Frequently Asked Divorce Questions

1. How long does the divorce process take?  
  
Answer: It depends on whether the divorce is fault-based or “no fault.” In no-fault divorces, there is a statutory minimum waiting period during which a divorce decree cannot be entered. This period is 90 days from the date the complaint was filed if unmarried minor children are involved, and 60 days if there are no such children. When fault is alleged, that waiting period is removed. Parties should remember, however, that contested divorces usually take between 6--24 months from start to finish because of motions, discovery, and trial. (So, the “minimum” waiting period may actually be less than the entire process for a contested divorce.)   
  
2. Can one attorney represent both spouses if the divorce is uncontested?  
  
Answer: A firm cannot represent both parties in a divorce because it creates a conflict of interest. If both spouses have truly reached an agreement on all issues, the firm could represent one spouse and prepare all of the necessary paperwork including the agreement. The unrepresented party should be mindful, however, that if the agreement broke down, the lawyer can only represent that one party in court.  
  
3. How much does a divorce cost?  
  
Answer: Because each divorce has unique circumstances, there is no way to give a fully accurate estimate. There are two major types of costs: filing fees and attorneys’ fees. Filing fees vary in each county, and that cost may not include service of process or other court costs. Attorney’s fees vary, depending on the rates charged by the individual attorney and how intricate the case is. An uncontested divorce is generally much less expensive. A contested divorce is more difficult and involves more work. The attorney handling the divorce will outline all of the costs involved in the legal services contract.

4. What is the process if we settle our divorce?

Answer: If the parties choose to settle their divorce, they must sign a notarized settlement agreement. The settlement agreement must:  
(1) Specifically refer to the pending divorce by stating the docket number and court name, or  
(2) Affirm that the Defendant recognizes the divorce will be filed in Tennessee; and  
(3) Include a waiver from the Defendant of service of process and of filing an answer.

Any waiver of service is valid for 120 days after the Defendant signs the agreement, and this will give the court jurisdiction over the parties. Once an agreement is signed and filed with the court, a final decree of divorce may be entered by the court without the need of further proof or testimony by either party. (Note: The divorce petition must have been filed for 60 days before a hearing can be held if no children are involved and 90 days if the parties have children.)

5. What if my spouse doesn’t respond to the complaint?

Answer: A d**efault divorce** can be entered when the spouse who has been served with divorce pleadings fails to respond to the pleadings within the required time (usually 30 days). That spouse is deemed to have defaulted on the case. The spouse who filed for divorce can then be awarded whatever relief he or she requested in the original pleadings.

6. Can I return to my maiden name?

Answer: A wife may request to return to her maiden or former name. The Court can include such a provision as long as it is specifically requested by the wife.