

# LEGAL SEPARATION

## JURISDICTION & VENUE

- No specific residency requirement [R.C. 3105.03]
- Proper venue [Civ.R. 3]
- Must be a resident in the county for at least 90 days prior to filing the complaint

## SERVICE

*See Divorce Bench Card.*

## GROUND(S) [R.C. 3105.17]

- For a legal separation, the parties do not need to be living separate and apart at the time the matter is filed. [R.C. 3105.17(A)]
- No-fault grounds often are stipulated by the parties. Fault-ground cases require an evidentiary hearing. In all cases, a corroborating witness is required who must demonstrate knowledge of the facts and the party.



If the parties allege fault grounds, then consider setting a bifurcated motion hearing.

- No-fault grounds:
  - Living separate and apart without cohabitation for more than one year
  - Incompatibility, unless denied by either party.
- Fault grounds:
  - One party had a spouse living at the time of the marriage



Also may be grounds for annulment [R.C. 3105.31]

- Willful absence of the other party for one year
- Adultery
- Extreme cruelty
- Fraudulent contract

- Gross neglect of duty
- Habitual drunkenness
- Other party imprisoned in a state or federal correctional institution when complaint filed

## TEMPORARY ORDERS

*See Temporary Orders Bench Card.*

## FINAL HEARING

- May award attorney's fees [R.C. 3105.73]
- Issues that must be resolved:
  - Order for disposition, care, and maintenance of children [R.C. 3105.21]
  - A final entry MAY resolve all issues, including the division of property and debt (e.g., separate, marital, and pre-marital, spousal support, and the allocation of parental rights and responsibilities). [R.C. 3105.171(B)]



Issues are limited with service by publication.

- A final judgement entry that adopts a magistrate's decision shall include all of the findings.

## MARITAL PROPERTY [R.C. 3105.171(B)]

- In legal-separation proceedings, the court may (but is not required to) divide marital property.

*See Marital Estate/Marital Property/Separate Property section of Divorce Bench Card.*

## **SPOUSAL SUPPORT** [R.C. 3105.18(B) and (D)]

- Does not require a specific reservation of jurisdiction to modify. Modifications may be considered upon changed circumstances [R.C. 3105.18(D)]

*See Divorce Bench Card.*

## **PARENTAL RIGHTS AND RESPONSIBILITIES**

- The court shall make orders for the disposition, care, and maintenance of the children in accordance with R.C. 3109.04. [R.C. 3105.21]

*See Allocation of Parental Rights & Responsibilities Bench Card.*