



The Cordell & Cordell Divorce Guide

"Many people feel hurt when faced with divorce and they are unsure where to turn. Our aim is to better inform clients so they make educated decisions as they transition to the next chapter of their lives."

Joseph E. Cordell — J.D., C.P.A., LL.M., P.F.S.

Co-Founder, Principal Partner

IMPORTANT: Family law terminology and procedure vary by state. This guide uses common terms for clarity; consult a local attorney for your state's specific rules

01 The Divorce Process

02 Child Custody

03 Child Support

04 Modification

05 Contempt

01

The Divorce Process

From Petition to Settlement

Divorce Petition

To begin a divorce, one spouse files a petition with the court — some states call this a "Complaint." These filings often list more demands than expected, so it's common to see a request for support or attorney's fees right away.

The other spouse (or respondent) must reply within a set time, admitting or denying the claims and requesting the court to deny the petition. Filing a cross-petition is a wise move in presenting their own position and avoiding a trial based solely on the petitioner's demands.

Temporary Motions

Early on, either party may file motions for temporary orders — covering custody, support, or use of the marital home — to resolve urgent issues. Most try to reach these agreements without the court's involvement, which lowers attorney's fees and creates a favorable impression with the judge.

Discovery

Discovery is the process where both spouses gather information to support their case for trial. Anticipating and preparing for your spouse's claims here is crucial to achieving a favorable judgment.

Settlement

Settlement is now the norm, not the exception — roughly 90% of divorce cases settle, and many resolve early in the process rather than waiting for trial. Most states now require or strongly encourage mediation, arbitration, or an informal settlement conference before a case can proceed to trial, giving both spouses a structured opportunity to negotiate outside the courtroom.

Settling gives spouses more control over the outcome and reduces the emotional stress associated with relying on a judge's decision. It can also save time and limit rising attorney's fees, which often increase as trial nears. However, unclear or incomplete agreements can lead to disputes later, resulting in more litigation and higher costs down the road.

90%

90% of divorce cases settle. Many resolve early, rather than waiting for trial. Most states now require or strongly encourage mediation or a settlement conference first.



01

The Divorce Process

Pretrial & Trial

The Pretrial Conference

Procedures vary significantly by state, but many require some form of mandatory settlement conference, pretrial conference, or status conference before trial — sometimes with a judge involved, sometimes handled through mediation. Where a judge participates, their feedback on the case can meaningfully shape the negotiations, occasionally including informal opinions on the facts or suggested settlement terms.

Because these procedures differ so much by jurisdiction, it's worth asking your attorney early what to expect in your state.

The Trial

Most divorces don't go to trial—but factors like income, length of marriage, and your spouse's occupation can impact the chances of your case moving in that direction. When a trial occurs, its length depends on the court's schedule and the complexity of the issues, lasting anywhere from a few hours to several weeks.

Procedures vary by state, but typically the petitioner presents first, followed by the respondent.

The Result

Divorce can be emotionally tough but staying calm and focused is key to protecting your interests and your children's well-being. Concentrate on issues that impact your children, not just personal grievances.

GOOD TO KNOW

Your attorney handles legal matters, but many decisions go beyond their role. Seek advice from others whose knowledge and judgment you respect. Always consult your attorney first, as well-meaning friends or family may unintentionally increase tensions.



02

Child Custody

Rights & Obligations Between Parents

Child custody refers to the rights and obligations between parents regarding their children after a divorce, legal separation, or paternity decree. **NOTE:** The rights and obligations between parents can be described using different terms—depending on the state. For example, some states use "legal" and "physical" custody, while others refer to custody as "time-sharing" or "shared parenting".

Physical Custody

Physical custody defines the length of time each parent spends with their child and can be sole or joint. It's often the most contested part of divorce, as it impacts parenting time and usually determines who receives child support.

Legal Custody

Legal custody gives a parent the right and responsibility to make decisions about a child's health, education, and welfare. It can be sole or joint, with most cases allowing both parents legal custody even if one lacks physical custody. Joint legal custody ensures the non-custodial parent stays involved in major decisions, preventing them from being excluded from important choices about the child's well-being.

Custody Rights of an Unwed Parent

When a child is born during a marriage, the husband is generally presumed to be the legal father. When parents aren't married, paternity isn't automatic — it must be legally established, typically through a **Voluntary Acknowledgment of Paternity** signed by both parents or a court order (which may involve genetic testing if disputed). Some states also require registering with a putative father registry within a set window to preserve rights, and until paternity is established, the mother typically holds sole legal and physical custody by default.

Establishing paternity is only the first step; a father generally still needs a separate custody or parenting time order to formalize his rights.

NOTE: Procedures and deadlines for establishing paternity vary significantly by state. A family law attorney can confirm the specific requirements where you live.



03

Child Support

Paying or Recieving

If you are a parent and you are going through divorce, child support is certain to be an issue you will be facing. You will either be paying or receiving it.

Calculating Child Support

Most states calculate child support using formulas that consider:

- Parents' income
- Time spent with the children
- The number of children

These formulas promote consistency and limit subjective decisions. Common methods include the **Income Shares Model** and the **Percentage of Income Model**. In some states, parents can also set child support amounts by mutual agreement without using a formula.

What If You Can't Afford It?

Financial hardship does not automatically allow you to reduce child support payments. If you begin to fall behind, it's important to consult a family law attorney promptly, as unpaid amounts can quickly accumulate.

You may be able to modify your child support if your state's threshold for a substantial change is met.

Terminating Child Support

Child support doesn't always end the moment your child turns 18. In most states, the trigger is turning 18, graduating high school (whichever comes later), or another emancipation event like marriage or military enlistment — the exact age and definition vary by state, and support may simply reduce, not end, if you have multiple children. Some states terminate the obligation automatically; others require the paying parent to file a motion, and until that's granted, the original order remains enforceable even after the child ages out.

Because rules differ so much by state, don't assume your obligation ends on its own — confirm your state's process, since unpaid amounts can keep accruing on an order that should have ended.



04

Modification

When Circumstances Change

It is not unusual for ex-spouses to want to change a prior decree respecting issues of custody and support due to a change in circumstances. Those circumstances may include dramatic changes in income, relocation to another state, or problems relating to the proper care of minor children.

Change of Circumstances and Modification

Custody terms are legally binding but can be changed through a court-ordered "modification." Most states require proof of a substantial change in circumstances since the original order. In some states, courts closely review requests filed within six months of divorce and are unlikely to revisit custody without clear, significant new developments.

Preparing for Modification

After a reasonable amount of time, most custody and financial issues can be modified if circumstances change. Courts rely on this flexibility, and your behavior during the waiting period plays a key role. Missed payments or skipped visits can seriously hurt your chances.

What Strengthens a Modification Case

- ✓ Staying involved in your child's life
- ✓ Paying support on time
- ✓ Model behavior
- ✓ Honoring your parenting time

Justifying Modification

Model behavior will greatly strengthen your case for modification. Always try to amicably resolve issues in writing to create a clear record. If that fails, and there are no urgent health or safety concerns— ensure you've documented repeated violations before filing for modification.



05

Contempt

Following the Rules & Enforcing Them

Contempt of court is the willful failure to follow a legal order and can be used to gain leverage in settlement if the other party is noncompliant. However, it can also be used against you if there is evidence of violations. It is important to continue diligently following all orders from the Court, even while a modification or other proceeding is pending.

Contempt Proceedings

Contempt applies only after the court issues orders, which can happen at any point during the divorce. Once orders are in place, follow them carefully and document any violations by the other parent, as judges take noncompliance seriously.

Consequences of Contempt

Presenting clear evidence of contempt can greatly strengthen your case. Your attorney may file a contempt motion alongside a motion to modify custody or support.

Contempt can be civil or criminal, also direct or indirect, depending on the violation. Each type carries different penalties and rules, and it is important to understand the differences.

Conditions of Contempt

A contempt action can be brought for any willful violation of a court order, but the violation should be significant to justify court involvement.

The court must find that the accused had the ability to comply and chose not to. It's then up to the accused to prove they couldn't comply or made an honest mistake.



Additional Resources

Cordell & Cordell sets itself apart from other family law firms by offering our clients a simple 24/7 method to access case status information. We keep clients aware of the process of their case and billing status, offer many divorce resources, and provide the best client care possible pursuant to our customer service pledge.

Find our **glossary of common divorce terms**, and many other helpful resources at:

CordellCordell.com/Resources

