

Divorce in North Carolina

By Andrew Rheingrover

In North Carolina, a marriage may be dissolved on the application of either spouse if the spouses have lived continuously separate and apart for one year and either spouse has lived in North Carolina six months immediately preceding the filing of the divorce action.

As long as the spouses have been separated continuously for one year and not engaged in repeated sexual intercourse, there are actually no grounds to defeat the granting of a divorce. (Note: the spouses must actually live separate and apart. Separate areas of the house or separate bedrooms will not suffice. Additionally, if the couple maintains the appearance of a marital relationship, they will not meet the separation requirement).

If you resume the marital relationship, the year starts running all over again. Resumption of the marital relationship is defined by law as a voluntary renewal of the husband-and-wife relationship as shown by the totality of the circumstances. Isolated incidents of sexual intercourse may or may not interrupt the year's separation. Additionally, "holding out" to the public as husband and wife, even without sexual intercourse, may constitute reconciliation.

Please note that if you resume the marital relationship, even briefly, and then separate again, the date of separation changes to the later date. This change in date can have significant ramifications on equitable distribution because marital property is classified and valued on the date of separation.