃠ No crop tops that show your belly.
  - ⃠ No T-shirts with words or pictures.
  - ⃠ Turn off your cell phone or pager.
- Take all of your court papers.
- Both spouses may go to the hearing. Or just the spouse who filed the divorce may go. You don't need witnesses.
- Get to court **early** on the day of your hearing. You may need to find parking and go through security.
- Go to the Clerk's Office to make sure your case is on the calendar.
- Sit down in the courtroom. Wait for your name to be called. (There may be other cases ahead of you.)

At the hearing:

- Step forward when your name is called.
- You will be asked to raise your right hand and take an oath to tell the truth.
- After you swear to tell the truth, say this:
  "My name is _____.
  I am the Plaintiff in this case. I am here to get a Final Divorce Order."
- Don't sit down until your case is over.
- When you speak to the judge, say, "Your Honor." Be polite.
- The judge will look at your court papers and may ask questions. Listen carefully. Never butt in. Don't talk until the judge asks you a question. Answer all questions fully and tell the truth. What if you don't understand a question? Then ask the judge to explain or repeat it.

The judge may ask you:

- Your name and your spouse's name.
- How long you have lived in Tennessee.
- If either spouse wants their old name back.
- If either party is pregnant.
- If your Divorce Agreement divides the property fairly.
- If you want the court to grant the divorce.
- If you and your spouse have irreconcilable differences (cannot get along).

You may answer, like this:

- I have lived in Tennessee for at least 6 months.
- We are **not** expecting a child now.
- My spouse and I have no children together.
- My spouse and I have made a Divorce Agreement that is fair. We have divided all property and debt.
- I want a divorce.
- My spouse and I can't get along any more. We have no hope of working our marriage out.

> What if there are mistakes on the divorce papers? The judge may ask both spouses to make the changes and initial them. **If both spouses aren't there, you have to come back another day.**

At the hearing:

Once approved, the judge will sign the Final Divorce Order. Your divorce is not final until the judge signs the Final Divorce Order and it is filed with the Clerk.

Important! After the court makes the Final Divorce Order, each spouse has 30 days to appeal. During this 30-day period, don't get married again or buy any property

After the hearing, ask the Court Clerk for certified copies of the Final Divorce Order and Divorce Agreement. You may need this later.

Common Questions About Agreed Divorce

To get an agreed divorce, do I have to prove that my spouse did something wrong?

No. You just have to say that you and your spouse can no longer get along. Say that you have no hope of working out your marriage problems. The court calls this "irreconcilable differences".

Do I have to live in Tennessee to file for divorce here?

One or both spouses must have lived in Tennessee for at least the last 6 months **OR** you lived in Tennessee when you separated.

Where do I file my divorce papers?

- In the county where you and your spouse live.
- **OR** in the county where your spouse lives now.
- **OR** in the county where you lived when you separated.

What if your spouse is in jail or doesn't live in Tennessee? Then file in the county where <u>you</u> live.

The court in each county is different. The divorce court in your county could be a Circuit, Chancery, or General Sessions Court. Ask the Court Clerk if their court hears divorces cases. **DON'T** file them in more than one court.

Important! Until the divorce is final, you and your spouse can't do some things. You and your spouse can't:

- Disobey the Court Order for Divorcing Spouses (Form 7) **OR**
- Spend, give away, destroy, waste or use up property from the marriage **OR**
- Harass each other **OR**
- Stop or change insurance policies **OR**
- Hide, destroy or spoil electronic evidence kept on a computer or memory storage device.

Will my divorce papers be public?

Yes. The papers you and your spouse file at court are public record. That means anyone can look at your file. Anyone can get copies of any papers in your file. **BUT** the papers called Spouses' Personal Information, Form 2A, **aren't** public and will be secret.

Do I have to pay a fee to file my divorce papers?

Yes. Each county has its own fee **plus** state fees. Ask the Court Clerk's office how much you will have to pay. Bring cash with you. You must pay the Court Clerk when you file your Request for Divorce. Many Court Clerks don't take checks or credit cards.

What if I can't pay the court fee?

The court may let you pay the fee at the end of your case. This is when the judge decides which spouse has to pay the court costs.

Need to pay the fee later? Fill out a Request to Postpone Filing Fees and Order, Form 3.

What if I am a victim of domestic violence?

Did your spouse hurt or threaten you? To get an agreed divorce you must talk to your spouse. What if it is not safe to contact your spouse? Then an agreed divorce may not work for you. These **free** resources can help you. They can also help if your spouse doesn't want the divorce.

- Coalition for Domestic and Sexual Violence
  1-800-356-6767 – **<u>www.tcadsv.org</u>**
- National Domestic Violence hotline **1-800-799-7233**
- Legal Aid or Legal Services
  To find a legal aid program near you go to **<u>www.Help4TN.org</u>**
- Tennessee Alliance for Legal Services
  (615) 627-0956 / 50 Vantage Way, Suite 250, Nashville, TN 37228

How soon can the divorce be final?

The soonest is 60 days after you file your Request for Divorce. It usually will take longer.

Important! After the court makes the Final Divorce Order, each spouse has 30 days to

appeal. During this 30-day period, don't get married again or buy any property.

What is a Divorce Agreement?

The Divorce Agreement is one of the papers you must file to get an agreed divorce. It tells the court what you and your spouse agreed about alimony. It says how you will divide your money, property and debts.

Doesn't the court divide our property?

No. In an agreed divorce, the spouses decide these things together. But the court wants to see that you divide your property and debts fairly. You have to list how **all** the property is divided, even if you think the property belongs only to one of you. It doesn't have to be equal. The court may change things if the agreement is not fair or one spouse will not have enough to live on.

Do you and your spouse agree about how to divide the property fairly? Then most of the time the court will OK your agreement.

Important! The court may not OK your agreement if it is unfair.

Important! Creditors can try to collect from either spouse. It does not matter if the other spouse signed for the debt. It does not matter if the other spouse agreed to pay for a debt. If either spouse is thinking of filing bankruptcy, talk to a lawyer. It may cause problems for the other spouse. If you have a mortgage together, you cannot use these forms.

What if my spouse and I can't agree on everything in the Divorce Agreement?

A mediator is someone who helps people agree. The mediator meets with you and your spouse to try to help you and your spouse find an agreement that is ok for both of you.

Note: Are you a victim of domestic violence? Then you don't have to meet the mediator with your spouse. You and your spouse can have separate meetings.

What if the mediator can't help us agree?

Then you can't use this packet. Talk to a lawyer about filing a regular divorce.

What if my spouse will not sign the Divorce Agreement?

Then you can't get an agreed divorce. **Don't** use this packet.

Will the court decide on alimony?

No. In an agreed divorce, the spouses decide on alimony. Alimony is money that one spouse pays the other for support. You must say how much it will be and how long it will be paid. This goes in your Divorce Agreement.

For example, some spouses decide that alimony will be paid until:

- The paying spouse remarries or files for bankruptcy, or
- The supported spouse remarries, or
- The supported spouse finishes school, or
- One of the spouses dies.

Alimony may make a difference in your taxes. Talk to a tax expert before you sign the Divorce Agreement.

What if we can't agree on alimony?

Then you can't get an agreed divorce. **Don't** use this packet. Is alimony important? Or is there a big difference in salaries? Then talk to a lawyer. You and your spouse may:

- Talk to a mediator, who may be able to help you agree, or
- Talk to a lawyer, or
- File a regular divorce.

How do we divide retirement funds?

Sometimes the funds stay with the spouse who earned them. Sometimes they are divided. Do you or your spouse have retirement funds? Then you need to talk to a lawyer and cannot use these forms.

Should I talk to a lawyer about the Divorce Agreement?

Yes! Talk to a lawyer about your property, debt, retirement funds, and alimony. Some lawyers will help with just the Divorce Agreement. You do the rest of the case on your own.