Your Short Guide to Navigating a California Divorce

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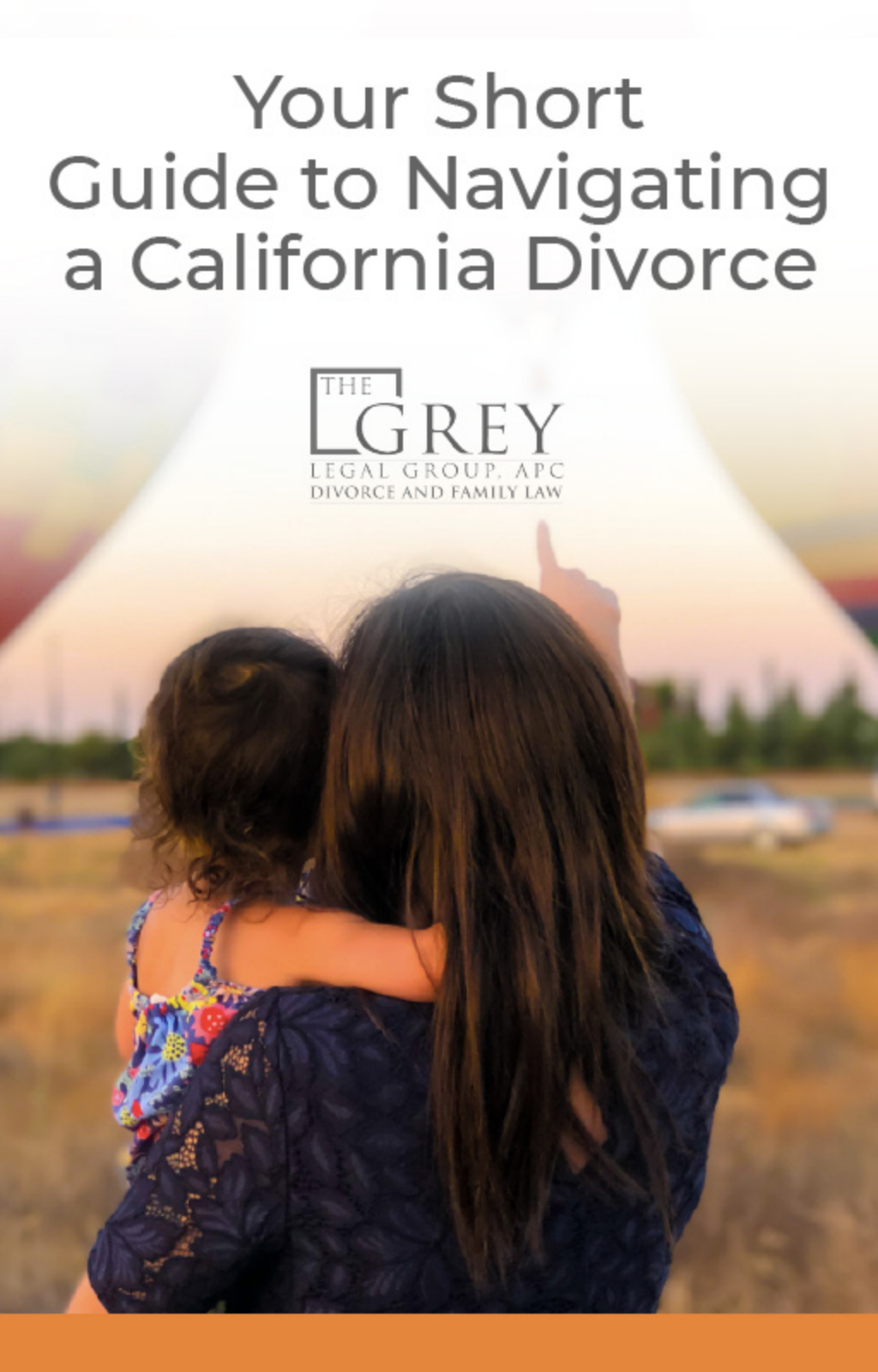

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Your Short Guide to Navigating a California Divorce

When it comes to divorce, many people feel like they have to expect the unexpected. Lawyers are trained to navigate the many twists and turns that can happen in a California divorce, but for you—the person who is actually going through the divorce—the process can understandably become overwhelming. Thankfully, you don't have to go in blind. Let's take a look at the basics of California divorce to make sure you're fully equipped with the information you need.

What You Need to Know Before Filing

There are a few things you'll need to understand before you file for divorce. For one, California is a no-fault divorce state. That means from a legal perspective, no one is to blame for your divorce—your petition will almost always be based on

irreconcilable differences. In other words, you only need to show that your marriage has broken down (instead of arguing that one of you caused it to happen).

California also has a residency requirement for divorce, meaning at least one of you must have been living in the state for six months before filing a petition. You must also live in the county where you file the petition for at least three months beforehand. Once the non-filing spouse is served with the petition or appears in court, a California court can grant a divorce in as early as six months if all requirements are met.

The Alternative to Divorce

If you're not sure about getting a divorce, you might consider the option of a legal separation. You might choose legal separation to give yourself more time and space to think about divorce, to stay

married for religious reasons, or to keep some of the practical benefits of marriage (such as health insurance).

Legal separation involves many of the same steps and formalities you would see in a divorce. You'll still have to file paperwork; decide on child custody and visitation, child support, alimony, and property division (either in court or negotiated between yourselves); and get a judgment in court to finalize your legal separation. If you have questions or concerns about the process, you should discuss your situation with an attorney.

Contested vs. Uncontested Divorce

When most people picture divorce, they typically think of the contested divorce model that brings couples to court over their disagreements. Because divorce proceedings can be costly, time-consuming, and complicated, some

couples opt for the alternative. Uncontested divorce, or summary dissolution as it's called in California, can speed up and simplify the divorce process while keeping legal costs low.

For summary dissolution to work, you need to be able to cooperate with your ex-spouse and come to your own agreements about divorce issues like property division. You'll also need to meet a set of requirements. For example, you cannot have minor children, your marital assets must be worth less than a specific total, and you must have been married for less than five years before you separated. You should check in with a family lawyer to see if you meet the other requirements.

General Steps in the Divorce Process

• Step 1: Decide how to end your marriage or domestic partnership (either by divorce, legal separation, or annulment). Figure out

if you qualify for summary dissolution.

• Step 2: If possible, have a conversation with your spouse to see if you can come to an agreement on your divorce issues. You may be able to hire a mediator and save time going in and out of court. If you're worried about your safety, skip this step and speak with a lawyer or domestic violence counselor immediately.

• Step 3: File the required forms with the appropriate courthouse in your county and pay your filing fees.

• Step 4: The non-filing spouse (or respondent) must be served with copies of the divorce papers. Once the respondent has filled out the "proof of service" form, you must file them with the court clerk.

• Step 5: The respondent has an opportunity to file a response with the court within 30 days to provide his or her

side of the story. As the filing spouse (or petitioner), you must be served with the response.

• Step 6: You must both exchange your financial documents to prove what assets you own and what debts you owe. This step is called “preliminary declaration of disclosure.”

• Step 7: The court must sign a judgment before you can become officially divorced or legally separated. The process will depend on whether you and your ex-spouse can reach any agreements about your divorce issues. If you can’t agree, you will have to decide your issues in court. If you can cooperate, you may be able to avoid the courtroom entirely.

• Step 8: Once 6 months have passed after the respondent was served, and if you have finished all of the necessary steps and paperwork (your judgment has been

filed), your divorce will be finalized and entered by the court.

Disclosing Your Finances

The “preliminary declaration of disclosure” step can be confusing and time-consuming, so it’s important that you start gathering documents as soon as possible. The courts will want to see anything that proves what you own and what you owe from before, during, and after your marriage. That means showing your deeds, bank statements, credit card statements, statements from retirement accounts, and so on. The courts need this to determine which of your assets and debts are separate for either one of you, and which ones belong equally to both of you as part of your “community property” (or assets and debts acquired during marriage). They will then use this information to divide the property as they deem appropriate.

About Temporary Orders

For a variety of reasons, you may need to request an order before your divorce is finalized. Temporary orders can usually be requested before or during the divorce process. You might need the court to quickly rule on custody and visitation to make sure you can keep a close watch on your children, or you might want to make child support or spousal support orders so that you can support yourself financially while you are separated. Whatever your needs, you should speak with a lawyer about requesting temporary orders for a better chance at protecting your interests.

Divorce can be a complicated process, but it doesn't have to hold any surprises for you. At The Grey Legal Group, we believe that you should be able to face divorce with complete confidence in your legal representation. Contact our dedicated attorneys at 951-441-2738 for a

confidential consultation. We will provide you with unparalleled legal counsel every step of the way.

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