Knowledge Center Guide

How Divorce Works in North and South Carolina

Quick Summary

- Both NC and SC require spouses to live separately before filing for divorce, but the grounds, timelines, and court processes differ meaningfully between the two states
- North Carolina is primarily a no-fault state — the only practical ground for divorce is one year of separation
- South Carolina recognizes both no-fault divorce (one-year separation) and fault-based grounds including adultery, physical cruelty, and habitual drunkenness
- Divorce resolves the legal end of marriage, but property division, alimony, child custody, and support are separate legal issues that must be addressed alongside or before the divorce is finalized

Individuals and families in North and South Carolina facing divorce benefit from understanding both the legal process and the key decisions that will shape their financial and family futures for years to come.

Families in North Carolina and South Carolina often begin researching divorce law before formally separating in order to understand timelines, financial consequences, and custody considerations.

> **How Long Does Divorce Take in NC or SC?** Most divorces in North Carolina and South Carolina require at least one year of separation before filing. Once the separation requirement is satisfied, uncontested divorces are often finalized within one to three months after filing, while contested divorces may take significantly longer.

What Does the Divorce Process Involve?

> **What Is Divorce?** Divorce — also called dissolution of marriage — is the legal termination of a marriage. It addresses both the marital status and related legal issues of the parties, including property division, spousal support, and parenting arrangements.

Divorce (also called dissolution of marriage) is the legal process that ends a marriage and resolves related legal issues such as property division, alimony, child custody, and child support.

Who This Guide Is For

- Individuals who are considering separation or divorce
- Those who want to understand how the divorce process works in NC or SC
- Anyone who needs to know how property, support, or custody may be handled
- Individuals who want to understand timelines and legal requirements before filing

This guide is for educational purposes only and does not constitute legal advice.

A guide for individuals and families navigating the divorce process in North Carolina and South Carolina.

What This Guide Covers

- The legal requirements for filing for divorce in NC and SC
- The step-by-step divorce process in each state
- How property, debt, and alimony are handled
- How child custody and support are determined
- The key differences between NC and SC divorce law
- What to expect in terms of timeline and cost

Deciding to end a marriage is one of the most significant legal and personal decisions a person can make. The divorce process involves far more than simply filing paperwork — it addresses legal rights and obligations that arise from the marriage, including the division of property and debt, spousal support, and if children are involved, custody and child support arrangements.

Both North Carolina and South Carolina require that spouses live separately before a divorce can be granted, but the two states differ in important ways: their grounds for divorce, the role of fault in financial outcomes, the court systems involved, and the procedural steps required. Understanding those differences — and how they apply to your situation — is essential to making informed decisions at every stage of the process.

Family law attorneys in North Carolina and South Carolina regularly guide individuals and families through the divorce process, helping clients protect their financial interests, secure appropriate custody arrangements, and reach outcomes that position them well for the future.

Quick Comparison: Divorce in NC vs. SC

Feature	North Carolina	South Carolina
Residency requirement	6 months (one spouse)	3 months (both residents) or 1 year (one resident)
Grounds for divorce	No-fault only: 1-year separation	No-fault (1-year separation) and fault-based grounds
Fault affects property division?	No	Yes — marital misconduct may be considered by the court
Fault affects alimony?	Yes — adultery can be outcome-determinative under NC law	Yes — adultery generally bars a spouse from receiving alimony if they committed adultery before a formal separation
Court handling divorce	District Court	Family Court
Property division standard	Equitable distribution	Equitable distribution
Legal separation recognized?	No formal status	No formal status; separation agreements available

Typical uncontested timeline	Often 30–60 days after filing once the one-year separation requirement has been satisfied	Often 60–90 days after filing once the one-year separation requirement has been satisfied
Child support guidelines	NC Child Support Guidelines	SC Child Support Guidelines (Income Shares)

Key Concepts That Apply in Both States

What Divorce Does and Does Not Resolve

In both NC and SC, a divorce decree legally ends the marriage and restores both parties to single status. However, the divorce itself does not automatically resolve all related issues. Property division, alimony, and child-related matters are handled through separate proceedings or must be resolved — either by agreement or court order — as part of the overall divorce process. Failing to address these issues before or at the time of the divorce can result in losing certain legal rights entirely.

> **Important:** In North Carolina, claims for equitable distribution of property and alimony must be filed before the divorce is granted — or those rights may be permanently waived. Do not file for or finalize a divorce in NC without first consulting an attorney about protecting your financial claims.

Separation vs. Divorce

Neither North Carolina nor South Carolina recognizes a formal legal separation status the way some other states do. There is no court filing required to be "separated" — the parties simply begin living in separate residences with the intent that the marriage is over. The date of separation is legally significant because it starts the clock on the required separation period and, in both states, determines what assets and debts are classified as marital versus separate property.

A separation agreement — a written contract between the spouses — can memorialize agreements on property, finances, and parenting during the separation and can often be incorporated into the final divorce decree. While a separation agreement is not required, it can provide important legal protection for both parties during the period between physical separation and the final divorce.

Contested vs. Uncontested Divorce

A divorce is "uncontested" when both spouses agree on all issues — the divorce itself, property division, alimony, and any child-related matters. Uncontested divorces are generally faster and significantly less expensive than contested ones. In many uncontested cases, the parties negotiate a settlement agreement, which the court then approves and incorporates into the final divorce order.

A "contested" divorce occurs when the parties cannot agree on one or more issues and require the court to decide. Contested divorces can involve formal discovery, depositions, and in some cases expert witnesses, and ultimately a trial. They are typically far more time-consuming and expensive, and the outcomes are less predictable than a negotiated settlement.

Equitable Distribution of Marital Property

Both North Carolina and South Carolina are equitable distribution states. This means that marital property is divided fairly between the spouses — but not necessarily equally. Courts in both states consider a range of factors to determine what division is appropriate given the specific circumstances of the marriage.

Marital property generally includes assets and debts acquired by either spouse during the marriage, regardless of whose name is on the title. Separate property — assets owned before the marriage, or received as gifts or inheritances during the marriage — generally remains with the original owner, provided it has not been commingled with marital assets.

Common marital assets subject to division include the marital home, bank and investment accounts, retirement accounts, business interests, and vehicles. Properly documenting the nature and value of assets — and distinguishing marital from separate property — is one of the most important and often contested aspects of a divorce.

Alimony and Spousal Support

Courts in both states may award alimony — also called spousal support — when one spouse is financially dependent on the other and needs support after the marriage ends. The amount, duration, and form of alimony vary based on factors including the length of the marriage, the standard of living during the marriage, each spouse's income and earning capacity, and the age and health of both parties.

Fault — particularly adultery — plays a significant role in alimony determinations in both NC and SC, though the specific rules differ between the two states. Understanding how fault affects your alimony rights or obligations is one of the most important reasons to consult with an attorney early in the process.

Child Custody

When minor children are involved, custody is determined based on the best interests of the child standard in both states. Courts consider factors including each parent's relationship with the child, each parent's ability to meet the child's needs, the child's adjustment to home, school, and community, and any history of domestic violence or substance abuse.

Custody has two components: physical custody (where the child lives) and legal custody (the right to make decisions about the child's education, healthcare, and upbringing). Courts in both states generally encourage arrangements that allow both parents to remain actively involved in the child's life, absent safety concerns.

Child Support

Child support in both states is calculated using guidelines that consider each parent's income, the custody arrangement, and specific costs such as health insurance and child care. Support is generally set to continue until the child reaches the age of majority, though it may be extended in certain circumstances. Either parent may seek a modification of child support if there is a substantial change in circumstances.

How Divorce Works in North Carolina

Residency Requirements

To file for divorce in North Carolina, at least one spouse must have been a resident of the state for a minimum of six months immediately before the divorce complaint is filed. Only one spouse needs to meet this requirement — the other spouse may live in a different state.

Grounds for Divorce in NC

North Carolina is primarily a no-fault divorce state. There is one principal ground for absolute divorce:

- One-year separation: The spouses must have lived separate and apart — in different residences — for at least one continuous year, with at least one spouse intending that the separation be permanent.

North Carolina also technically recognizes divorce on the ground of incurable insanity after three years of separation, but this ground is rarely used in practice.

Importantly, fault — such as adultery, abandonment, or abuse — is not a ground for absolute divorce in North Carolina. However, fault is relevant in proceedings for alimony and post-separation support, where it can be outcome-determinative.

> ***Note:*** *North Carolina does not require any court filing or judicial approval during the separation period. The spouses simply need to live in separate residences. However, the date of separation is legally significant and may be disputed, so keeping records of the separation date is advisable.*

Divorce from Bed and Board

North Carolina also recognizes a “divorce from bed and board,” which is a court-ordered legal separation — not a true divorce. It can be granted on fault grounds such as abandonment, cruelty, adultery, or substance abuse. A divorce from bed and board does not end the marriage or allow either party to remarry, but it can resolve certain property and support rights between the spouses. This remedy is infrequently sought compared to absolute divorce.

Step-by-Step: The NC Divorce Process

Step 1: Separation

Before filing for divorce, the spouses must have lived in separate residences for at least one full year with the intent that the marriage is over. The one-year period must be continuous — any resumption of cohabitation during the period generally resets the clock. The separation date is established by the facts, not by any court filing.

Step 2: Filing the Complaint

After completing one year of separation, either spouse may file a Complaint for Absolute Divorce in the District Court of the county where either spouse resides. The complaint states that the parties have been separated for the required period and requests that the court grant the divorce. Filing fees are typically in the range of $225–$250.

Step 3: Service and Response

The non-filing spouse must be formally served with the divorce papers. The defendant has 30 days to file a response. In most uncontested divorces, the defendant does not contest the divorce itself, though they may still have separate claims for property or alimony that must be resolved.

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Step 4: Addressing Property, Alimony, and Custody

This step is critical and often misunderstood. In North Carolina, equitable distribution of property, alimony, and child custody are not automatically part of the divorce filing — they are handled through separate legal claims that must be filed before the divorce is granted. If a spouse fails to file these claims before the divorce is finalized, the right to seek equitable distribution or alimony may be permanently lost.

Parties who have reached agreement on all issues may execute a Separation Agreement and Property Settlement that resolves all financial and parenting matters. This agreement can be incorporated into the divorce decree, making it a court order enforceable as such.

Step 5: The Divorce Hearing

In an uncontested divorce where all issues have been resolved, the divorce may be granted through a brief hearing or, in many counties, by submission of an affidavit without a formal hearing. The judge reviews the complaint and, if the requirements are satisfied, enters a Judgment of Absolute Divorce. The marriage is legally ended at that point.

In a contested divorce involving unresolved financial or custody disputes, the divorce itself can still be granted once the one-year separation is established, but the related claims proceed separately through discovery, mediation, and potentially trial.

Equitable Distribution in NC

North Carolina courts begin with a presumption that an equal (50/50) division of marital property is equitable. Either party may argue for an unequal division based on statutory factors including:

- The duration of the marriage
- The income, property, and liabilities of each spouse
- The contributions of each spouse to the acquisition of marital property, including contributions as a homemaker
- Whether the supporting spouse contributed to the other's education, training, or earning power
- Tax consequences of the proposed distribution
- Acts of either spouse to waste, neglect, or dissipate marital assets

The date of separation is used to classify assets and debts as marital or separate. Assets acquired after separation, and debts incurred after separation, are generally treated as separate property.

Alimony in NC

North Carolina courts may award alimony when one spouse is a "dependent spouse" and the other is a "supporting spouse." The role of fault in NC alimony is significant:

- If the supporting spouse committed adultery, alimony is generally mandatory.
- If the dependent spouse committed adultery, they are barred from receiving alimony entirely.
- If both spouses committed adultery, the court has discretion to award or deny alimony.

The amount and duration of alimony are determined by factors including the length of the marriage, the standard of living during the marriage, the earning capacity and financial needs of each spouse, and the age and health of both parties. Post-separation support — a form of

temporary alimony available while the divorce is pending — may also be sought to provide immediate financial assistance to a dependent spouse before a final alimony order is entered.

Child Custody and Support in NC

North Carolina courts determine custody based on the best interests of the child. Both parents may seek physical and legal custody, and courts strongly favor arrangements that maintain meaningful involvement by both parents absent safety concerns. Child support is calculated using the North Carolina Child Support Guidelines, which use an income shares model considering the gross income of both parents, the custody arrangement, and costs of health insurance and work-related child care.

Timeline and Cost in NC

Because of the mandatory one-year separation period, divorce in NC takes at minimum one year from the date of separation. Once the year has elapsed and a complaint is filed, an uncontested divorce can often be finalized within 30 to 60 days. Contested divorces can take considerably longer — sometimes two to three years or more from separation to final resolution.

Filing fees are approximately $225–$250. A simple uncontested divorce may cost a few hundred to a few thousand dollars in legal fees, while a fully contested divorce with financial experts, depositions, and trial can cost tens of thousands of dollars or more.

> **NC Planning Tip:** Because NC requires financial claims to be filed before the divorce is granted, do not assume that filing for or obtaining a divorce is a simple administrative step. A divorce attorney should review your situation — including your property, retirement accounts, and any alimony claims — before any filings are made.

How Divorce Works in South Carolina

Residency Requirements

South Carolina's residency requirements depend on whether both spouses are SC residents:

- If both spouses are residents of South Carolina: At least one must have lived in SC for at least three months before filing.
- If only one spouse is a resident of South Carolina: That spouse must have lived in SC for at least one year before filing.

Grounds for Divorce in SC

South Carolina recognizes both no-fault and fault-based grounds for divorce — a key distinction from North Carolina. The available grounds are:

- No-fault: One year of continuous separation, living apart without cohabitation.
- Adultery: Proof of sexual relations outside the marriage.
- Physical cruelty: A pattern of physical abuse.
- Habitual drunkenness or drug use: A pattern of substance abuse that renders the marriage intolerable.
- Desertion: Abandonment of the marriage for at least one year.

The availability of fault-based grounds means it is possible in some cases to seek a divorce without waiting the full one-year separation period. However, fault-based divorces require proof, which can make them more expensive and contentious. Many SC couples ultimately file on no-fault grounds after completing the one-year separation, even when fault exists.

> **NC vs. SC:** South Carolina's fault-based grounds for divorce have no equivalent in North Carolina, where the one-year no-fault separation is the only practical ground. This difference affects not just the divorce timeline but also the strategic approach to alimony and related financial claims.

Step-by-Step: The SC Divorce Process

Step 1: Meeting Residency and Grounds Requirements

Before filing, the filing spouse must satisfy SC's residency requirement and have grounds for divorce. For no-fault divorce, the one-year separation period must have been completed. For fault-based grounds, the filing spouse must be prepared to prove the grounds in court, which typically requires documentation, witnesses, or other evidence.

Step 2: Filing the Summons and Complaint

A divorce action in South Carolina begins with the filing of a Summons and Complaint for Divorce in the Family Court of the county where either spouse resides. South Carolina has a unified Family Court system that handles all family law matters — divorce, property division, alimony, custody, and support — together in a single proceeding. This is an important distinction from North Carolina, where these claims are often handled in parallel but separate proceedings. Filing fees are typically in the range of $150–$200.

Step 3: Service and Answer

The defendant spouse must be served with the Summons and Complaint and generally has 30 days to file an Answer. In uncontested cases, the defendant may sign an Acceptance of Service and agree not to contest the action.

Step 4: Temporary Orders (if needed)

If immediate issues need to be addressed while the divorce is pending — including temporary custody, child support, use of the marital home, or payment of ongoing marital expenses — either party may request a temporary hearing before the Family Court judge. Temporary orders remain in effect until replaced by a final order.

Step 5: Discovery and Negotiation

In contested divorces, both parties may engage in formal discovery — exchanging financial documents, responding to interrogatories, and in complex cases conducting depositions. Most SC divorces are settled through negotiation before reaching trial. A Marital Settlement Agreement documenting all agreed terms can be submitted to the court for approval and incorporation into the final order.

Step 6: Mediation

South Carolina Family Courts generally require mediation before a contested case proceeds to trial. Mediation involves both parties and their attorneys meeting with a neutral mediator to attempt to resolve outstanding disputes. Many cases that appear headed to trial are resolved at

or before mediation. If mediation fails to resolve all issues, the unresolved matters proceed to trial.

Step 7: Final Hearing and Divorce Decree

For an uncontested divorce, the final hearing is typically brief. The filing spouse testifies before a Family Court judge that the grounds for divorce have been met. The judge then issues a Final Order and Decree of Divorce. For contested matters unresolved by agreement, the judge issues a written order following trial that resolves all disputed issues.

Equitable Distribution in SC

South Carolina courts divide marital property equitably, considering a broad range of statutory factors. Unlike North Carolina, SC does not begin with a presumption of equal division — the court seeks a fair result based on all relevant circumstances. Factors include:

- The duration of the marriage
- The marital misconduct or fault of either spouse (fault is relevant to property division in SC, unlike NC)
- The value of marital property and each spouse's contribution to its acquisition
- Each spouse's income, earning potential, and financial circumstances
- Non-economic contributions, including homemaking and child-rearing
- The tax consequences of the proposed division
- Whether either spouse dissipated or wasted marital assets

Separate property — assets owned before the marriage or received as gifts or inheritance during the marriage — is generally not subject to division, unless it has been commingled with marital property.

Alimony in SC

South Carolina courts may award several forms of alimony, including periodic alimony, rehabilitative alimony, lump-sum alimony, and reimbursement alimony. As in North Carolina, adultery plays a decisive role:

- A spouse who committed adultery is generally barred from receiving alimony.
- A spouse whose partner committed adultery may have a stronger claim for alimony as a result.

SC periodic alimony is modifiable upon a substantial change in circumstances and terminates upon the death of either party or the remarriage of the recipient. Cohabitation of the recipient spouse in a romantic relationship may also be grounds to reduce or terminate periodic alimony.

Child Custody and Support in SC

South Carolina Family Courts determine custody based on the best interests of the child. Parenting plans detailing custody schedules, holiday arrangements, and decision-making processes are required in all cases involving minor children. Child support is calculated under the SC Child Support Guidelines using an income shares model that considers both parents' gross incomes, the custody arrangement, and costs for health insurance and child care.

Timeline and Cost in SC

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For no-fault divorce based on one-year separation, the process takes at least one year from the date of separation. Once the grounds are established and the complaint is filed, an uncontested SC divorce can typically be finalized within 60 to 90 days. Contested divorces typically take 12 to 24 months from the date of filing to final resolution, and complex cases can take longer.

Filing fees are approximately $150–$200. Attorney fees vary significantly: a negotiated uncontested divorce may cost a few thousand dollars in legal fees, while a fully litigated contested divorce with financial experts or custody evaluators involved can cost significantly more.

> **SC Planning Tip:** Because South Carolina's Family Court handles all divorce-related issues together — including property, alimony, custody, and support — it is important to have a complete picture of all your claims and objectives before filing. A family law attorney can help you evaluate whether fault-based grounds may affect your strategic position on alimony or property division.

NC vs. SC Divorce: Key Differences

Grounds for Divorce

North Carolina's only practical ground for divorce is the one-year no-fault separation. South Carolina offers both no-fault divorce (one-year separation) and fault-based grounds including adultery, cruelty, habitual drunkenness, and desertion. Fault-based grounds can shorten the timeline in SC but require proof and often increase conflict and cost.

Role of Fault in Financial Outcomes

In North Carolina, fault does not affect property division but is highly significant in alimony determinations — particularly adultery, which either mandates or bars alimony. In South Carolina, fault is relevant to both property division and alimony, giving the court broader discretion to consider marital misconduct in financial outcomes.

Court System

North Carolina divorces are filed in District Court, with property and alimony claims often pursued in parallel through separate proceedings. South Carolina has a dedicated Family Court that handles all divorce-related matters together in a unified proceeding, which can be more efficient when multiple issues need to be resolved at the same time.

Filing and Handling of Financial Claims

In North Carolina, equitable distribution and alimony claims must be filed before the divorce is granted — or they are permanently waived. In South Carolina, all claims are part of the same Family Court proceeding, reducing the risk of inadvertently losing financial claims by finalizing the divorce prematurely.

Residency Requirements

North Carolina requires six months of residency for at least one spouse before filing. South Carolina requires three months if both spouses are SC residents, or one year if only one spouse is a resident.

Mediation

South Carolina Family Courts generally require mediation before a contested case can proceed to trial, making it a formal step in the SC process. While mediation is available in NC cases, it is not uniformly required in the same way.

Protecting Your Interests Through the Divorce Process

Document Your Financial Picture Early

One of the most important steps at the outset of a divorce is to gather complete and accurate financial documentation: bank statements, tax returns, investment and retirement account statements, mortgage and debt records, and documentation of any separate property owned before the marriage or received as a gift or inheritance. This documentation forms the foundation of your financial claims and is far easier to obtain at the beginning of the process than later.

Understand the Date of Separation

In both NC and SC, the date of separation is legally significant — it determines when the clock starts on the required separation period, establishes the boundary between marital and separate property, and may affect the calculation of alimony. If the separation date is disputed, contemporaneous records — such as lease agreements, utility bills, or correspondence — can be important evidence.

Address Retirement Accounts Carefully

Retirement accounts accumulated during the marriage are marital property in both states and are subject to equitable distribution. Dividing these accounts requires a Qualified Domestic Relations Order (QDRO) — a specialized legal order that must be carefully drafted and submitted to the plan administrator to avoid tax penalties and ensure proper division. Errors can be costly and difficult to correct after the fact.

Consider Tax Implications

The way marital property is divided, how alimony is structured, and how retirement accounts are transferred all have tax implications that can materially affect the real-world value of a settlement. Working with your attorney and, where appropriate, a financial advisor or accountant to understand the after-tax consequences of proposed settlement terms is important before finalizing any agreement.

Think Long-Term on Custody Arrangements

Custody arrangements put in place at the time of divorce tend to persist unless a parent can demonstrate a substantial change in circumstances. A thoughtfully designed parenting plan — one that accounts for each parent's work schedule, the child's school and activities, holiday and vacation time, and decision-making processes — can reduce future conflict and provide the stability children need during and after the transition.

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Steps to Take Early in the Divorce Process

- Consult with a family law attorney before making any filings or significant financial decisions
- Gather complete financial documentation: bank statements, tax returns, retirement accounts, property records, and debt records
- Record the date of separation and keep documentation supporting it
- Avoid transferring, hiding, or dissipating marital assets — courts may view this conduct negatively in both states
- In NC, make sure financial and alimony claims are filed before the divorce is finalized
- If children are involved, prioritize their stability and keep communications with the other parent focused and businesslike

Divorce is rarely simple, but understanding the process, protecting your rights at each step, and approaching the proceeding with a clear sense of your goals can make a meaningful difference in the outcome. The decisions made during a divorce have long-term consequences for your finances, your relationship with your children, and your future.

Many individuals begin researching divorce law before formally separating. Understanding the legal framework early can help individuals make more informed decisions about finances, parenting arrangements, and the timing of a divorce filing.

Questions About Divorce in North Carolina or South Carolina?

Whether your divorce is straightforward or involves complex property, significant assets, business interests, or custody disputes, consulting experienced legal counsel early in the process can help clarify your options and protect your interests. The decisions made at the outset of a divorce often shape the entire proceeding.

If you have questions about divorce, separation, property division, alimony, or child custody in North Carolina or South Carolina, our attorneys are available to help you understand your options and develop a strategy tailored to your situation.

► Schedule a Consultation

Related Knowledge Center Guides

- Uncontested vs. Contested Divorce
- Divorce Timeline and Key Steps
- How Long Divorce Takes
- How Much Divorce Costs
- How Child Support Is Calculated
- Spousal Support / Alimony
- Equitable Distribution Explained

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- Dividing Retirement Accounts
- How Custody Decisions Are Made
- Parenting Plans Explained
- High-Asset Divorce Overview
- Debt Division in Divorce
- Tax Implications of Divorce Settlements

This guide is intended for general educational purposes only and does not constitute legal advice. Family law is highly fact-specific and laws may change. Please consult a licensed attorney in North Carolina or South Carolina for advice tailored to your situation.

Frequently Asked Questions About Divorce in NC and SC

Do I have to go to court to get divorced?

In many uncontested cases, you may not need to appear in court personally, or the hearing may be very brief. In North Carolina, some uncontested divorces are granted by affidavit without a formal court appearance. In South Carolina, the filing spouse typically appears briefly before a Family Court judge to confirm the grounds for divorce. Contested divorces involving disputed property, alimony, or custody issues will generally require court appearances for hearings or trial.

Can I get divorced faster than one year in SC by using fault grounds?

Yes. South Carolina's fault-based grounds — adultery, physical cruelty, habitual drunkenness, and desertion — do not require the one-year separation period. However, proving fault grounds requires evidence, which can increase the complexity, cost, and conflict of the proceeding. Whether pursuing fault-based grounds is strategically advantageous depends on your specific situation and goals. An attorney can help you evaluate this question.

Will the court divide our property 50/50?

Not necessarily. Both NC and SC are equitable distribution states, meaning property is divided fairly — but not automatically equally. North Carolina begins with a presumption of equal division that either party can argue against. South Carolina does not start with that presumption and simply seeks a fair result based on all relevant factors. In both states, the length of the marriage, each spouse's contributions, and other circumstances influence the outcome. Most divorces resolve property division through a negotiated settlement rather than a court decision.

Does it matter who files for divorce first?

Generally, filing first does not confer a major tactical advantage in either state. The substantive outcome of property division, alimony, and custody is not determined by who filed. However, filing first can affect the venue (county where the case is heard) if the parties live in different counties, and in some circumstances the filing party presents their case first at trial. An attorney can advise whether filing first has any strategic significance in your specific situation.

Can we use the same attorney for an uncontested divorce?

No. An attorney represents one client and owes that client undivided loyalty. An attorney cannot represent both spouses in a divorce, even an amicable one. In an uncontested divorce where the parties have already agreed on all terms, one spouse may use an attorney while the other

represents themselves, or each party may have their own attorney review the agreement before signing. Some couples use a mediator to help negotiate terms and then have separate attorneys review the resulting agreement.

What happens to the family home in a divorce?

The family home is often the most significant marital asset. In a divorce, the options typically include one spouse buying out the other's equity and keeping the home, selling the home and dividing the proceeds, or in cases involving minor children, allowing one parent to remain in the home temporarily until the children reach a certain age or finish school. Each option has financial, tax, and practical implications that should be considered carefully. If there is a mortgage, the lender's cooperation is also required for any transfer or refinance.

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