

TEMPORARY RELIEF

(WHAT THE COURT CAN DO WHILE THE
DIVORCE ACTION IS PENDING)

What Can the Court do after the Divorce has been Filed?

Once a divorce Complaint has been filed in the Court and you and your spouse cannot agree on how to arrange your lives while the Divorce is pending, the court may impose what is known as an "**Interim Domestic Order**" which sets forth terms appropriate for a Temporary Order in almost any case. It prohibits either party from unilaterally taking custody of children, taking possession or disposing of bank accounts and other financial assets, and requires insurance coverage and other household systems to remain in place. Its effect is to stabilize the situation while parties begin to sort out the issues. While it can be modified to suit the case at a hearing for a Temporary Order, experience has shown that it has significantly reduced the need for temporary hearings as it addresses the majority of issues that arise in all cases.

You may ask the Court to make temporary orders in the following areas:

NOTE: The Court will set child support hearings without requests of the parties and the Court will order child support while the divorce is pending (See #7 Child Support).

1. Separation.

You and your spouse may have stopped living as husband and wife but live under the same roof. A spouse may ask the Court to order the other spouse to leave the residence when the level of interpersonal tension and friction is high and would justify the two spouses to live separate and apart.

2. Possession of the marital home.

A spouse may request the Court to order that one spouse be allowed to live in the marital home and that the other spouse has to temporarily move out of the home until such time that final decision is made regarding how the spouses can fairly divide the residence and other property owned. These are some of the factors considered by the Court in ordering possession of the residence:

- Who has physical responsibilities for the children, if any, and what would be in the best interests of the children;
- The financial status of each spouse and the opportunity to find other housing;
- The emotional costs to each spouse and or their children of continuing to live together; and
- Physical harm or fear of such harm to either spouse and/or their children.

3. Spousal Maintenance (Alimony)

When one spouse lacks sufficient resources (income and/or property) to provide for his or her reasonable needs, is unable to support him or herself through employment at the standard of living established in the marriage, or is the custodial parent for the children, such spouse may request a Temporary Order for spousal maintenance. (See #9 Spousal Maintenance)

4. Issues regarding children of the marriage

Such as parental rights and responsibilities and parent child contact. (See #4 Parental Rights and Responsibilities)

5. Possession of personal property

Such as cars, tools, clothing, furniture, etc. In dividing personal property the Court attempts to make the two new households functional while protecting the children.

6. Payments of debts

(Who shall pay the mortgage, taxes and insurance on the residence, who shall pay the credit cards and other bills of the marriage).

Any other issue over which the Court will be making a final decision in your divorce.

How *Temporary* is a Temporary Order?

- A Temporary Order is effective until the Court changes it. A lot of temporary decisions are changed in the Final Order. The purpose of a Temporary Order is to have an orderly separation until final decisions can be made about children, support and division of property and debts

**You can obtain helpful information, as well as court forms at:
www.VermontJudiciary.org.**