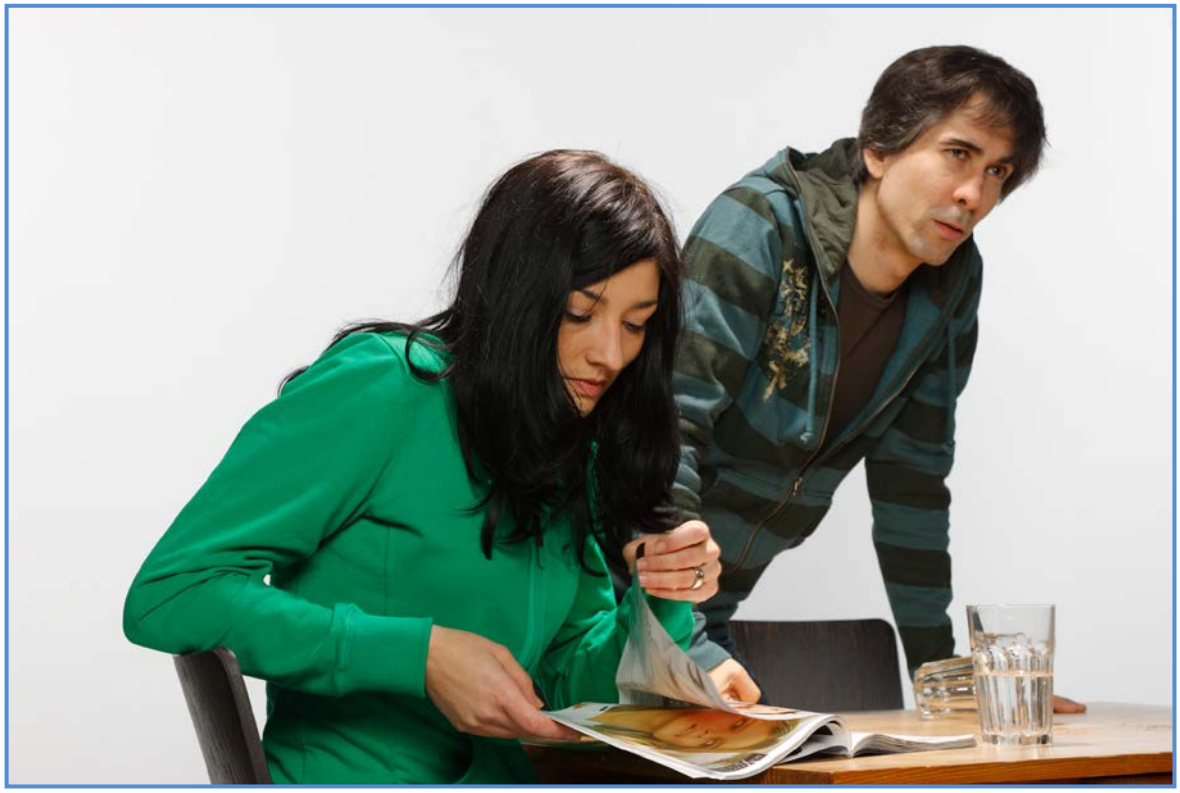
Separation and divorce



- ***Separation***
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There are various kinds of families today, and there are various reasons for couples to separate or get divorced. Emotional needs may be left unfulfilled, the partners may have diverging ideas about how to raise children, or about the roles of husband and wife. Maybe there were just too many misunderstandings or things left unsaid. All these factors can eventually lead to separation.

Nobody leaves his or her partner on the spur of the moment. On the contrary, separation is usually the result of a long and painful process of deliberation. There are the children to consider, the financial consequences and the insecurities of the future. Sometimes, the couple decides to split for a few of months and consider the future carefully. This may be a good solution if there is still a chance the couple

have a future together. If not, separation may be inevitable. In most cases, it is the woman who takes the final step.

Separation

A separation has far reaching consequences on a family's future. It is usually the first step to divorce. A couple must be officially separated for two years before they can file for divorce. No consent is needed after this period.

Apart from the emotional turmoil, there is a lot to be reorganised and negotiated: Who's going to stay in the family home? How do we split the household? Who will get child custody? Where do the children live? Does the other partner get visiting rights? How much child maintenance is possible? Will the spouse be entitled to alimony?

During the official period of separation, the couple usually retains joint custody of the children. Child custody is negotiated during the divorce proceedings.

If the partners cannot reach an agreement, one of them can appeal to the district court to initiate procedures.In this case, it is important to get legal representation. The court will decide on the terms of the separation. The procedure is simple and usually does not take long. The court will fix the legal expenses and determine who is liable to cover them. If the partners are unable to pay for the legal procedures, they can apply for a waiver. The court will review the couple's financial situation. If the waiver is authorised, the state will cover the legal expenses as well as the lawyer's fees.

Apart from all legal and financial questions, one's whole life must be reorganised. Women especially often find themselves without income and need to find a new or better paying job. Suddenly, they must reconcile work and family life without a partner. (See also the chapters «Reconciling Work and Family Life» and «Family Diversity»).

But above all, many people feel guilty and lonely after the separation. Sometimes, they are full of regret. It is not always easy to see the positive sides of living alone, especially if there are children. A therapist would help in case of depression or guilt feelings. There are also counselling services for families, children and adolescents, where parents or children can go for support. In most municipalities, these services are free of charge. For adults, there are many training courses, self-help books and groups or clubs for single parents.

Parents will always be parents

Children always suffer when their parents separate. They love both mother and father and don't want to lose either. In this time of emotional turmoil, it is not always easy for parents to understand their children's needs. They have trouble distinguishing between their problems as a couple and their responsibility as parents. Fighting in front of the children and competing for their favour is emotional abuse. Children's feelings must not be manipulated or beencourage to side with one parent. They will feel guilty and insecure, and lose the capacity to trust in their feelings.
Only a few therapists and services help children cope with their parents' separation. The Clinic for Child and

Adolescent Psychiatry («Kinder- und Jugendpsychiatrie Baselland») offers group therapy for children from 8 to 12 years of age. In a total of ten sessions, the children have the chance to express their feelings about their parents' separation. They acquire coping strategies and learn that they are not alone in their experience.

For more than ten years, the Educational Psychology Service of Basel-Stadt («Schulpsychologischer Dienst Basel-Stadt») and the Child and Youth Services Basel-Stadt («Kinder- und Jugenddienst Basel-Stadt») have been offering group training sessions for children, also from 8-12 years of age.

The «Birmann-Stiftung» also offers a counselling service for children. «Pro Juventute» runs a hotline for children and adolescents that is open around the clock. «Kinderlobby Schweiz» offers legal advice for children and adolescents with a free initial consultation.

Family mediation

If a couple wants to separate and is willing to find an amicable out of court agreement on childcare, maintenance, sharing matrimonial property and other issues, a family mediation can be helpful. Please note that a family mediation is not a therapy or counselling session. Rather, it creates a neutral framework in which to enter into a discussion and find an amicable solution. The results are recorded in a written agreement.

Divorce

The more issues you have resolved amicably during your period of separation, the «simpler» your divorce procedure will be. In the best case, divorce amounts to no more than a formality.

There are three ways to get a divorce:

- Unilateral application for divorce after the two-year separation period.
- Unilateral application for divorce on grounds of unreasonableness (without the mandatory two-year separation period, only applies to so-called "cases of hardship").
- Mutual application for divorce (including an agreement on the legal and financial consequences).

Both the unilateral and the mutual application for divorce can be filed at the district court of your municipality. If the situation is not clear, it is important to seek legal advice first

The costs of the divorce include both the legal costs and the lawyer's fees. The legal fees are determined by the district court, according to the cantonal scale of charges. It is important to check the lawyer's fees carefully and agree on a fixed hourly rate. (They vary from approx. CHF 180 to 400.)
If a couple can prove it is unable to cover the legal costs and the lawyer's fees, the legal counsel can apply for court proceedings to be carried out free of charge. The court will review the couple's financial situation. In certain cases, the state will cover all legal costs and lawyer's fees.

Alimony for spouses

Divorce does not mean economic independence for both partners. In certain circumstances, a spouse cannot be

expected to take up gainful employment. If, for example, the woman was the main childcarer and did not have a job during the marriage, if the husband or wife is old, frail or in training, he or she is entitled to receive alimony. However, this only applies if the other partner is gainfully employed and not poor.

The court determines the monthly allowance according to the documents submitted. Both partners are obliged to procure the relevant documents. The spouses can work out their own agreement, if they wish.

If the partner liable to pay alimony fails to do so, the other partner can apply to social services for enforcement. Social services will issue a reminder to the person liable to pay alimony. If this does not help, enforcement procedures will be initiated. The legal enforcement will run up a collection bill (CHF 1000 max, or 10% of the amount due) which both spouses will have to repay, if their financial situation allows it.

Child maintenance / child support

Both parents are responsible to provide for underage children. The parent who is granted custody is legally bound to care for and educate the children. The other parent is obliged to pay a monthly maintenance, if he or she can afford it. Children who are of age are only entitled to child maintenance if they can't be expected to provide for themselves, i.e. if they are still at school, in vocational training or at university.

It is a sad fact that many parents fail to pay their share of child maintenance. In these cases, the other parent depends on social services advancing the child maintenance. If the court verdict is legal, the parent receiving child maintenance can apply to social services to collect the money from the other parent. In case of refusal or failure to pay, social services will start enforcing the money. Enforcement procedures for child maintenance are free of charge.

Many single parents are always short of money if their ex-partner fails to pay child maintenance. Residents of Baselland can apply for an advancement of child maintenance. It is important that you submit your application as soon as possible, as the application date will determine when the payments begin. Social services can only advance maintenance for a limited amount of time.

Visiting rights

The parent who does not receive physical custody is usually granted visiting rights, so that he (or she) can maintain the relationship with the children. In principle, the parents are free to organise visiting rights according to their needs. However, the child`s well-being always has priority, and there is no overall solution that determines what is best for the children. Quite often, the children live with one parent and visit the other every other weekend, and spend two to four weeks of the holidays every other bank holiday together.
If the parents are unable to organise visiting rights amicably, they can apply for educational assistance with the guardianship authority.
Fathers often find it difficult to make good use of their visiting rights. Usually the mother is granted child custody – and some women use this prerogative as a

weapon against the fathers. They cancel visits or claim the child is ill. Sometimes they tell the father that the child does not want to see him. It can also be the other way round: Some fathers don't show up to pick up the child, or aren't prepared to cater to the children's needs. But remember: Parents must stay loyal to each other whenever the children are concerned. They must both do their best to enable the children to stay close to both parents.

The «Interessengemeinschaft geschiedener und getrennt lebender Männer» (IGM, interest group of divorced men) supports fathers in difficult situations.

The «Verein für verantwortungsvoll erziehende Väter und Mütter» (VeV, association of responsible fathers and mothers) helps parents maintain close contact with their children after divorce. If the parents are unable to talk, or one parent is unable to maintain visiting rights, the «Verein Begleitete Besuchstage Baselland» (accompanied visiting days) organises regular meetings between children and their parent. The meetings take place in a comfortable and child-friendly atmosphere, and in the presence of a guardian or qualified childminder.

Custody/Joint Custody

Parental custody comprises much more than visiting rights. Custodians must ensure the emotional, physical and financial welfare of the child. Parents have the right and duty to care for their children, educate them, manage their finances and represent them legally. Usually, the court decides who gets custody during divorce procedures. During the legal separation period, the parents retain joint custody, as in marriage.
In November 2011, the Federal Council concluded that joint custody should be granted as a rule after divorce or separation, regardless of whether the parents were married or not, and initiated procedures for the Civil Code to be revised accordingly. However, the parent who has care of the child can make decisions regarding everyday or urgent matters alone, without consulting the other parent.

This new rule on joint custody has been in force since the 1st of July 2014. Since then joint custody is the norm. Married parents have always had joint custody, now this has also become the norm for divorced or unmarried parents.

The court will only award single custody to one parent after a divorce, if joint custody would not be considered good for the welfare of the child. Otherwise parents will continue to have joint custody just as they did when they were married.

The "Kindes-und Erwachsenenschutzbehörde KESB" (Office for the protection of children and adults) is competent in regards to custody matters of unmarried parents.

Separation and divorce: addresses and links

Please note: Most of the described services and links are in German. If a service is explicitly offered in English this is marked by a *

Switzerland	Aargau	Basel-Landschaft	Basel-Stadt	Solothurn
Separation				
	Arbeitskreis Trennung Aargau: http://www.trennung-aargau.ch/de/home.htm Jugend-, Ehe- und Familienberatung Aargau http://www.jefb.ch/de/home Frauenzentrale Aargau Rechtsberatung: http://www.rechtsberatung-ag.ch/ Ehe-und Paarberatung Aargau: http://www.eheberatung-aargau.ch/ Bezirksgerichte des Kanton Aargau: https://www.ag.ch/de/gerichte/bezirksgerichte/bezirksgerichte.jsp	Familien-, Erziehungs- und Jugendberatungsstellen beider Basel www.fejb.ch Frauenplus Baselland has its own counselling centre for legal questions: www.frauenplus.ch > Was bieten wir Beratungsstelle für Partnerschaft, Ehe und Familie der Evangelisch-reformierten Kirche BL: http://www.paarberatung-refbl.ch/index.php Zivilgerichte Baselland: https://www.baselland.ch/Zivilkreisgerichte.273843.0.html	Familien-, Erziehungs- und Jugendberatungsstellen beider Basel www.fejb.ch Familea offers counselling for women incl. legal questions: http://www.familea.ch/de/Frauenberatung/ Infra Basel- Rechtsberatung für Frauen: http://www.infra-basel.ch/infra/ Zivilgericht Basel-Stadt: http://www.zivilgericht.bs.ch/rechtsgebiete/familienrecht/trennung-scheidung.html	Fachstelle für Beziehungsfragen Kanton Solothurn: http://www.velso.ch/ Frauenzentrale Solothurn Rechtsberatungen: http://www.frauenzentrale-so.ch/ Richterämter Solothurn: http://www.so.ch/gerichte/richteraemter/zustaendigkeit/

Schweiz	Aargau	Basel-Landschaft	Basel-Stadt	Solothurn
Parents will always be parents				
Website for children affected by divorce or separation: www.scheidungskind.ch Children and teens can call the hotline free 147 of the Pro Juventute around the clock for help and counselling in difficult situations www.147.ch		Group therapy for children of divorce: http://www.pbl.ch/uploads/media/KJP_2015_Scheidungsgruppe_Ausschreibung.pdf Familien- und Jugendberatung Birmannstiftung http://www.birmann-stiftung.ch	Schulpsychologischer Dienst des Kantons Basel-Stadt Austrasse 67, 4051 Basel, Tel. 061 267 69 00	
Family mediation				
Schweizerischer Dachverband Mediation www.infomediation.ch Schweizerischer Verein für Mediation SVM www.mediation-svm.ch				

Switzerland	Aargau	Basel-Landschaft	Basel-Stadt	Solothurn
Divorce				
The swiss authorities online inform comprehensively on divorce in Switzerland: https://www.ch.ch/en/divorce/ Ask your friends and family for recommendations regarding a divorce lawyer or consult the website of the Swiss association of lawyers (Schweizerischer Anwaltsverband) *: https://www.sav-fsa.ch/de/anwaltssuche.html				
Alimony for spouses / Spousal support				
Alimony for ex-spouses: http://www.ehe-recht.ch/unterhalt-nach-der-scheidung/	Kantonaler Sozialdienst https://www.ag.ch/de/dgs/ueber_uns_dgs/organisation_dgs/ksd/kantonalersozialdienst.jsp	Kantonales Sozialamt Baselland Gestadeckplatz 8, 4410 Liestal, Tel. 061 552 56 45 www.bl.ch > Finanzen, Kirchen > Sozialamt	Sozialhilfe des Kantons Basel-Stadt: http://www.sozialhilfe.bs.ch/	Oberämter des Kanton Solothurn: https://www.so.ch/verwaltung/departement-des-innern/amt-fuer-soziale-sicherheit/oberaemter/

Switzerland	Aargau	Basel-Landschaft	Basel-Stadt	Solothurn
Child maitenance/ child support				
Article on familienleben.ch on how to calculate child support: http://www.familienleben.ch/kind/alleinerziehend/berechnung-alimente-1956	Bevorschussung von Unterhaltsbeiträgen für Kinder: https://www.ag.ch/de/dgs/gesellschaft/soziales/oeffentlichesozialhilfe/alimenteundinkassohilfe/AlimenteundInkassohilfe.jsp	Kantonales Sozialamt Baselland Gestadeckplatz 8, 4410 Liestal, Tel. 061 552 56 45 https://www.baselland.ch/Sozialamt.273505.0.html Unterhaltsbeiträge für Mündige in Ausbildung https://www.baselland.ch/fileadmin/baselland/files/docs/fkd/fuersorge/handb/unterhaltsbeitr_muend-ausb.pdf	Alimentenhilfe Basel-Stadt: http://www.asb.bs.ch/familien/alimentenhilfe.html	Alimentenbevorschussung: https://www.so.ch/verwaltung/departement-des-innern/amt-fuer-soziale-sicherheit/sozialversicherungen/ergaenzungshilfen/alimente/
Visiting rights				
vev Verein für verantwortungsvoll erziehende Väter und Mütter www.vev.ch IGM Schweiz www.igm.ch	Verein begleitete Besuchstage Aargau: http://www.bbt-ag.ch/	Begleitete Besuchstage Baselland Tagesheim Binningen, In den Schutzmatten 6, 4102 Binningen, Tel. 061 421 92 05 www.bbt-bl.ch	Begleitete Besuchstage Basel-Stadt: http://www.begleitetebesuchstage-baselstadt.ch/	In the Canton of Solothurn several organisations offer accompanied visiting days. Contact your local social service for more information: http://www.so.ch/verwaltung/departement-des-innern/amt-fuer-soziale-sicherheit/sozialhilfe/sozialregionen/

Switzerland	Aargau	Basel-Landschaft	Basel-Stadt	Solothurn
Custody / Joint Custody				
Bundesamt für Justiz: https://www.bj.admin.ch/bj/de/home/gesellschaft/gesetzgebung/archiv/elterlichesorge.html Divorce and custody: https://www.ch.ch/en/divorce-parental-authority/ Interaction with other affected parents on custody matters: http://www.vev.ch/index.php/unsere-themenbereiche/trennung-scheidung/gemeinsamessorgerecht	Information of the Canton of Aargau on custody: https://www.ag.ch/de/dvi/persoenliches_zivilstandswesen/zivilstandsfragen/geburt/elterliche_sorge/elterliche_sorge_1.jsp	Information by the KESB Baselland on custody: http://www.kesb-bl.ch/kesr/formulare-merkblatter/	Legal information for unmarried parents living in Basel regarding custody Guide	Guide by the KESB Solothurn on joint custody: https://www.so.ch/fileadmin/internet/ddi/ddi-aso/13_9_Kinder_Erwachsenenschutz/Merkblatt_1a_nicht_verhei_GeS_2014.pdf

Book recommendations

Our book recommendations are generally for books that are available only in German. Where possible we've listed the English translation or an equivalent.

On the topic of parents will always be parents

«Eltern bleiben – Informationen und Tipps für Eltern in Trennung», Broschüre der Pro Juventute, Einzelexemplare gratis zu bestellen: info@projuventute.ch

„Glückliche Scheidungskinder: Trennung und wie Kinder damit fertig werden“
Von Remo H. Largo, Monika Czernin, Piper Verlag, 2003

„Glückliche Scheidungskinder: Was Kinder nach der Trennung brauchen“
Von Remo H. Largo, Monika Czernin, Piper Verlag, 2014

On the topic of divorce

„Scheidung: Faire Regelungen für Kinder – gute Lösungen für Wohnen und Finanzen“
Daniel Trachsel, Beobachter-Buchverlag, 2014