

Georgia Divorce: A Pathfinder for Self- Represented Litigants

Laureen A. Adams
Library Manager
Dougherty County Law Library
(229) 431-2133 (phone)
(229) 439-2706 (fax)
ladams@dougherty.ga.us
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Introduction

Representing yourself in your own divorce can work well in certain circumstances, but only with adequate preparation, knowledge, and effort. This pathfinder is designed to help you find answers to the questions which will arise as you make your way through the complicated paths of our legal system.

While law librarians can give you legal information, only a licensed attorney who represents you can give you advice or prepare legal documents for you. Beware of paralegals and document services which offer to prepare legal documents for you—that is the unauthorized practice of law, and is forbidden by the Official Code of Georgia Annotated § 15-19-51.

The information in this pathfinder is intended merely to provide information. If you need help deciding which procedures and actions are best for you, please consult an attorney who specializes in family law. For your convenience, the law library has an attorney referral notebook which will help you locate an attorney.

The call numbers for each book are provided in parentheses at the end of each citation. Some of the books are available at your local public library, but others are available only at a law library. Public library call numbers begin with a number, while law library call numbers begin with a letter. Wherever possible, both numbers will be given so that you can find the books in any library.

Should I represent myself in my divorce?

Some divorces are very simple—the couple can agree on how to split up property and other issues. Others are much more complicated—ones where the couple fights about dividing up homes, retirement plans, child custody, and other issues. Sometimes there are complications which only an attorney would notice. When you choose to represent yourself, you are making a cost/benefit analysis: you feel that the cost of hiring an attorney outweighs the chance that your case may not turn out well for you. Here is a link to an online quiz which will help you decide whether you are capable of representing yourself: <http://www.peoples-law.org/family/divorce/self%20quiz.htm>

How do I get started?

1. Find your spouse if you do not know where s/he lives. In our legal system, everyone has the *due process* right to know if s/he has been sued, and to have an opportunity to appear in court and present his or her side of the story. If you cannot find your spouse, you may still get a divorce and “serve” your spouse with notice of the divorce by publishing an ad in the newspaper. However, a judge will not give you permission to do this unless you made a reasonable effort to find your spouse. If you find your spouse in another state, you will need to determine whether you can get *personal jurisdiction* over him or her. A Georgia court may grant a divorce even without having personal jurisdiction over a party. However, a Georgia court which does not acquire personal jurisdiction over the Defendant cannot award alimony, child support, or property located outside the state of Georgia. Here are some resources which will help you find your spouse and get personal jurisdiction over him or her:
 - Culligan, J.J. (2000). *You Can Find Anybody!* San Diego, CA: Jodere Group (363.2336 Culligan; HV 6762 .US C85 2000).
 - Hinckley, Kathleen W. (1999). *Locating lost family members & friends: modern genealogical research techniques for locating the people of your past and present*. Cincinnati, Ohio: Betterway Books (929.1 Hinckley; CS 14 .H56 1999).
 - Johnson, R.S. (2001). *Find anyone fast*. 3rd ed. Spartanburg, SC: MIE Publishing (363.2 Johnson; HV 6762 .US J64 2001).
 - Levitt, C.A., & Rosch, Mark E. (2004). Finding and backgrounding people. In *The Lawyer's Guide to Factfinding on the Internet*. Chicago: American Bar Association (KF 242 .A1 L48 2004).
 - McConaughey, Jurisdiction and venue. In *Georgia Divorce, Alimony, and Child Custody*. (2005). Eagan, MN: Thomson West (346.758 McConaug; KFG 100 .M25 2005).
2. Try to reach an agreement with your spouse regarding custody, visitation, property division, and other relevant issues. A divorce in which the couple signs a written settlement agreement (or consent agreement) is called an *uncontested* divorce. In Georgia, an uncontested divorce can be final in as little as 31 days after filing. An uncontested divorce is simpler than a contested divorce because the judge will usually enter an order incorporating the couple's agreement without holding a hearing. Even if you and your spouse cannot reach an agreement at the time you file for divorce, you are free to work out an agreement any time before the judge's final order. The vast majority of cases settle before trial. Here are some resources which will help you reach an agreement with your spouse:
 - Lyster, Mimi E. (2003). *Child custody: building parenting agreements that work*. Berkeley, CA: Nolo Press (346.7301 Lyster; KF 547 .Z9 L97).
 - Robertson, C.T., & Haman, E.A. (2003). *How to file for divorce in Georgia*. 5th edition. Naperville, IL: Sphynx Publishing (346 Robertson; KFG 100 .Z9 R63 2003).

- Sherman, E. (2003). 7th ed. *Divorce solutions: how to make any divorce better*. Santa Cruz, CA: Nolo Press (346.7301 She; KF 524 .Z9 W66 2003).
- Woodhouse, V. (2004). *Divorce & Money: How to make the best financial decisions during divorce*. Berkeley, CA: Nolo Press (346.7301 Woo; KF 524 .Z9 W66 2004).

3. File your papers. If you and your spouse have signed a settlement agreement, your divorce papers will include this agreement. If you and your spouse cannot arrive at an agreement which can be included in your papers, you will have to file a *contested* divorce. In Georgia, a Defendant has the right to be sued in his or her county of residence. Therefore, you must file your papers with the Clerk of Superior Court in the Defendant's home county. You must be a resident of Georgia for six months before you can file for divorce. There is a filing fee which you must pay. This fee varies by county, so call your local Clerk of Court to find out the amount and the form of payment. Here are some resources which contain Georgia divorce forms:

- Bates, E.F. *Georgia Domestic Relations Forms*. Newark, NJ: LexisNexis (KFG 94 .A65 B38).
- Cobb County Law Library Forms
<http://lawlibrary.cobbcountyga.gov/forms.htm>
- Dougherty County Law Library Forms
http://www.dougherty.ga.us/law_library/LL_forms.htm
- Fulton County Family Law Information Center Forms
<http://www.fultoncourt.org/family/adobe.php>
- McConaughy, *Georgia Divorce, Alimony, and Child Custody*. (2005). Eagan, MN: Thomson West (346.758 McConaug; KFG 100 .M25 2005).
- McGough, B.B. *Georgia Divorce*. (2006). Eagan, MN: Thomson West (KFG 100 .M37 2006).
- Robertson, C.T., & Haman, E.A. (2003). *How to file for divorce in Georgia*. 5th edition. Naperville, IL: Sphynx Publishing (346 Robertson; KFG 100 .Z9 R63 2003).

4. Serve your papers.

If your divorce is uncontested, the Defendant will sign an acknowledgement of service in the presence of a notary public. If the divorce is contested, you will need to have the Defendant served. This is usually done by the sheriff's department, but not always. For more information about the various methods of services, see:

- Fulton County Family Law Information Center article, How to Serve Papers on the Opposing Party as Required by Law.
<http://www.fultoncourt.org/family/service.php>
- Weltner, P. *Georgia Process and Service with Forms*. (2000). Suwanee, GA: The Harrison Company, Publishers (KFG 534 .P7 W44 2000).

5. Gather the evidence you will need to present your case. This process is called *discovery*. In discovery, you ask your opponent for information in a legally formal way.

If your opponent refuses to supply the requested information, the Judge can hold him or her in contempt. The discovery processes you will most likely use or encounter include depositions (verbal questions asked, answered, and transcribed), written interrogatories (written questions), requests for production of documents (things like tax returns, retirement benefits statements, etc), and requests for admissions (the party is asked to admit or deny certain facts). Once you have gathered information, you must decide which witnesses to call and which exhibits (any object—paper document, photograph, receipt, letter, etc.) to use at trial. The following resources will help you as you go through the discovery process:

- Bergman, P., & Berman-Barrett, S. (2003). *Represent Yourself in Court: How to Prepare & Try a Winning Case*. Berkeley, CA: Nolo Press (347.73504 Bergman; KF 8841 .B47 2005).
- Jenkins, A.F., Pitts, R.A., & Ambler, R.R. (2004). *Georgia Civil Procedure Forms*. Newark, NJ: LexisNexis (KFG 530 .A65 J46 2004).
- Kane, M.K. (2003). *Civil Procedure in a Nutshell*. Eagan, MN: Thomson West.

6. Prepare for Trial. Without adequate preparation on your part, your trial may be postponed, or you may have an unfavorable outcome. The following resources will help you prepare for trial:

- How to Prepare Your Case for Trial. <http://www.fultoncourt.org/family/trialprep.php>
- Tips on Self-Representation. <http://www.fultoncourt.org/family/self-representation.php>
- I Present My Case video. <http://www.georgiacourts.org/aoc/selfhelp/>

7. Enforce the Judgment. In a perfect world, everyone would obey the judge's final order. In real life, many opponents ignore the judge's order to pay child support or alimony, or to sell a house and divide the proceeds. It is up to you to make sure things get done as they should. The following resources will help you enforce the judgment:

- Finestone, S. (2002). *Georgia Post-Judgment Collection with Forms*. Eagan, MN: Thomson West (KFG 551 F56 2002).
- Jones, L.N. (2000). *Georgia Legal Collections*. Suwanee, Georgia: The Harrison Company, Publishers (KFG 167 .C6 J66 2000).
- McConaughy, D.E. (2005). Enforcement of alimony and child support. In *Georgia Divorce, Alimony, and Child Custody*. Eagan, MN: Thomson West (346.758; KFG 100 .M25 2005).
- McGough, B.B. (2006). Enforcement. In *Georgia Divorce*. Eagan, MN: Thomson West (KFG 100 .M37 2006).

I don't understand all these legal words. The following legal dictionaries will help you make sense of legal terminology:

- Bryan A. Garner, ed. (1999). *Black's Law Dictionary* 7th ed. St. Paul, MN: West Group (340.03 Bla; KF 156 .B532).
- Law.com Legal Dictionary <http://dictionary.law.com/>
- Findlaw Legal Dictionary <http://dictionary.lp.findlaw.com/>
- Nolo Everybody's Legal Glossary <http://www.nolo.com/glossary.cfm>

- WWLIA Online Legal Dictionary <http://www.wwlia.org/diction.htm>

How do I research Georgia Law? As you represent yourself in court, you will have to research many times to answer questions which arise along the way. The following resources will show you how to get started:

- Cohen, M.L., & Olson, K.C. (2003). *Legal Research in a Nutshell*. Eagan, MN: Thomson West (340.072 Cohen; KF 240 .C54 2003) .
- Elias, S., & Levinkind, S. (2004). *Legal Research: How to Find & Understand the Law*. Berkeley, CA: Nolo Press (340.72 Elias; KD 392 .M35 2004).
- Georgia Resources
<http://www.law.mercer.edu/library/GeorgiaResources/GeorgiaResources.cfm>
- Johnson, N.P, Adams, N.J., & Adelman, E.G. Researching Georgia law. *Georgia State University Law Review*, 22, 381.
- Legal Research Links--Georgia Law & Government Information
<http://www.law.uga.edu/library/research/internet/georgia.html>

What organizations can give me additional information?

American Academy of Matrimonial Lawyers, <http://www.aaml.org>

American Bar Association, <http://www.abanet.org/>

American Bar Association Section of Family Law,

<http://www.abanet.org/family/home.html>

An Abuse, Rape and Domestic Violence Aid and Resource Collection,

<http://www.aardvarc.org/dv/states/gadv.shtml>

Children's Rights Council, <http://www.goerc.com>

DadsDivorce.com, <http://www.dadsdivorce.com>

Divorce Helpline, <http://www.divorcehelp.com>

DivorceLawInfo, <http://www.divorcelawinfo.com>

DivorceNet, <http://www.divorcenet.com>

DivorceSource, <http://www.divorcesource.com>

Divorce Support.com, <http://www.divorcesupport.com>

Georgia Child Support Enforcement, <http://ocse.dhr.georgia.gov/portal/site/DHR-OCSE/>

Georgia Coalition Against Domestic Violence, <http://www.gcadv.org/>

Georgia Commission on Dispute Resolution, <http://www.godr.org/index.html>

The Judicial Branch of Georgia, <http://www.georgiacourts.org/#>

KidsnCommon.com, <http://www.kidsncommon.com>

Legal Aid Georgia, <http://www.legalaid-ga.org/GA/index.cfm>

The Men's Issues Page, <http://www.mensweb.org/throop/index.html>

Martindale Hubbell Lawyer Locator, <http://www.martindale.com/>

National Center for Missing and Exploited Children, <http://www.missingkids.com>

Professional Academy of Custody Evaluators, <http://www.pace-custody.org>

The Psychologists' Custody Strategies, <http://www.custodycenter.com>

State Bar of Georgia, <http://www.gabar.org/>

State Bar of Georgia Family Law Section,

http://www.gabar.org/sections/section_web_pages/family_law/

Support Guidelines.com, <http://www.supportguidelines.com>