

INFORMATION SHEET
TO PARTIES IN DISSOLUTION OF MARRIAGE ACTIONS
OR
LEGAL SEPARATION ACTIONS
(WITHOUT CHILDREN)

If there are matters or issues that you and your spouse cannot resolve, perhaps Alternative Dispute Resolution may be appropriate. For more information call (303) 837-3672, the State Office of Dispute Resolution.

NOTICE: If you are unsure about how to complete these forms or follow these procedures, you may wish to consult an attorney. The clerks of the court are not allowed to give you legal advice.

This information only provides a guide to the forms in the form packet and a guide to the documents necessary to obtain a dissolution of marriage or legal separation. **Each district has special requirements. You should contact the court where your case is filed.**

DEFINITIONS

A *petition for dissolution of marriage* requests termination of a marriage.

A *petition for legal separation* requests a court order to arrange the terms of support, maintenance, debts, and property division under which a married couple will live separately.

A petitioner is a person filing a formal written application to a court requesting judicial action.

A co-petitioner is a person filing together with the petitioner a formal written application to a court requesting judicial action.

A respondent is the person against whom an action is being taken.

FEES AND CASE NUMBER

Dissolution of Marriage is \$99.00. Legal Separation is \$94.00. Most courts accept only cash. Please check with your court for the type of payment they will accept. At the time you pay your filing fee you will receive a receipt from the clerk that will contain your CASE NUMBER. Include that case number on all further paperwork. To schedule your case for a court hearing you will need that case number.

FORMS

The forms contained in this form packet are as follows:

- Petition for Dissolution of Marriage or Legal Separation (JDF 1101)
- Summons for Dissolution of Marriage or Legal Separation and Temporary Injunction (JDF 1102)
- Response and Instructions (JDF 1103 & 1103 I)
- Rule 26.2 Disclosure and Motion to Compel (JDF 1104 I, 1104 & 1105)
- Motion for Temporary Orders (JDF 1106)
- Notice to Set and Notices of Hearing (2 copies) (JDF 1107 & 1108)
- Temporary Orders Agreement / Information for the court (JDF 1109)
- Affidavit with Respect to Financial Affairs (2 forms) 2 versions (JDF 1111 & 1112)

- Notice to Set Non-Contested Permanent Orders (JDF 1114)
- Separation Agreement/Disclosure for Permanent Orders Hearing (JDF 1215)
- Affidavit for Decree without Appearance of Parties (JDF 1201)
- Decree of Dissolution of Marriage or Legal Separation (JDF 1116)
- Support Order (attachment to decree) (JDF 1117)
- Checklist (JDF 1218 I)

PETITION FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION

To begin the process to obtain a Dissolution of Marriage (divorce) or Legal Separation, you must file a Petition and pay a filing fee. Complete the front page of the Petition with all the necessary information that applies to you. There are two ways to begin the process and they are as follows:

1. Both you and your spouse may sign the Petition as Petitioner and Co-Petitioner. If you both sign as Petitioners, there are no contested issues.
2. You may sign as a Petitioner naming your spouse as the Respondent. If you file as the Petitioner naming your spouse as the Respondent, you must arrange to have a Summons and a copy of the Petition served on the Respondent or the Respondent may sign a waiver and acceptance of service. A Court Clerk or Notary must witness the signature(s).

AUTOMATIC TEMPORARY INJUNCTION

An automatic temporary injunction will be in effect upon the filing of a Petition, service of the Petition and Summons on the Respondent or upon the signing of a waiver and acceptance of service by the Respondent. You will find the TEMPORARY INJUNCTION printed on the Petition and Summons included in this form packet. The temporary injunction will be in effect until the Decree is entered or until further court order. Be sure to read this section.

TEMPORARY RESTRAINING ORDER (TO PREVENT DOMESTIC ABUSE C.R.S. §14-10-108(2.5))

If either party believes that the other party is threatening, molesting, injuring, or contacting any other party that is resulting in physical or emotional harm, then a separate request for a temporary restraining order to prevent domestic abuse should be filed. Forms are available in the clerk's office.

CHANGE OF NAME

If you are filing as a Petitioner and Co-Petitioner and one party wants a prior name restored, they must so indicate on both the Petition and the Decree. If that party is the Respondent, he or she must file a signed and notarized request for the name change.

SUMMONS FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION AND TEMPORARY INJUNCTION

Complete the Summons naming the Petitioner and Respondent. Unless you and your spouse file as Petitioner and Co-Petitioner, or your spouse is willing to sign a waiver (see below), you must arrange to have the Summons and Petition “served” on your spouse by the Sheriff or a private process server. The Court Clerk will issue the summons. The court will provide the necessary copies for service.

HOW LONG IS THE TEMPORARY RESTRAINING ORDER IN EFFECT?

The temporary restraining order remains in effect until the final decree enters. A party may request that it be made permanent, for good cause shown to the court as provided under C.R.S. §14-10-108(5)(c). The form is available in the clerk’s office for a permanent restraining order under a domestic relations case.

RETURN OF SERVICE (See Summons)

The Sheriff will provide you with a Return of Service once you have paid the fee for serving the documents on the Respondent. A private process server may use the last page of the Summons for a return of service. You must file the return of service with the court soon after service.

WAIVER AND ACCEPTANCE OF SERVICE (See Summons)

If the Respondent is willing to accept service of the Summons and the Petition, the Respondent must sign the reverse side of the Summons before a Notary. The Respondent or you must file the waiver with the court. It is unnecessary to serve the Respondent through the Sheriff’s Office or private process server if the Respondent is willing to accept the service and sign the waiver.

RESPONSE

The Respondent may file a response contesting the petition and pay a \$45.00 fee.

WHAT IF I CAN’T FIND THE RESPONDENT TO OBTAIN PERSONAL SERVICE?

If you are unable to obtain personal service on your spouse, you may file a verified motion requesting an order for service by publication. This motion is available in the clerk’s office. The motion must state the facts that authorize service by publication; show that you made efforts to obtain personal service; explain why you cannot find the Respondent; and give the last-known address of your spouse. You must pay the clerk a fee to cover the costs of publication at the time you file your motion.

TEMPORARY ORDERS

TEMPORARY ORDERS MOTION and TEMPORARY ORDERS AGREEMENT

You may ask the court to enter orders regarding support and property to take effect while the divorce is pending. File a Motion for Temporary Orders, and send a copy to your spouse. File a Notice to Set to let the court know you want a hearing; send a copy of that to your spouse also. If you need an emergency hearing, put that on the Notice to Set. When you get a hearing date, send a Notice of Hearing to your spouse.

Bring a completed Affidavit with Respect to Financial Affairs to the hearing. If you have documents that you want the court to see, bring copies of each document for yourself, the court and the other party.

If you reach an agreement on temporary orders, file the Agreement, and the Financial Affidavits with the court on the day of the hearing, or before the hearing.

AFFIDAVIT WITH RESPECT TO FINANCIAL AFFAIRS

Each party must complete and file the Affidavit With Respect To Financial Affairs. If spousal support is not an issue, you may use the Simplified Affidavit. The Affidavit must contain current information at the time of your hearing. Sign the document before a notary or a Court Clerk may witness your signature. Failure of a party to file an Affidavit With Respect To Financial Affairs may result in a refusal by the court to enter any order.

SEPARATION AGREEMENT

If you and your spouse agree on all issues, fill out the Separation Agreement, or write your own agreement. Both parties must sign the Separation Agreement. The purpose of the Separation Agreement is to provide for the division of property, debts, and for maintenance, if any. If you file all the papers indicating your agreement, you may not have to appear for a hearing. However, no orders can be entered until 90 days have passed from service on the respondent, or the date the co-petitioner filed.

If you cannot agree on those issues, fill out the Separation Agreement to tell the court how you want the orders to be entered, and bring it to the hearing.

SUPPORT ORDER

If one party is paying maintenance, a support order is required. Fill it out with your information, and submit it with the Decree.

DECREE

Complete the Decree with the necessary information that applies to you and your spouse. REMINDER-- CHANGE OF NAME: Check the boxes on the Decree and complete the statement only if one party desires to have a prior name restored.

The court will review the file and enter the decree if all forms are complete.

AFFIDAVIT FOR DECREE WITHOUT APPEARANCE OF PARTIES

You may obtain a divorce without a hearing only if:

1. There are no minor children of the marriage and the wife is not pregnant.
2. There is proper service in one of the following ways:
 - Respondent was served with the Summons and Petition
 - Respondent signed the *Waiver and Acceptance of Service*
 - Parties filed as Petitioner and Co-Petitioner
3. There is no genuine issue as to any material fact; and

4. There is a written *Separation Agreement* indicating the division of property, debts, and maintenance, if any.

If you wish to avoid a hearing you may file an Affidavit For Decree Without Appearance of Parties. The court requires the following forms to be filed at the time you file the Affidavit For Decree Without Appearance Of Parties:

1. Return of Service on Summons or Waiver and Acceptance of Service (unless you have filed as Petitioner & Co-Petitioner).
2. Financial Affidavits for each party.
3. The Separation Agreement, signed and notarized.
4. The Decree completed with the necessary information as it applies to you and your spouse.

The court will review the file and enter the decree if all forms are complete.

HOW DO I OBTAIN A COURT HEARING FOR A NON-CONTESTED DIVORCE?

If you desire to have a court hearing to make your divorce “final,” rather than filing an affidavit for decree without appearance, you may request a hearing no sooner than 90 days from the date of one of the following:

- The date you and your spouse filed the Petition as Petitioner and Co-Petitioner.
- The date the Respondent received service.
- The date the Respondent signed the Waiver and Acceptance of Service.

When you attend the court hearing you will need to have completed:

- The Financial Affidavits of each party.
- The signed and notarized Separation Agreement.
- The completed Decree.

The court will grant your divorce or legal separation by signing the Decree. You or the Co-Petitioner are responsible for scheduling your court hearing. Use the Notice to Set and Notice of Hearing forms.

WHAT DO I DO IF MY SPOUSE FAILS TO RESPOND AFTER SERVICE OR FAILS TO NEGOTIATE A SEPARATION AGREEMENT?

If your spouse fails to respond to the Summons or fails to negotiate a separation agreement, you must set a non-contested final hearing. You must mail a copy of the Notice to Set Non-Contested Hearing with a certificate of mailing to your spouse. This is to notify your spouse of your intention to set the case for hearing. You may request the case be set for hearing only after 90 days have passed from the date of one of the following:

- The date you and your spouse filed the Petition as Petitioner and Co-Petitioner.
- The date the Respondent received service.
- The date the Respondent signed the Waiver and Acceptance of Service
- Service of Publication (see above)

At the hearing the court will take testimony regarding financial matters, including debts, property division, and maintenance, if any.

You must have completed the following:

- The Separation Agreement, filled out as you want it to be ordered.
- Your Financial Affidavit.
- The Decree and any support order.

HOW DO I OBTAIN A HEARING FOR CONTESTED ISSUES?

If you and your spouse cannot reach a separation agreement, you must have a hearing before a judge. Either party may file a Notice to Set. You must mail a copy of your request with a certificate of mailing to your spouse. Call the clerk on the designated day to get a hearing date. Confirm the date with the other party, and then send a Notice of Hearing Date to the court and your spouse. The case cannot be heard until after 90 days have passed from the date of one of the following:

- The date you and your spouse filed the Petition as Petitioner and Co-Petitioner.
- The date the Respondent received service.
- The date the Respondent signed the Waiver and Acceptance of Service.
- Service of Publication (see above).

At the hearing the judge will take testimony regarding financial matters, including debts, property division, and maintenance, if any.

You must bring with you the following:

- The Separation Agreement, filled out as you want it to be ordered.
- Your financial affidavit.
- The Decree.

CHANGING A DECREE FOR LEGAL SEPARATION TO DECREE OF DISSOLUTION OF MARRIAGE

You must wait six months after entry of the Decree of Legal Separation to request that it be converted to a Decree of Dissolution of Marriage. File a form Motion to Convert Decree of Legal Separation to Decree of Dissolution.

HOW DO I OBTAIN A COPY OF MY DIVORCE AFTER IT IS FINAL?

If you provide a self-addressed stamped envelope and pay the appropriate fee for copy work, the court will mail a copy of your Decree to you. You may provide the court with a copy of your completed Decree at the time you file your paperwork. The court will conform the copy and return it in the self-addressed stamped envelope you provide. If you want the court to certify a copy of the Decree for you, the certification cost is \$5.00 per document.