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New Mexico Divorce: No Fault and No Waiting

Two unique facets of the New Mexico law governing divorce make the process of getting a divorce in New Mexico very different from other states. First, New Mexico does not have a waiting period that must be observed before filing for divorce. This means that parties who have been married for one day have the same standing to file a petition for dissolution of marriage (the document filed with the court that begins the divorce process) as parties who have been married for 25 years.

However, it is important to note that even though there is no official waiting period, the party filing for divorce must still meet the jurisdictional requirement of the New Mexico courts, which requires the party to have lived in New Mexico for at least six months prior to filing for divorce.

The second major difference between New Mexico and other states is that New Mexico is a No Fault divorce states. This means that the courts here will grant a divorce on the basis of incompatibility alone and do not require, for instance, that one party show that the other has committed adultery or any other wrong against the marriage.

Only one party needs to plead incompatibility for the New Mexico courts to begin the divorce process. Typically, the family law judges will not hear arguments about infidelity or bad behavior by one party unless they directly affect custody or some aspect of property and debt division essential. Neither will the court entertain counter arguments to incompatibility.

Many parties find the No Fault policy unsatisfying because the court does not hear about all of the hurtful things their spouse may have done. However, the positive side of a No Fault divorce is that embarrassing information about the parties' personal habits or sexual proclivities can be kept private and will not necessarily need to be debated in open court. For these reasons, conflict is also reduced. This too speeds up the divorce process and results in substantial reduction of emotional and financial costs to the parties.

Even though the lack of a waiting period and the policy of No Fault make the process of divorce in New Mexico somewhat simpler than other states, it is still very important that parties to a divorce proceeding consult an attorney as early as possible in the process so that they can make sure all that they understand all of their rights and responsibilities under the law.

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