

INFORMATION SHEET
TO PARTIES IN DISSOLUTION OF MARRIAGE ACTIONS
OR LEGAL SEPARATION ACTIONS
(WITH 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 the State Office of Dispute Resolution at 303-837-3672.

NOTICE: If you are unsure about how to complete these forms or follow these procedures, you may wish to consult an attorney or a case manager, if one is available in your district. **THE CLERKS OF THE COURT ARE NOT ALLOWED TO GIVE YOU LEGAL ADVICE.**

This Information Sheet 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 when there are children of the marriage. **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 allocation of parental responsibilities, child 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. Legal Separation is \$94. 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 paper work. 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 Forms and Motion to Compel (JDF 1104 I, 1104 & 1105)

- Motion For Temporary Orders (JDF 1106)
- Notice to Set and Notice of Hearing forms (2 copies) (JDF 1107 & 1108)
- Temporary Orders Agreement / Information for the court (JDF 1109)
- Temporary Order (by court) (JDF 1110)
- Affidavit with Respect to Financial Affairs (2 forms) 2 versions (JDF 1111 & 1112)
- Colorado Child Support Guideline (BRADFORD 1174)
- Schedule of Basic Child Support Obligations (BRADFORD 1173)
- Child Support Worksheets (BRADFORD A-1170; B-1171 and D 1175)
- Parenting Plan (JDF 1113)
- Notice to Set Non-contested Hearing (JDF 1114)
- Separation Agreement / Disclosure for Permanent Orders Hearing (JDF 1115)
- Decree for Dissolution of Marriage or Legal Separation (JDF 1116)
- Support Order (Attachment to Decree) (JDF 1117)
- Checklist (JDF 1118 I)

1. **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 and back 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.
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). The signing and the filing of the Petition are only the beginning of the process.

AUTOMATIC TEMPORARY INJUNCTION

An automatic temporary injunction will be in effect upon the filing of the Petition, or upon 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.

TEMPORARY RESTRAINING ORDER (TO PREVENT DOMESTIC ABUSE 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 desires to have 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.

2. **SUMMONS FOR DISSOLUTION OF MARRIAGE OR LEGAL SEPARATION**

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.

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.

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 last page 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.

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

If you are unable to obtain personal service on the Respondent, 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.

3. **RESPONSE**

The Respondent may file a response to the petition and pay a \$45 fee.

4. **RULE 26.2 DISCLOSURE**

You have the right to receive certain information and the obligation to provide certain information to the other party. You must do so within 20 days of the date the responding party files a response, or within 40 days of the date that they are served with the Petition. Review the Rule 26.2 Disclosure Form, gather the information requested, and send it to the other party. File the form, **BUT NOT THE INFORMATION**, with the court. Send the other party a copy of the form. If they do not provide you with their information, you may file the form called Motion to Compel and ask the court for an order to give you the information.

5. **TEMPORARY ORDERS MOTION / AGREEMENT**

You may ask the court to enter orders regarding parental responsibilities, 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 a hearing for temporary orders to let the court know you want a hearing; send a copy of that to your spouse also. When you get a hearing date from the clerk, send a Notice of hearing to the clerk and to your spouse.

When you appear for the hearing, each party must have completed the Affidavit with Respect to Financial Affairs, a copy of the proposed Temporary Orders Agreement, filled out in the way you think the temporary arrangements should be made, and Child Support Worksheets, completed with the information that you have. Be prepared to tell the court what you want, and why. Give the original documents to the court, and have copies for yourself, and for the other party.

If you reach an agreement on temporary orders, fill out the Temporary Orders Agreement, have both parties sign it, and file it with the court, along with a completed Affidavit with Respect to Financial Affairs for both parties, and completed Child Support Worksheets. File these with the court at the hearing or before the hearing date.

6. **AFFIDAVIT WITH RESPECT TO FINANCIAL AFFAIRS**

Each party must complete and file the Affidavit With Respect To Financial Affairs. 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 magistrate or judge to enter any orders or a decree.

7. **COLORADO SUPPORT GUIDELINES AND WORKSHEETS**

The Child Support Worksheets and the Colorado Child Support Guidelines are in this form packet. Complete the Worksheets by using the instructions in the Colorado Child Support Guidelines.

8. **NOTICE TO SET AND NOTICE OF HEARING**

You can get a hearing date for your final orders by filing a Notice to Set. Each court has different procedures for setting hearings that are contested and non-contested, and you want to make sure of the proper procedure in your district. Make sure that you do not get a hearing on a date that is less than 90 days after the Respondent was served, signed a waiver, or signed as co-petitioner. Send the other party a Notice of Hearing with the proper date and time.

9. **PARENTING PLAN**

The law requires that the parents either fill out a Parenting Plan, or the court must fill one out for you. Look over this document carefully. You may agree on at least some of the issues, and should give those issues to the court.

**PARENTING EDUCATION CLASSES MAY BE REQUIRED BY THE COURT.
PLEASE CONTACT THE CLERK'S OFFICE TO GET A LIST OF PARENTING
CLASSES IN YOUR AREA.**

10. **SEPARATION AGREEMENT / DISCLOSURE FOR PERMANENT ORDERS**

If you and your spouse agree on some or all of the issues, prepare a Separation Agreement. You may use the printed form, or prepare your own agreement. The purpose of the Separation Agreement is to provide for the division of any property; maintenance, if any; and the allocation of parental responsibilities, support, and parenting time of the children.

Even if you do not agree on all issues, use this form to give your information to the court before the hearing on the permanent orders. Fill it out as you want the court to fill it out.

11. **DECREE AND ATTACHED SUPPORT ORDER**

Complete the Decree and attached Support Order if support or health insurance has been ordered.

HOW DO I MAKE MY DIVORCE FINAL?

You may obtain a final divorce in one of four ways:

1. **EACH PARTY IS REPRESENTED BY AN ATTORNEY, THERE ARE NO CONTESTED ISSUES AND THE PETITIONER, CO-PETITIONER OR RESPONDENT DOESN'T WANT TO BE PRESENT AT THE FINAL HEARING.**

You may obtain a divorce without being present at the hearing only if:

- A. You and your spouse each are represented by an attorney.
- B. The Respondent is properly served.
- C. There is no genuine issue as to any material fact; and
- D. A written Separation Agreement and Parenting Plan has been signed and notarized indicating the following:
 - Division of property and debts.
 - Custody of the children.
 - Parenting time with the children.
 - Child support of the children.
 - Maintenance, if any.

2. **YOU AND YOUR SPOUSE ARE NOT REPRESENTED BY ATTORNEYS, THERE ARE NO CONTESTED ISSUES, AND YOU HAVE A WRITTEN SEPARATION AGREEMENT.**

If you do not qualify for a divorce without being present (see above) then you must be present at a hearing to make your divorce final. Please look at the instructions in this packet to find out how to set a case for hearing. The hearing can be held 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.

Either party may attend the hearing. Prior to the court hearing you will need to have completed the following documents. These Documents are also described on the checklist included in this packet.

- The financial affidavits of each party.
- The proposed support order.
- A parenting plan.

- Proof that you have completed parenting education classes.
- The separation agreement (signed by both parties) indicating the following:
 - Division of property and debts.
 - Child support of the children.
 - Maintenance, if any.
- A Parenting Plan, signed by both parties indicating:
 - Parental responsibilities for the children.
 - Parenting time with the children.
- The decree and support order(s).
- The worksheets.

The magistrate or judge will grant your divorce by entering an order as to division of property, debts, maintenance, if any, parental responsibilities, parenting time, and child support of the children .

3. **YOU AND YOUR SPOUSE ARE NOT REPRESENTED BY ATTORNEYS AND THERE ARE CONTESTED ISSUES.**

You must request a court hearing to make your divorce “final” and to resolve any contested issues. Either party may request that the hearing be set. Please look at the instructions in the packet to find out how to set a 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.

When you attend the court hearing, you will need to bring the following documents with you.

- The financial affidavits of each party.
- A proposed parenting plan.
- Proof that you have completed parenting education classes.
- The decree and the support order(s).
- The worksheets for child support.
- The separation agreement / disclosure for permanent orders, telling the court what you want.

You or the Co-Petitioner, or Respondent is responsible for scheduling your court hearing. You should use the forms provided with this packet. At the court hearing the judge will grant your divorce by entering an order as to division of property, debts, maintenance, if any, parental responsibilities, parenting time, and child support of the minor children .

4. YOU AND YOUR SPOUSE ARE NOT REPRESENTED BY ATTORNEYS AND YOUR SPOUSE FAILS TO RESPOND AFTER SERVICE OR 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. Use the forms in this packet. You must mail a copy of the Notice to Set your 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:

- 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 by Publication (see above).

At the hearing the magistrate or judge will take testimony regarding financial matters, including division of property, debts, maintenance, if any, allocation of parental responsibilities, parenting time, and child support of the minor children.

You must bring with you completed copies of the following documents:

- Your financial affidavit.
- A proposed parenting plan.
- Proof that you have completed the parenting education classes.
- The decree and the support order(s).
- The worksheets for child support.
- The separation agreement / disclosure for the court, telling the court what you want.

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

You must wait six months after entry of a Decree of Legal Separation to request that it be converted to a Decree of Dissolution of Marriage. Either party may make the request by filing a motion along with proof that the other party received a copy of the motion. The court requires a filing fee for this motion.

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. You may also request the court to make a copy for you. If you want the court to certify a copy of the Decree for you, the certification cost is \$5.00 per document.