

## **Your rights in regard to Marriage and Divorce**

### **What are my rights if I want to get married?**

You must be at least 17 years old to get married with the consent of a parent. You must be at least 19 years old to marry without parental consent. You must apply for a marriage license. The marriage ceremony must be performed by an authorized person, such as a minister, priest, rabbi, or judge.

### **I have just been served with papers saying that my spouse wants a divorce! What do I do?**

You should contact a lawyer right away if there are any issues about which you and your spouse disagree. For example, if there is any disagreement over child custody, visitation, child support, division of joint property or division of joint debts, you need a lawyer.

### **What are my rights if my spouse wants a divorce?**

Nebraska divorce law is based on the principle of "no-fault divorce." This means that a person need not assert specific grounds for the divorce (such as desertion, adultery, etc.) but need only show that the marriage is "irretrievably broken" and that all attempts at reconciliation have failed. One spouse must file a petition to dissolve the marriage. There is a statutory waiting period of 60 days before the parties can go to court. During this time, the parties and their lawyers try to resolve questions regarding child custody, visitation, child support, and division of property and debts.

### **Do I have the right to have a lawyer appointed for me?**

No. Divorce is a civil matter and the court will not appoint a lawyer for you even if you cannot afford a lawyer. The Constitutional right to a lawyer only applies in cases where a person is charged with a crime where there is the possibility of imprisonment. The following web page has forms and information to assist you. <http://www.supremecourt.ne.gov/mediation/parenting-divorce.shtml>

### **How soon may I remarry after a divorce?**

You may remarry six months after the date the divorce decree has been file stamped by the District Court Clerk, or if your former spouse dies, if sooner than six months.

### **What rights do I have with regard to child custody in a divorce?**

Neither the mother nor the father has any greater rights than the other parent just because she or he is the father or mother. Child custody is determined based on what the court finds to be in the best interests of the children. There are a number of factors that the court may look to in determining what would be best for the children.

### **What is an annulment?**

Annulment can be obtained in situations where the original marriage was illegal: for example, if either party was still married to someone else at the time of the marriage in question. Annulment may also be available if one of the parties was impotent or mentally ill at the time of the marriage, or if one of the parties used fraud or force to coerce the other party into marriage. A marriage can be annulled if the parties were too closely related to one another to be able to marry under Nebraska law. The procedure for an annulment is the same as that for a divorce, except that the annulment becomes final immediately upon entry of the court order.

### **What is legal separation?**

A legal separation resolves all the issues of the marriage just as a divorce does, including child custody, child support, visitation, and division of property and debts. However, when the decree of legal separation is entered, the parties are still married and may not remarry. The procedure for a legal separation is the same as that for a divorce.

### **What are my rights regarding my child if the child's other parent and I were never married?**

Either parent is considered to be an appropriate person to have custody of his or her child, unless a court finds otherwise. If there is no court order identifying which parent should have custody, either parent can claim custody of his or her child. To guarantee that there is no misunderstanding regarding who is the custodial parent, some unmarried parents seek to have custody established through a court action. This is similar to the action taken to determine custody in a divorce case, except there is no divorce. If you wish to establish your custody, you need to be represented by a lawyer. Just as with custody arrangements in divorces, in relationships where one unmarried parent has custody, the other parent has the right to request visitation and has the duty to help support his or her child.