

What You Should Know About Domicile and Residence  
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It has been said that you can have many residences but you can only have one domicile. Domicile by definition is the place you consider to be your permanent home, the place you always return to or intend to return to. In some contexts residence may mean the same thing as domicile. Another way of referencing domicile is the term "legal residence," meaning the permanent residence. For this reason it is important to examine a particular statute in its statutory context to determine the meaning intended for the words domicile and residence. Children have the same domicile as their parents until they come of age and leave home at which time, they are free to choose their domicile.

To change your domicile, you must do two things, move to the intended location and establish residence there with the intent to remain there more or less permanently (and to change your domicile to the new jurisdiction). The most important element of domicile is intent; domicile is the jurisdiction which you intend to be your permanent home residence. It is possible to move to another state while continuing to maintain Virginia as your domicile, provided you maintain a Virginia residence and intend to return to Virginia at some point in the future.

Domicile is important in the context of separation and divorce because the law requires that you or your spouse be a resident and domiciliary and have been a resident and domiciliary of Virginia for more than six months immediately prior to filing for divorce. Some states may require that the person filing the divorce be a bona fide resident and domiciliary for a specified period of time. Actions which tend to establish or prove domicile include an expressed intent, oral or written and physical presence, past and present. Voter registration is another important factor, as is vehicle registration and maintenance of a state operator's license.

Other factors tending to show or prove domicile include the location of bank and investment accounts and payment of state and local income taxes, although payment of state taxes alone is not sufficient without physical presence to prove domicile. Payment of nonresident or resident tuition for yourself or your children may also tend to show domicile. Declarations of domicile in documents, such as wills, trusts, deeds, mortgages, leases, contracts, insurance policies, affidavits, court documents and hospital records are also strong evidence of domicile.

Relationships and ties to community are also indicators of domicile. For example, residence of immediate family, burial of family members, ownership of burial plots, memberships in local churches, civic, professional, service or fraternal organizations may indicate domicile. The location of local charities to which donations are made is also a potential indicator of domicile.

Ownership of real estate is also an important factor in proving domicile, but ownership of real property in another state will not disqualify you from domicile here in Virginia, provided there is sufficient evidence to show you to be domiciled here.

Less important but still pertinent are such factors as where your children attend school, where you were married, where you were born, your spouse's domicile, your marital domicile, your

home of record during military service, and what address you provided on your federal income tax return.

If you anticipate a contest on the issue of domicile, you should gather relevant documents and be prepared to make a factual showing supporting your position.

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