



What Are the Grounds for Divorce in Mississippi?

The law considers marriage a civil contract in which each party agrees to certain rights and obligations. When a marriage fails, divorce is the judicial decree which legally ends the relationship.

Mississippi law provides several legal methods for a couple to divorce. A no-fault divorce occurs when a couple agrees to divorce and to the settlement of such issues as child custody and support, alimony, and property division. If one spouse sues the other to end the marriage, the plaintiff bases the suit on one of the 12 divorce grounds allowed by state law, and the court decides whether to grant the divorce.

Desertion is a spouse's willful abandonment of the marriage for at least one year without consent, just cause, excuse, or intention to return. Desertion can occur under the same roof, if the spouses live as strangers and the deserter intends to end the marriage. The deserted spouse must demonstrate that he/she did not consent to the leaving and that a willingness to renew the relationship was refused by the deserting partner. However, if the deserting spouse makes a good faith offer to return and the other spouse refuses, the refusing party usually becomes the deserter.

Natural impotency, insanity or idiocy, and a wife's pregnancy by another person at the time of the marriage are pre-existing conditions that are grounds for divorce in Mississippi. In these cases, the innocent spouse must not have known of the condition prior to the marriage.

Adultery, custody to the Mississippi Department of Corrections, incurable insanity that develops after marriage, habitual drunkenness, habitual and excessive drug use, and habitual cruel and inhuman treatment are grounds for divorce because of the impact those actions or conditions have on the marriage. The grounds of habitual drunkenness and habitual and excessive drug use require clear and convincing evidence that the offending spouse is a habitual drunk or drug user and such conduct has a negative impact on the marriage, rendering him or her irresponsible, reckless, unfit, and unable to perform marital duties and responsibilities.

Habitual cruel and inhuman treatment, the most common fault ground, is conduct that endangers life, limb, or health, or creates a reasonable apprehension of such danger. It also applies to conduct of such unnatural or infamous nature to make the marital relationship revolting to the innocent spouse. To divorce on these grounds, the spouse must prove such conduct occurred over a period of time and was physical in nature (i.e., beatings) or had an adverse physical effect on him or her.

Bigamy and incest are two other grounds for divorce in Mississippi. Only the innocent spouse, not the one married to more than one person, may use bigamy as grounds. Mississippi law defines the types of relationships considered incestuous and, therefore, restricted from marriage.

To file for divorce in Mississippi, you must be a resident of the state for at least six months. An irreconcilable differences divorce requires a 60-day waiting period, assuming the spouses resolve all issues within that time and the court has approved the property settlement agreement. The other grounds have no particular waiting period, but the other spouse must receive notification at least 30 days prior to trial. If the wife is pregnant when the divorce is filed, the court usually postpones the case until the child is born in order to address child support issues.

Divorce is a sad and emotional process for all involved. Regardless of the grounds for divorce, each spouse should have an attorney to ensure that each person's rights are upheld and best interests represented.