

# BowTieLawyer

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## Divorce BlackMail – It’s legal y’all

Mississippi law provides for parties to gain a divorce through one of two methods; 1) Agree to the D issues, called an Irreconcilable Differences Divorce, or 2) a Fault based divorce granted due to the c misconduct. That’s it. Mississippi does not have a true NO FAULT divorce process.



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So what happens if you cannot agree and do not have grounds?

### Divorce Blackmail

In a case from the mid 1980’s this issue was pointed out by the Mississippi Supreme Court.

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”Prior to 1976 mature and responsible people who found their marriages irretrievably broke our law absurd choices. If they wanted to get an “uncontested divorce” the complaining spouse h between outright perjury and hoping that the chancellor would not strictly enforce the standar required to establish one of the twelve grounds for divorce. The other choice, of course, was the “l out” fight to which the adversary system invariably leads when applied to domestic relations ca creating more problems than are solved. Divorce had become a degrading, dehumanizing experi

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*Gallaspy v. Gallaspy*, 459 So.2d 283 (MS 1984). Justice James Robertson, *Concurring Opinion*

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...however, further improvements in our law are needed. As enlightened and desirable as wa of the Irreconcilable Differences Act in 1976, the job has not yet been completed. Indeed, these ca regard as a congenital defect in our Irreconcilable Differences Act—it facilitates, even encourages **financial blackmail**... The chancery court has no authority to grant a divorce on grounds irreconcilable differences unless the parties have reached agreement on all financial matt means, of course, is that in that overwhelming majority of cases where neither spouse “ha: divorce within the meaning of Section 93-5-1, **the spouse wanting the divorce or fe or she must obtain a divorce is subject to financial blackmail.**

A party without fault grounds and no mutual agreement has only two options; (1) knuckle unde than favorable financial terms or (2) go to court and try to obtain a contested divorce and an acc alimony and support award, when, as she and her lawyers surely must have known, she really c

“grounds.”

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*Id.*

Justice Robertson actually proposed adding a 13th fault ground of Irreconcilable Differences, which allow the Court to award an ID divorce to one party, even over the objection of the other party and Court to rule upon the support issues.

However, Mississippi law, as it currently reads, actually perpetuates this blackmail scenario. If you agree and you don't have fault grounds then you are STUCK. There have been a number of bills proposed for a divorce conundrum, but so far none has gained any traction. Let me know your thoughts. Do you want a true No Fault divorce, or an irreconcilable differences divorce after a period of separation?

*Matthew Thompson is a Family Law attorney and is in favor of amending the Irreconcilable Difference*

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