

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR

What is a Divorce from Bed and Board and Does it Apply in My Case?

October 2, 2015 | by

For couples no longer living together as husband and wife, establishing a date of separation and becoming legally separated in North Carolina does not require a court order or any written agreement between the parties. In most instances, residing in separate residences is sufficient for establishing a date of separation under North Carolina law. However, in situations where neither spouse agrees to vacate the marital home, achieving a legal separation can become difficult.

In these instances, "Divorce from Bed and Board" may provide a possible solution. If the party seeking the divorce can prove the other party engaged in one of six grounds for fault under North Carolina Statutes, Divorce from Bed and Board may be used to force the other party out of the marital home, thereby creating a separation of the parties. The six grounds for fault under North Carolina General Statutes are:

- 1-Abandonment of his or her family;
- 2-Maliciously turning the other spouse out of doors;
- 3-Engaging in cruel or barbarous treatment that endangers the life of the other spouse;
- 4-Offers indignities to his or her spouse as to render that spouse's condition intolerable or burdensome;
- 5-Excessive use of alcohol or drugs; or
- 6-Adultery

Although Divorce from Bed and Board is a judicially recognized separation, it is not an absolute divorce. Thus, even if a party successfully brings an action for Divorce from Bed and Board, one party to the marriage must still file an action for an absolute divorce once the parties are separated for at least one year. Since an action for Divorce from Bed and Board is not applicable in all cases, it is best to contact a family law attorney to determine whether you or your spouse may have a claim.

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