

Jewish Divorce Basics



This guide is written for women in the Orthodox Jewish community. While women are more likely to become victims of Get refusal (where one spouse refuses to release the other in divorce), men can be victims as well. In addition, there are differences in how Jewish law surrounding divorce is understood in different communities.

You should consult with your personal religious advisors for more information.

Definitions of key terms

Agunah (plural: Agunot) – A woman who is “chained” to her marriage due to her husband’s refusal or inability to give her a Get

Beit Din (also: Beis Din or Beth Din; plural: Batei Din) – A Jewish court with three rabbis

Dayan (plural: Dayanim) – A rabbinic judge in Beit Din

Din Torah (also: Dinei Torah) – A formal proceeding in Beit Din

Get – A document that formally ends a marriage under Jewish law

Halacha (also: Halakha) – Jewish law

Heter Arkaos – A document that gives you permission to petition a civil court instead of a Beit Din

Ketubah – A Jewish marriage contract that specifies a husband’s responsibilities to his wife

Mamzer (plural: Mamzerim) – An illegitimate child born of a religiously forbidden relationship

Mesader Gittin – A rabbi who officiates the Get ceremony

Ptur – A document issued by a Beit Din which indicates that a man and woman are divorced under Jewish law

Seruv – An order of contempt from a Beit Din

Shtar Berurin – An agreement to arbitrate, or settle your case, in Beit Din

Sofer (also: Sopher) – The scribe who drafts the Get

Zabla - A Beit Din panel created to hear a single case

I want a divorce. How do I get one?

Jewish couples who had a religious ceremony must go through two divorce procedures: Jewish and civil. A Jewish divorce means that you are divorced under **halacha**, or Jewish law. A civil divorce means that you are divorced under the laws of your state.

In Orthodox Judaism, only the husband has the power to end the marriage. The husband ends the marriage by giving his wife a **Get**. A Get is a document that formally ends a marriage under Jewish law. A wife must receive the Get willingly in order for the divorce to be final.

For more information on civil divorce, see the LIFT guide “Uncontested Civil Divorce Basics.”

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Do I need a Get?

Without a Get, you are still married under Jewish law. This is true even if you have been separated for many years. Other issues may include:

- You cannot remarry within the traditional Jewish community;
- Any children you have in the future will be **mamzerim**, or illegitimate, which has consequences in Jewish law; and
- In many communities, starting a new intimate relationship is a serious violation of Jewish law.

Generally, before a civil court in New York will grant a divorce, the person who filed for divorce must remove any **barriers to remarriage**. A barrier is anything that prevents you from remarrying according to your religion. You should discuss this issue with your attorney. If you are representing yourself, consult with one of the resources on pages 6-7 of this guide for advice.

How do I obtain a Get?

You and your husband must go through a special Get ceremony. You do not need to be at the ceremony together. The Get ceremony takes place at a **Beit Din**. A Beit Din is a Jewish court. The ceremony is led by a rabbi known as the **mesader gittin**.

Who can start the Get process? How can I do this?

Either you or your husband can start the Get process. To start the process, contact a Beit Din. Once you open a case with the Beit Din, the Beit Din staff will reach out to your spouse. If your spouse agrees to schedule a Get ceremony, the Beit Din will work with you to choose a date. If your spouse wishes to go to another Beit Din, you must decide whether to attend the other Beit Din. Or, you could create a **Zabla**. A Zabla is a combination Beit Din. In a Zabla Beit Din, each of you choose one **Dayan**, or rabbinic judge. The two Dayanim then choose a third.

It is important to know that procedures vary among Beit Dins. Once you agree to a Beit Din, it is best not to change your mind. Choose the Beit Din carefully.

What will happen at the Get ceremony?

At the Beit Din, your husband will instruct the **sofer** to write the Get on his behalf. The sofer is the scribe. Your husband will hand the Get to you (or an assignee) in front of two witnesses.

The rabbis may ask both of you questions. For example, they may ask whether you go by any other names. This is to ensure there are no issues with the Get document. The document can only be used for you and your husband. They may also ask questions to make sure that you both are going through the ceremony by your own free will.

Once you accept the Get from your husband, your religious marriage ends. The whole ceremony usually takes about an hour.

You typically do not need to sign anything or do anything else at the ceremony. If you are asked to sign other documents, such as a settlement agreement, you should consult with an attorney first. In general, arbitration and settlement documents are legally binding. This is true even if they are written in Yiddish or Hebrew.

Can the Beit Din force my husband to give me a Get?

No. Your husband must give you the Get by his own free will. The Beit Din can issue a **hazmana**, or summons, for your husband to appear in Beit Din to discuss the Get. A summons is a document telling someone that he or she must appear in court. The Beit Din can also issue a ruling that a Get is required.

If your husband ignores multiple summons, the Beit Din may issue a **seruv** against him. A seruv is a document stating that a person refused to comply with the Jewish court. The person is in contempt of court. Some Jewish communities or synagogues impose sanctions on people who have received a seruv.

The rules on this process are complicated. You should seek expert advice as you go through this process. For a list of resources that can help, see pages 6-7 of this guide.

Can I remarry as soon as I have the Get?

Under Jewish law, you must wait at least 92 days after you receive the Get before you can remarry. Under New York law, you can remarry as soon as the civil court enters the judgment of divorce.

Can the Beit Din help me with other issues related to my divorce?

Yes. In general, Jewish law requires you to resolve disputes through Beit Din. The Beit Din will schedule a formal proceeding called a **Din Torah**. At the Din Torah, you and your husband will be asked to sign a **shtar berunin**. This is an agreement to go to arbitration. **Arbitration** (ahr-buh-TRAY-shun) is a process for settling a dispute.

The Beit Din can help you and your husband try to reach agreements about property division, financial matters, and custody and visitation. If you cannot agree on any of these issues, the Beit Din will decide for you. These issues must be resolved before the Beit Din will issue the Get.

The Beit Din may require that you file its decision as part of an uncontested divorce in civil court. For more information on the civil divorce process, see the LIFT guide "Uncontested Civil Divorce Basics."

Do I have to follow the Beit Din's decision?

Generally, yes. Decisions from a Beit Din are binding under both Jewish and civil law. A civil court can **vacate** decisions by a Beit Din in limited circumstances. Vacate means to cancel. For example, a civil court can vacate a Beit Din's custody determination if it is not in the child's best interests. A civil court can also vacate a Beit Din's child support decision if it does not comply with New York laws about child support. For more information, see the LIFT guide "Child Support in a Jewish Divorce."

It is rare for a civil court to vacate a Beit Din's decision. You should consult with an attorney familiar with the Jewish and civil legal systems before getting a divorce.

What is a halachic prenup?

A **prenuptial agreement**, or prenup, is a legal document that two people sign before getting married.

A **halachic prenup** is written specifically for Jewish couples. The halachic prenup was created to avoid potential Get issues that may result during divorce.

A halachic prenup can be helpful for a few reasons, such as:

- Offering your husband a financial incentive to give you a Get; and
- Requiring you to go to a specific Beit Din for a Get. You may be more comfortable with a particular Beit Din or rabbi.

For more information on the halachic prenup, visit www.getora.org/prenup.

Are halachic prenups enforceable?

Yes. Halachic prenups that are done properly are legally binding. They can be enforced in Beit Din and civil court.

We did not sign a prenup before we got married. Can we still sign one?

Yes. You can still sign an agreement if you are already married. This is called a **halachic postnuptial agreement**, or halachic postnup. The postnup works just like the prenuptial agreement.

Where can I go for help?

Call One Step Forward at 1-844-673-5463. One Step Forward is a free helpline that provides support, guidance, and resources to anyone going through the Jewish divorce process. There are additional resources on pages 6-7 of this guide.

This document should not take the place of a consultation with a lawyer. LIFT encourages all individuals going through a divorce to consult with a lawyer.

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Additional Resources

The Halachic Prenup

Beth Din of America

Offers information about the halachic prenup and postnup, including how to sign one.

www.theprenup.org

Organization for the Resolution of Agunot (ORA)

Offers support, guidance, and resources for anyone interested in signing the halachic prenup. Also offers a free service to help you sign the prenup.

212-795-0791, www.getora.org/prenup

Counseling and Mental Health Support

NYC Well

Offers a free 24-hour hotline for mental health support and referrals.

800-692-9355

Or search for support services online:

www.nycwell.cityofnewyork.us/en/find-services/

The Jewish Board

Provides a variety of programs and services for individuals and families, including mental health services, domestic violence services, and children's services.

888-523-2769, www.jewishboard.org

Domestic Violence and Intimate Partner Violence Services

If you are experiencing domestic violence or have concerns about your safety, seek help immediately. You can also call Safe Horizon's free 24-hour domestic violence hotline for New York City: 800-621-4673 (HOPE)

Family Justice Centers

Free and confidential service centers for survivors of intimate partner violence, elder abuse, and sex trafficking. Help is available in all languages, regardless of a person's immigration status.

Brooklyn Family Justice Center

350 Jay Street, 718-250-5111

Bronx Family Justice Center

198 East 161st Street, 2nd Floor,
718-508-1220

Manhattan Family Justice Center

80 Centre Street, 212-602-2800

Queens Family Justice Center

126-02 82nd Avenue, 718-575-4545

Staten Island Family Justice Center

126 Stuyvesant Place, 718-697-4300

Children's Services

The Jewish Board

Provides a variety of programs and services for individuals and families, including mental health services, domestic violence services, and children's services.

888-523-2769, www.jewishboard.org

OHEL Children's and Home Family Services

Provides housing, foster care, counseling, at-home services, school-based programs, camps, and sexual abuse services for children.

800-603-6435 (OHEL), www.ohelfamily.org

Legal Services

Her Justice

Provides free legal advice and representation for low-income women in the areas of contested and uncontested divorces, orders of protection, custody and visitation, child support, and spousal support.

212-695-3800, www.herjustice.org

New York Legal Assistance Group (NYLAG)

Provides free legal services to low-income New Yorkers in the areas of divorce, orders of protection, custody and visitation, child support, and spousal support.

212-613-5000, www.nylag.org

Sarah's Voice

Offers free legal services for Orthodox Jewish victims of domestic violence in the areas of divorce, orders of protection, custody and visitation, child support, spousal support, and immigration. Also offers assistance and/or referrals for housing, benefits, education, health care, employment, immigration, and consumer finance issues.

888-883-2323

www.shalomtaskforce.org/legal-services

Sanctuary for Families

Offers free legal services for financially challenged individuals who are domestic violence victims and their children in the areas of divorce, orders of protection, custody and visitation, child support, spousal support, and immigration.

212-349-6009, www.sanctuaryforfamilies.org

The New Start Project

Offers low-cost assistance with uncontested divorces and separation agreements. Also offers brief legal services with contested divorces.

646-619-1272, www.newstartproject.com