

# STATE OF MINNESOTA

## FAMILY COURT MATTER

### Instructions for: DISSOLUTION OF MARRIAGE WITH CHILDREN

You may file your divorce in the county where you live or the county where your spouse lives. These instructions contain general information.

Filing fees, policies and procedures may vary by County.

If you cannot afford to pay the filing fee or other costs, ask the Court Administrator/Deputy for an “IFP” application to waive fees. A judge will decide if you have to pay, based on your application.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>.

For more information, contact your Court Administrator or call the Minnesota State Law Library at 651-296-2775.

## Read These Important Notices

### **Can I handle my divorce myself?**

The court does not require you to have a lawyer. You may represent yourself, and you will be referred to as a “self-represented litigant.” Court forms are available from the court but court personnel cannot assist you in filling out the forms. The Court expects every person who appears in court without an attorney to know and to follow the law. If you act as your own attorney, you must do what an attorney would do.

The danger in representing yourself is that you will not recognize legal issues or problems in your case, or you may delay your divorce by failing to follow required procedures. You may get a divorce and learn later that you made serious mistakes that cost you money or create other problems. Changing a divorce order is difficult, and for some issues, like division of property, it is nearly impossible to change a divorce order.

You may wish to consider talking to a lawyer even if you plan to represent yourself. A lawyer can help you with all or just part of the process. For example, you may decide to ask a lawyer to help you decide if you should ask for spousal maintenance, or to help with understanding and calculating child support.

Here are some areas where people run into problems and need legal advice. If you answer YES to any of the questions below, you are strongly advised to talk to an attorney before signing any divorce forms.

1. Does your spouse have an attorney?
2. Are you unsure of your spouse's income, or do you think your spouse is working less than he/she could be?
3. Do you or your spouse have pension, retirement or profit sharing plans?
4. Do you or your spouse own a home or other real estate together or separately?
5. Do you or your spouse own a business?
6. Do you or your spouse have a large amount of assets (money, property) or is your spouse hiding assets?
7. Did you sign an antenuptial contract?
8. Do you and your spouse have children together or is a spouse pregnant?
9. Since your marriage, has a spouse given birth to a child fathered by someone other than the husband?
10. Have you or your spouse filed for bankruptcy or plan to in the near future?
11. Are you or your spouse involved in a personal injury lawsuit?
12. Are you worried about paying debts?
13. Are you claiming you have non-marital property?
14. Do you want spousal maintenance (formerly called “alimony”) or is your spouse asking for spousal maintenance?
15. Do you have questions about how to continue medical insurance?
16. Are you or your spouse a member of the armed services?

### **Can I file for divorce in Minnesota?**

1. The law states that before you can begin a divorce in Minnesota, you or your spouse must have lived in Minnesota for the last six months, OR you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. If neither you nor your spouse have lived in Minnesota for the last six months, STOP – you cannot get a divorce in Minnesota yet. You must wait until one of you has lived in Minnesota for at least six months. File in the county where either you or your spouse live now.
2. If you and your spouse are a same sex couple who were civilly married in Minnesota, but no longer live in Minnesota, based on a new law effective August 1, 2013, you and your spouse may file an action for dissolution in Minnesota if there is no other state that will allow an action for dissolution because of the sex or sexual orientation of you and your spouse.
3. If you or your spouse has already started a divorce, legal separation or annulment action in Minnesota or in any other state, you cannot start this divorce. You may either complete the other action, or you may have the other action dismissed and then start this divorce action.

### **What Forms Do I Need?**

You should use the forms located under the category of Petition for Divorce with Children if you and the other party have at least one child together, if a spouse is pregnant, and if a spouse has a child who was born during the marriage and husband or wife is claiming that husband is not the father of that child. A “child” means someone 17 years old or younger. For purposes of child support, “child” also means someone 18 or 19 years old, if the child is still in high school. If no children were born of, or adopted into this marriage, or if your children are now adults you should use the forms under the category of *Petition for Dissolution of Marriage without Children*.

### **Do You Need a Temporary Order?**

**IMPORTANT:** Your divorce will not be final for several weeks or months. Between now and when your divorce is final, you may need to ask the court to order your spouse to pay you child support or spousal maintenance, or you may need an order regarding custody, parenting time, possession of the homestead, or other matters. If you need help from the court at any time before the divorce is final, you must file a Motion for Temporary Relief. Ask Court Administration for the *Temporary Relief Pending Final Hearing With Children* forms or download the forms at <http://mncourts.gov/GetForms.aspx?c=15&p=57>.

### **Do the Forms Have to be Typewritten?**

Typewritten forms are preferred because they are easier to read. You may print your answers if your writing is clear and neat. Use dark ink. If you need more space to answer a question, write “See Exhibit A” and attach an additional full sheet of paper labeled “Exhibit A.” If a second attachment is needed, label it “Exhibit B”.

**As you fill out the forms, you MUST follow all of the attached instructions.**

# INSTRUCTIONS

## Step 1 Fill Out the *Summons* Form

A *Summons* tells your spouse that you have filed a lawsuit against him or her asking for a divorce, and also tells your spouse that if he or she does not file a written *Answer* to your lawsuit, the court may give you everything you ask for in your lawsuit.

### HOW TO FILL IN THE *SUMMONS*:

- On the line marked “Name of Petitioner”, write your full name. From now on you will be called Petitioner.
- On the line marked “Name of Respondent”, write your spouse’s full name. From now on your spouse will be called Respondent.
- Check the appropriate box “without real estate” or “with real estate” at the top right section of the *Summons*. Check “with real estate” if you or your spouse together or separately own real estate, land or buildings in Minnesota or elsewhere.
- Check the appropriate box at question #3. If there is no real estate, check the box that says, “This proceeding does not involve real property.” If you and/or your spouse own real estate select the first box and fill in the street address, county, and state of all real property (such as a house or cabin) owned either by you or your spouse. You must also give the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed, Contract for Deed or Certificate of Title at the office of the County Recorder or Registrar of Titles in the county where the property is located.

**WARNING:** Be sure to copy the legal description **exactly** as it is on the Deed, Contract for Deed or Certificate of Title. If there is more than one parcel of real estate, you must provide the address and legal description for each parcel. You may add the language “See attached Exhibit A” following the legal description for the first parcel of land. On a separate full sheet of paper, write the information for the other parcels of land. Label the separate sheet of paper “Exhibit A” and file it with the completed *Summons*.

- Fill in your address and phone number at the bottom of the *Summons*.

**Caution: Make sure you list all real estate.** To avoid title problems in the future, list all real estate owned by the parties together or separately in the *Summons and Petition* and the divorce *Decree*. You and your spouse both have an interest in all real estate owned by either you or your spouse until the divorce is finalized and the Decree awards the property to just one party. For

example, a deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the grantee spouse.

**Step 2**  
**Fill Out the *Petition for Dissolution of Marriage* Form**

YOU MUST ANSWER EVERY QUESTION  
*Write "NA" on the blanks that do not apply or*  
*write "Unknown" if you are unable to obtain the information.*

The *Petition* is divided into two parts. The first part gives the Court information about you, your spouse, your children, your finances, and your property. The second part tells the Court and your spouse what you are asking for from the court.

**HOW TO FILL OUT THE *PETITION FOR DISSOLUTION OF MARRIAGE***

- Fill in the name of Petitioner (you) and Respondent (your spouse)
- Answer questions 1-39 completely.
- The following instructions are numbered the same as on the *Petition* form.

**INSTRUCTIONS FOR ANSWERING QUESTIONS 1-39. NOTE: The instructions are numbered the same as in the *Petition*. For example, for help in answering Question #3 on the *Petition*, read instruction #3.**

1. Throughout this case, you will always be known as the Petitioner. Provide the address where you live, an address where you agree to receive papers about this case if you do not have mail service at your residence, and your date of birth. List all former or other name(s), such as a maiden name, or other married name.
2. Throughout this case your spouse will always be known as the Respondent. Provide the address where the Respondent lives. If you do not have a current address, check the box next to "Respondent's address is unknown to Petitioner." Enter the Respondent's date of birth and all former or other name(s), such as a maiden name, or other married name.
3. Provide information about the date and location of your marriage.
4. Check YES if you have lived in Minnesota for the last six months. Otherwise, check NO. Check YES if your spouse has lived in Minnesota for the last six months. Otherwise, check NO.

**STOP: The law states that before you can begin a divorce in Minnesota, either: (1) you or your spouse must have lived in Minnesota for the last six months; or (2) you or your spouse must be a member of the armed forces stationed in Minnesota for the last six months. If neither you nor your spouse have lived in Minnesota for the last six months, you**

**cannot file for a divorce yet. You must wait until one of you has lived in Minnesota for at least six months. If one of you has lived in Minnesota for the last six months, then go on to answer the rest of the questions.**

**Note: A new law, effective August 1, 2013, will allow a same sex couple who were civilly married in Minnesota to dissolve their marriage in Minnesota if neither spouse resides in Minnesota nor resides in a state that will recognize an action for dissolution because of the sex or sexual orientation of the Petitioner and Respondent.**

5. Answer the questions about the military status of both you and the Respondent. If either you or your spouse is a member of the armed forces there are special procedures under the Servicemembers Civil Relief Act. Contact an attorney.
6. In Minnesota, a marriage can be dissolved even if only one of the parties states that the marriage relationship is over. By filling out this *Petition* you are stating that your marriage is over and cannot be saved.
7. Check YES if you are still living together; check NO if you are not. If NO, print the date you physically separated. If YES, describe why you are living together at this time.
8. Check YES if you or your spouse has already started another dissolution, legal separation or annulment proceeding in Minnesota or any other state.

**WARNING: If you or your spouse have already started a divorce or legal separation or annulment case in Minnesota or in any other state and it has not been dismissed, you CANNOT start this divorce. You could either complete the other action, or you could have the other action dismissed and then start this divorce.**

Check NO if there is no other action.

9. Check YES if there is an existing *Order for Protection* or an existing *Harassment Restraining Order* against the Petitioner or Respondent; complete this question and **file a copy of the order along with the completed *Petition***. Check NO if there is no Order.
10. Check YES if there is an existing Child Protection case and fill in all information. Check NO if there is no existing case.
11.
  - (a) List each joint child **under the age of 18**. A joint child is a child you and your spouse have together, including children born of you and your spouse before or during the marriage, and children adopted into your marriage. Also include a joint child age 18 or 19, if the joint child is still in high school. Check who the joint children currently live(s) with.
  - (b) Answer whether all the joint children listed in (a) have lived in Minnesota for the past six months.

12. List any adult dependent children who are unable to live on their own because of a physical or mental condition.
13. Answer the questions about pregnancy.
14. (a) Check YES only if YOU have any nonjoint children **under the age of 18**. A nonjoint child is the biological or legal child of one, but not both parties to the divorce. Nonjoint children are from a different marriage or relationship. List all of your minor nonjoint children.
- (b) Check whether you have given birth during the marriage to a child (or children) who is not a child of the Respondent (including children who were born while the parties were separated). If YES, answer (i), (ii), (iii) and (iv).
- (i) List the name(s) and date of birth of the nonjoint children.
- (ii) Check whether there is a court order naming someone other than the Respondent as the other parent of the child. If YES, you must submit a copy of the order along with the completed *Petition*.
- (iii) and (iv) Check whether you (Petitioner) and the other biological parent have signed the Minnesota Recognition of Parentage, and whether the Respondent has signed the "Spouse's Non-Parentage Statement." If YES, a certified copy of both the Non-Parentage Statement and the Recognition of Parentage must be attached. **Certified Copies** of the Minnesota Recognition of Parentage and Non-Parentage Statement can be obtained by completing and notarizing the required form provided by the Minnesota Department of Health. You can get the form from the Minnesota Department of Health website at: <http://www.health.state.mn.us/divs/chs/osr/cerropsnpsiao.pdf> or you can call 651-201-5970 to request a copy of the form. The fee for a certified copy is \$9.00 per copy. The completed form and fee should be mailed to:

**Minnesota Department of Health  
Central Cashiering – Vital Records  
P.O. Box 64499  
St. Paul, MN 55164-0499**

15. (a) Check YES only if the RESPONDENT has any nonjoint children **under the age of 18** that were born **prior** to the marriage from a different marriage or relationship.
- (b) Check whether Respondent has given birth during the marriage to a child (or children) who is not a child of the Petitioner (including children who were born while the parties were separated). If YES, answer (i), (ii), (iii) and (iv).
- (i) List the name(s) and date of birth of the nonjoint children.

- (ii) Check whether there is a court order naming someone other than the Petitioner as the other parent of the child. If YES, you must submit a copy of the order along with the completed *Petition*.
- (iii) and (iv) Check whether the Respondent and the other biological parent have signed the Minnesota Recognition of Parentage, and whether the Petitioner has signed the "Spouse's Non-Parentage Statement." If YES, a certified copy of both the Non-Parentage Statement and the Recognition of Parentage must be attached. **Certified Copies** of the Minnesota Recognition of Parentage and Non-Parentage Statement can be obtained by completing and notarizing the required form provided by the Minnesota Department of Health. You can get the form from the Minnesota Department of Health website at: <http://www.health.state.mn.us/divs/chs/osr/cerropsnpsiao.pdf> or you can call 651-201-5970 to request a copy of the form. The fee for a certified copy is \$9.00 per copy. The completed form and fee should be mailed to:

**Minnesota Department of Health  
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P.O. Box 64499  
St. Paul, MN 55164-0499**

16. Legal Custody identifies which parent(s) has / have the right to make decisions regarding the upbringing of the children, including education, health care, and religious training. Legal Custody can either be sole or joint. Sole Legal Custody means that only one parent has a right to make major decisions regarding the upbringing of the children. Joint Legal Custody means both parents share in the decision-making.

Physical Custody identifies which parent will handle the routine daily care and control of the children. Generally, the child lives with the parent who has physical custody. Physical custody can either be sole or joint. If Sole Physical Custody is awarded, the parent with whom the child does not live with will have scheduled parenting time (visitation) rights unless the court "reserves" parenting time. If parenting time is "reserved" there is no order made for parenting time. You must give the court reasons why parenting time should be reserved. Joint Physical Custody means that the children lives with both parents based upon a schedule that best meets the needs of the children and parents, and that the parents have joint responsibility and control in the daily care of the children. If you request joint physical custody, you must be able to show that you and the other parent can cooperate and work together to resolve problems that arise in raising your children. The court may require you and the other parent to agree to mediate any disputes regarding joint physical custody before bringing a custody dispute back to court.

17. Parenting Time is the time a parent spends with a joint child, regardless who has custody of the child. You must say if you want parenting time to be unsupervised, supervised or reserved. If you think your children would not be safe alone with your spouse, you can ask the Court to make parenting time "supervised." You must explain at 16 a) and b) why supervision is needed, and who will do the supervising and pay any costs. The court may order parenting time to take place at a visitation center, or the court may order a



family member or someone from social services to supervise the parenting time. If you check “unsupervised” the parent can visit the children without anyone else watching. If you check “reserved”, you are asking that the court give that parent NO parenting time. If you check "reserved" answer part (c) describing why "reserved" parenting time is best for the children. If parenting time is "reserved" either parent can ask the court to make a new order about parenting time in the future, by filing a motion with the court.

18. This question asks about “public assistance” paid by the State of Minnesota. Public Assistance means MFIP, Tribal TANF, General Assistance, MinnesotaCare, Medical Assistance, or Child Care Assistance. Check YES or NO. If YES, write in the name of the county paying the assistance. Minnesota law requires you, as the petitioner, to notify the public authority that you are filing a divorce action when the public authority is paying assistance or is processing your application for assistance. Use the form called *Notice to Public Authority* (court form DIV813) to notify the county of your divorce action.
19. Answer whether you, your spouse, or your joint children receive Supplemental Security Income (SSI) from the federal government. This is an income supplement program based on need. To get it, you must be low income and over 65, blind or disabled. SSI is different from Social Security retirement or other benefits based on qualifying years of work.
20. “School” includes high school, college, vo-tech, and night classes. Check YES or NO. If YES, write in the name of the school.
21. This question is about your employment status. Provide the requested information about your employer. If you are self-employed, list the business name and address. For purposes of setting child support, there is a presumption that both parents can work full-time. If you are unemployed or work less than 40 hours/week, answer subparagraphs b)i. and ii. to explain why you are not employed full-time and describe your past work experience.
22. This question asks for your monthly income. Minnesota law defines "income" a certain way for purposes of setting child support.
  - When you enter your income amounts, enter the "gross" amount, not the "net". Gross income is the amount you receive before taxes or other deductions are taken out.
  - If you have a job, the most accurate way to calculate your gross monthly income is to multiply your hourly wage by the number of hours you work per week by 4.33. 4.33 is the average number of weeks in a month.
  - Overtime pay is generally excluded from income, but may be included depending on the circumstances. Look at the Minnesota laws or consult a lawyer if you have questions about overtime pay or other categories of income.
  - Public assistance benefits available to low-income people are not included in "income". Do not include MFIP, General Assistance, SSI or other public benefits as income.

- Look at each category of income and enter the amount you receive per month (before taxes or deductions). Enter "zero" if you do not have income of that type.
- If you have a type of income not listed at #21, enter that income under "Other". When you have entered all your monthly income amounts, total the numbers and enter that on the line "Total monthly income".

The three final questions at #22 are important for calculating child support.

1. "Enter the amount of child support you are court-ordered to pay for a nonjoint children." Do you pay child support for a child that is your legal child, but not your spouse's legal child? If you do, write in the amount your court order says you are supposed to pay each month.
  2. "Enter the amount of spousal maintenance you are court-ordered to pay to your current or former spouse." If a court order requires you to pay spousal maintenance (alimony) to a former spouse or to your current spouse, enter the amount you are ordered to pay each month.
  3. "Enter the amount of Social Security of Veteran's Benefits provided to a joint child because of your retirement, disability, or other eligibility." If a joint child of you and your spouse receive SS or VA benefits due to YOUR eligibility, enter the monthly amount of the child's benefit here. Which parent receives the check on the child's behalf? Check the box for Petitioner if you receive the check, and check the box for Respondent if the check goes to your spouse on your child's behalf.
23. Provide the requested information about living expenses for the family.
  24. Answer whether you and your spouse have a joint child with special needs and extraordinary medical expenses. If YES, provide the name of the child, describe the needs, and answer (b) and (c).
  25. This question is about your spouse's employment status. Provide the requested information about your spouse's employer and jobs. If your spouse works less than full-time, explain why your spouse is not working full-time and what his/her past work experience is at paragraph c) i. and ii. If you do not know the answer to questions about your spouse's jobs, check the "unknown" box.
  26. This question asks about your spouse's monthly income. Check "Petitioner has no information about Respondent's income" if you do not know how much money your spouse makes and you are not able to get that information. If you have some or detailed information about your spouse's income, complete the questions.
  27. Complete the questions about child care costs necessary so that you or your spouse can work or attend school.

28. Complete the questions about medical and dental insurance. The court needs to know what coverage you, your spouse and your joint children have now and what it costs. If the children do not have health coverage, the court needs to know if you or your spouse could purchase health coverage through your work (question 28f.)

**NOTE: If you, your spouse, or your children are covered by medical or dental insurance through your job or your spouse's job, that coverage can be continued even after the divorce. If you want the insurance coverage to continue after the divorce, call the Employment Benefits Office of you or your spouse's employer and ask for "COBRA" coverage.**

29. This question is about spousal maintenance. Spousal maintenance is money paid by one spouse to help support the other spouse (formerly called alimony). If you check YES for either (a) or (b), you need to provide details about the length of marriage, education of the spouse who would receive maintenance, gross monthly income, and reasons why the spouse would not be able to maintain the standard of living established during the marriage.
30. List all the vehicles owned by Petitioner and Respondent together or separately.

**WARNING: Questions 31-32 ask about marital and non-marital property. Dividing marital property and non-marital property can be complicated. You should talk to an attorney. For example, a house purchased by one spouse before the marriage, then lived in by both spouses will generally be part marital and part non-marital property. An attorney can advise you on the law and how to divide the value of the house between you.**

- **Marital Property means almost anything that you or your spouse own that you or your spouse received during the marriage, even during the times that you and your spouse were separated. This includes real estate, boats, cabins, household goods, furniture, jewelry, and other things.**
  - **Non-marital Property means: (1) anything that you or your spouse owned before the marriage; (2) anything that you or your spouse received as a gift, bequest, devise, or inheritance; (3) anything that you or your spouse got in trade or in exchange for your non-marital property; (4) anything that is an increase in the value of non-marital property; (5) anything you or your spouse received after the valuation date set by the Court; or (6) anything included by a valid antenuptial contract (STOP: If you have an antenuptial contract, you should stop here and talk to an attorney.)**
31. Check YES or NO whether you and your spouse have divided the **marital property** to your mutual satisfaction, including household goods, furniture, furnishings, and other belongings. If you have **NOT** divided the marital property, list the items that you want.

32. (a) Check YES or NO whether you claim **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property you own.
- (b) Check YES or NO whether your spouse claims **non-marital property**. Non-marital property is property you owned before you got married or acquired during the marriage by inheritance or gift. List all non-marital property your spouse owns.
33. Check YES or NO whether you or your spouse has money in banks, savings, cash or investments. If YES, fill in all columns in the box. Use Confidential Information Form 11.1 (CON111) to list the name of the financial institution, account holder name(s) and account numbers. Using Form 11.1 keeps your account numbers confidential from the public. Do not list account numbers on the *Petition*.
34. Check YES or NO whether you and/or your spouse own part or all of a business. If YES, fill in the name, address and value of the business.
35. Check YES or NO if either you or the Respondent own a manufactured (mobile) home. If YES, complete the detail questions.

**WARNING:** Question 36 asks you to list all **real property**. Real property is land and the buildings on the land. You must list all real property owned by you and your spouse together, separately, or with others. Failure to list all property will create serious problems and expense in the future. **Dividing real property is complicated. You should talk to an attorney if you and/or your spouse own any real property.** You and your spouse both have an interest in all real estate owned by either you or your spouse until the divorce is finalized and the Decree awards the property to just one party. For example, a deed given by one spouse to the other spouse before the divorce is finalized does **not** transfer all interest to the grantee spouse.

36. (a) Check YES or NO if you and your spouse own any real property together.  
(b) Check YES or NO if you own real property solely in your name or with someone other than Respondent.  
(c) Check YES or NO if Respondent owns real property solely in his/her name or with someone other than you.  
(d) Answer how many properties are owned by you and your spouse in total.
- If YES to (a), (b) or (c), complete the Real Property Information questions for each piece of property. (1) List the full names of all owners of the property. (2) Fill in the legal description of the property (the legal description is not the same as the street address). *Example of Legal Description: Lot 1, Block 4, Hamden Edition, Hennepin County, Minnesota.* You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the County where the real property is located. **WARNING:** Be sure to copy the legal description **exactly** as is on the Deed or Contract for Deed. (3) Fill in the street address, city, county, and state where your property is located. (4) State the date the property was purchased and its purchase price. (5) State the amount of any existing loans or mortgages. (6) State the

current market value of the property and describe how you came up with that value. (7)  
Check YES if this property is the homestead.

**WARNING: Question 37 asks about pension, profit sharing, and retirement plans. Dividing pension, profit sharing, and retirement plans is complicated. You or your spouse could face large losses if the divorce decree does not divide the pension or retirement plan according to the laws that apply. You should talk to an attorney if you or your spouse have any of these types of plan.**

37. (a) Check YES or NO if you have an IRA, 401(k), 403(b) or other retirement plan. If YES, list the current account balance. Use Confidential Information Form 11.1 (CON111) to list the name of the financial institution, account holder name(s) and account numbers.
- (b) Check YES or NO if your past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan for you. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date you began working at the job or joined the plan, the type of plan, and the present value of the plan.
- (c) Check YES or NO if your spouse has an IRA, 401(k), 403(b) or other retirement plan. If YES, list the list the current account balance. Use Confidential Information Form 11.1 (CON111) to list the name of the financial institution, account holder name(s) and account numbers.
- (d) Check YES or NO if your spouse's past or present employer, union, or other group, paid money into a pension, profit-sharing, or other retirement plan. If YES, list the name of the plan, the name of the group employer, union, or group providing the plan, the date your spouse began working at the job or joined the plan, the type of plan, and the present value of the plan.
38. Check YES or NO if you and/or your spouse have outstanding debts (owe money) either together or separately. If YES, list all of the debts you and your spouse now have, even if only one of you created the debt and even if only one of your names is on the credit card, loan or note. List all debts still owed from before you were married, from during the marriage but before separation, and after separation. The Judgment and Decree (divorce decree) will state who is responsible for paying each debt. Include credit card bills, gas bills, water bills, telephone bills, school loans, car loans, home loans and mortgages, and other bills and loans. List to whom the debt is owed (such as Sears); how the money was used (such as "clothing for the children"); whose name is on the account and when the debt was created (if you cannot get the exact date the debt was created, at least state if the debt is from before the marriage, or during the marriage and before separation, or after separation); the current balance due; and the monthly payment. Attach another sheet of paper if you need more space. You must disclose all debts.
39. You may change your name as part of the divorce, but you do not have to do so. You can change your name to a maiden name, or some other name. You cannot make your spouse change his or her name, and your spouse cannot make you change your name. If you

want to change your name, check YES and answer (a) – (c). If you do not want to change your name, check NO.

(a) Print the new name you want (*first, middle, and last*). **Do not use initials unless you want only an initial instead of a full name**

(b) You cannot change your name if your reason for changing your name is to defraud or mislead anyone. Mark True or False to the statement “Petitioner has no intent to defraud or mislead anyone by changing his/her name”.

(c) If you have a felony conviction, you cannot change your name unless you notify the prosecuting authority that you intend to change your name. The prosecuting authority has 30 days after being served with your notice to object to the name change. If you have been convicted of a felony anywhere in the United States, answer (c) YES. Ask Court Administration to give you the *Felon Name Change Instructions*.

**Warning:** If you do not notify the prosecuting authority of the request for name change and you use your new name, you may be guilty of a gross misdemeanor.

40. List any other facts you would like the court to know.

**INSTRUCTIONS FOR ANSWERING QUESTIONS 1-24, WHICH TELL THE COURT AND YOUR SPOUSE WHAT YOU WANT THE COURT TO ORDER**

1. This tells the court that you want your marriage dissolved. You do not need to write anything here.

**QUESTIONS 2 and 3 tell the court and your spouse who you think should have legal custody and physical custody of the joint children. The court will decide who should have custody based on what is best for the children.**

2. Write the name of each joint child who is under age 18, or is 18 or 19 and still in high school. For each child, check the box to show what you want for legal custody.

3. Again, write the name of each joint child who is under age 18, or is 18 or 19 and still in high school. For each child, check the box to show what you want for physical custody.

4. Write down what parenting time arrangements you want. First, check the boxes to show if parenting time should be unsupervised, supervised or reserved. This should match what you said at #17 of the Findings section on the Petition.

Then, describe the parenting time schedule you want. It should be clear from your schedule which parent is taking care of each child at all times (24 hours a day/7 days a week). Include the time of day that the child will be exchanged. For example, a weekday schedule might be "the children are with Mother every Monday through Friday, except that Father has parenting time every Wednesday from 4pm to 8am Thursday." What is appropriate for parenting time can depend on the age of the child.

After you have set out the weekday and weekend schedule, you can request a different schedule for summer, holidays, birthdays, or school release days. Holidays may include, but are not limited to, the following: New Years Day, Easter, Memorial Day weekend, Fourth of July, Labor Day weekend, Thanksgiving Day, and Christmas. Some parents alternate holidays each year so that, for example, on Memorial Day weekend the children would be with the mother in odd-numbered years and with the father in even-numbered years. The next holiday would be Fourth of July and the children would be with the father in odd-numbered years and with the mother in even-numbered years. Other parents keep the same holidays each year so that, for example, the children spends every Christmas Eve with the mother and every Christmas Day with the father. Under "Other" you may want to include how you would like to handle Mother's Day, Father's Day, and any days or events that are special to you.

Some parents include transportation details in the parenting time schedule. If you want to say who is responsible for transporting the child for parenting time, enter that under "Other." Some parents make very detailed parenting plans that address many more issues that come up in raising the children. If you would like a more detailed parenting plan, you can create one and attach it to your *Petition*. The court does not have a form for a more detailed plan. It is also possible to request "reasonable parenting time." With reasonable parenting time, there is no schedule in the divorce order. Instead, the parents work out parenting time themselves, on an on-going basis. If you want "reasonable parenting time," write that phrase under "Other" and leave the rest of the schedule blank.

Section (d) asks for the annual (yearly) number of overnights each parent has with the children (based on a two-year average) because parenting time is based on the number of overnights that each parent has with the children. It is important for each parent to know how many overnights each parent has in a court order (by using a Summons and Petition for Dissolution of Marriage, you are asking for a court order). If a parent has significant time with a child that isn't overnight, the court may count that time as an "overnight equivalent," but it must be called that to count as equal to an overnight.

If the parenting time is equal, then each parent will have 182.5 overnights.

If parenting time is not equal, then you will need to figure out each parent's number of overnights (and, if applicable, number of "overnight equivalents"). One way to do this is to follow these steps:

- Print 24 months of calendar pages.
- Based on the schedule you are asking for, mark on the calendar each parent's overnight for two full years.
- Count Petitioner's number of overnights for the two-year period, **then divide by 2**. That will give you the number of Petitioner's annual overnights with the children.
- Count Respondent's number of overnights for the two-year period, **then divide by 2**. That will give you the number of Respondent's annual overnights with the children.

5. The court will make an order regarding child support. Child support includes costs for the children for basic support for daily living expenses, health care coverage, uninsured and unreimbursed health care expenses, and child care expenses if child care is needed so the parent can work or attend school. You do not need to fill in anything at #5. However, at some point in the proceedings, you will need to be specific about the amount of child support that is needed. The Minnesota Department of Human Services has created an online calculator for child support at:

<http://childsupportcalculator.dhs.state.mn.us>

You need income information for yourself and your spouse, and the number of annual overnights each parent has with the children, to use the calculator. This calculator is intended for use by the public, and after you enter the required information, the calculator produces dollar amounts for support based on Minnesota law. If you think that support should be higher or lower in your case, you need to add a statement to your *Petition*, requesting a "deviation" in child support and stating facts that support your request. You should research the law or get help from an attorney if you wish to request a deviation.

You may find it helpful to review the [Calculating the Number of Overnights](#) handout (available online at

[http://www.mncourts.gov/mncourtsgov/media/scao\\_library/SelfHelpCenters/documents/Handout-Calculating-the-Number-of-Overnights-\(002\).pdf](http://www.mncourts.gov/mncourtsgov/media/scao_library/SelfHelpCenters/documents/Handout-Calculating-the-Number-of-Overnights-(002).pdf)).

6. At (a) check off whether you (Petitioner) want to pay for the children's medical and/or dental insurance through employment or private insurance or whether you want your spouse (Respondent) to pay for the children's medical and/or dental insurance through employment or private insurance. If the children are covered by Medical Assistance or Minnesota Care, check box (b) instead. If you think the judge should make no orders about health coverage for the children at this time, check box (c) to "reserve" the issue. Reserving the issue means that in the future either parent can file a motion in court asking for an order deciding who must provide health coverage for the joint children.
7. Usually medical and dental insurance does not pay every bill. For example, co-payments and medicine might not be covered. These costs are called unreimbursed costs. Uninsured costs are expenses for treatment not covered by the health plan. These costs are part of the child support obligation. The child support calculator provides a percentage allocation of these costs, based on the relative incomes of the parents. Check box (a) to ask that these expenses be shared. Or check box (b) if you want the court to reserve this issue and not make an order about these expenses at this time.
8. This paragraph states how you want to handle the health insurance coverage costs for you and your spouse (not your children.) Check box (a) if you want you and your spouse to be responsible for your own insurance after the divorce. Check box (b) if you want one of you to pay the insurance costs for the other after the divorce. Box (c) is for COBRA coverage. COBRA coverage exists under federal law and it allows a spouse to continue



to be covered under the other spouse's work insurance even after the divorce. For more information on costs, whether this coverage is available, and how to get it, check with the employer of the person who has health coverage. If you have other questions, or if the boxes provided do not explain what you want the court to order, ask an attorney for help.

9. Minnesota law requires the parents to share work-related and school-related childcare costs. This is part of the child support obligation. You can check the box to have the judge determine the share of monthly child care expenses according to Minnesota law or you can check the box to reserve the issue. The child support calculator will calculate the share each parent should pay, based on their relative incomes.
10. Spousal maintenance is money paid by one spouse to the other to help with the spouse's necessary monthly living expenses. This is separate from child support. If you want spousal maintenance to be denied, check box 10(a). If spousal maintenance is denied, you and your spouse can not ask for it to be ordered later (after the divorce) even if your circumstances change. If you want to retain the ability to ask for spousal maintenance after the divorce is final, check "reserved." If you check reserved and the court agrees to reserve maintenance, your spouse can also request maintenance from you at a later date. If you want an order for spousal maintenance now, check box 10(c) and indicate who should pay.
11. In question 30 above you listed all of the vehicles owned by you and your spouse. Write down which vehicles you want the Court to give to you and which vehicles you want your spouse to have.

**WARNING: Dividing marital property and non-marital property is complicated. You should talk to an attorney.**

12. Check YES or NO whether you and your spouse have already divided your marital property to your mutual satisfaction. If NO, list the marital property you want to receive and the marital property you want your spouse to receive.
13. Check YES or NO whether you and your spouse have already divided your non-marital property to your mutual satisfaction. If NO, list the non-marital property you want to receive and the non-marital property you want your spouse to receive.
14. State how you want the court to divide the cash and investments listed at #33 above.
15. If you and/or your spouse own a business, state how you want the court to divide the business. Be very specific.
16. If you and/or your spouse own a manufactured home, provide the address of the manufactured home and check off who should get it.

17. If you or your spouse own other real property either separately or together, check off whether you (Petitioner) or your spouse (Respondent) should be awarded that real property, and then list the street address, city, county and state where the homestead is located, and then write the **exact** legal description. You can get a copy of the legal description from the Deed or Contract for Deed at the office of the County Recorder or Registrar of Titles in the county where the property is located. Write in the name of the mortgage company and the amount of the current mortgage balance. If there is additional real property, list it in paragraph 18.
18. If there is additional real property, provide the address and legal description and state how that property should be awarded.
19. Describe how your pension, profit sharing, retirement, IRA or 401 plan should be divided, then do the same with any plan in your spouse's name. Get competent legal and tax advice before making any decisions.
20. If you listed any debts at #38 in your *Petition*, list those debts again here. State who the debt is owed to, and then state who should pay this debt - you or your spouse. The court can order one of you to pay a debt, but if both your names are on the debt, the creditor can still go after either of you for payment. Your divorce doesn't eliminate your legal obligation to pay a debt you promised to pay when the money was borrowed. If you are worried about the debt being paid, ask a lawyer for advice about how to handle the debt in the divorce. Whether or not you have debt, you can check box 20 (b) asking that you and your spouse both be responsible for non-joint debts you each incurred on your own.
21. If you want to change your name, print **exactly** how your new name should be listed (first, middle, and last). **Do not use initials unless you want only an initial instead of a full name.**
22. List anything else you would like the court to decide.
23. You do not need to write anything for question 23.
24. **READ and SIGN the Verification and Acknowledgments.**

<b>Step 3</b> <b>Fill Out the <i>Financial Affidavit</i> (FAM102)</b>
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Fill out the form called "*Financial Affidavit*." This form asks for your income information. Look at paragraph 22 on your *Petition*. The information you put on the *Financial Affidavit* should be the same as #22 on the *Petition*. The *Financial Affidavit* is required to be served on your spouse and filed with the court at the same time you serve and file your *Petition* and *Summons*. The *Financial Affidavit* has separate instructions which you should read. It is very important to submit with the *Financial Affidavit* any proof you have regarding your income. This proof may include the last 3

months of pay stubs, income tax return, or other documents. Make sure the copy of the *Financial Affidavit* you provide to your spouse also has copies of your proof of income.

#### **Step 4**

### **Sign the *Summons* and *Petition* and *Financial Affidavit***

- Sign the *Petition* and *Financial Affidavit* under penalty of perjury. By signing the *Petition* under penalty of perjury, you are stating that the information in the document is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.
- On the signature page of the *Petition* where it reads “State of Minnesota/County of \_\_\_\_\_,” fill in the name of the county where you signed the *Petition*.
- Sign the *Summons*.

#### **Step 5**

### **Make Copies of Forms**

Make two copies of the *Summons*, two copies of the *Petition*, and two copies of the *Financial Affidavit* and attachments (pay stubs, tax return, etc.) You will arrange to have one set of copies served on your spouse (Step 6) and you will keep one set of copies for your records. Later, you will file the *Summons and Petition* and *Financial Affidavit* with the Court (Step 9.)

#### **Step 6**

### **Serve the Other Party**

Your spouse must receive a copy of your *Summons and Petition for Dissolution of Marriage* and *Financial Affidavit*. Delivering the copy to your spouse is called “service of process.” Your marriage dissolution action is started the moment your spouse is served with the *Summons and Petition for Dissolution of Marriage*.

These instructions describe three ways to do “service of process:” (1) Personal Service, (2) Waiver of Service, and (3) Alternate Service. Read about each of the three ways to decide which way is appropriate in your case.

#### **Service of Process Method #1: Personal Service**

This is the most common method for serving divorce papers. With Personal Service, a third person (the “server”) who is at least 18 years old hands a copy of the *Summons and Petition* directly to your spouse. Papers cannot be served on a legal holiday. After serving the papers, the

server must fill out the *Affidavit of Personal Service*, and sign it under penalty of perjury. The *Affidavit of Service* is your proof that the papers were delivered, and tells what date they were delivered. See the following “Instructions on how to fill out the *Affidavit of Service*”.

#### Important Points for Personal Service

- A copy of the *Summons* and *Petition* and *Financial Affidavit* is handed directly to your spouse (not mailed, not left with a roommate.)
- **You** cannot hand the papers to your spouse.
- Papers can be handed to your spouse at home, at work, or anyplace else.
- The server must be at least 18 years old.
- You can ask the sheriff or a private process server to serve the papers, or ask a friend to serve the papers. Private servers and the sheriff charge a fee to serve papers. If you have an *In Forma Pauperis* (IFP) order that covers service of process fees, the sheriff will serve the papers within the county at no cost to you. You must deliver to the sheriff the *Summons* and *Petition* and *Financial Affidavit* and the IFP order. No matter who serves the papers, it is your responsibility to get the completed *Affidavit of Personal Service* from the server to file in your court file. If your spouse lives outside of your county, you must contact the sheriff in that county and ask if they will honor the IFP order from another county.
- Papers cannot be served on a legal holiday. Papers delivered on a legal holiday have not been legally served, and the case will be dismissed.
- **Personal Service in another state or country.** Your spouse can be served by Personal Service anywhere in the United States, as long as the papers are handed directly to your spouse. If your spouse lives in another country, you must consult a lawyer about how to properly serve your spouse. Service in a foreign country must be done according to Minnesota Rules of Civil Procedure Rule 4.04(c) and Minnesota Statutes. The rules for serving someone in a foreign country can be very complex and court employees cannot tell you how to serve your spouse in another country.

#### **How to Fill out the *Affidavit of Personal Service*:**

- a. Fill out the top part of the form the same way you did on your *Summons*
- b. On the blank line after “I,” fill in the name of the person who hand-delivered the forms to your spouse.
- c. Fill in the date that the documents were hand-delivered to your spouse.
- d. Write in the title of each document handed to your spouse. (*Summons* and *Petition for Dissolution of Marriage* and *Financial Affidavit*).
- e. Fill in the name of your spouse and the location (address) where your spouse was given the *Summons* and *Petition* and *Financial Affidavit*.

- f. After it has been signed, make one copy of the completed *Affidavit of Personal Service* for your records.

### **Service of Process Method #2: Waiver of Service**

[Rule 4.05](#) of the Rules of Civil Procedure says that a petitioner may ask that the respondent *waive* service of the *Summons* and *Petition*. Generally, the respondent has a duty to avoid causing the petitioner to have to pay unnecessary costs of serving the *Summons* and *Petition* on the respondent.

To make this request, you will need to send or deliver to the other party the following forms:

- *Summons*;
- *Petition*;
- *Notice of Lawsuit and Request for Waiver of Service of Summons* (CIV022A);
- Two copies of *Waiver of Service of Summons* (CIV022B); and
- A prepaid way (like a self-addressed, stamped envelope) for the respondent to return a signed copy of the *Waiver* (CIV022B) to you.

These can be sent by first-class mail or other reliable means, such as email or social media.

**Warning:** If your spouse does not sign and return the *Waiver of Service of Summons* (CIV022B) to you, the papers are not served, and you must then use Personal Service or Alternate Service.

If your spouse is in the United States, and does not return the *Waiver of Service of Summons* to you within 30 days, then the court will order the respondent to pay the costs of serving the divorce forms; there could be other costs as well. For more details, see Rule 4.05 (<http://mncourts.gov/mncourtsgov/media/Appellate/Supreme%20Court/Court%20Rules/MN-Rules-of-Civil-Procedure.pdf>).

### **Service of Process Method #3: Alternate Service**

Use this method of service only if Personal Service and Waiver of Service have not or will not work because you cannot find your spouse, or your spouse is uncooperative. If you have tried to serve your spouse by Personal Service but you cannot find your spouse, or your spouse is hiding to avoid service, you can ask the court to allow you to serve the papers some other way. Before you can use another method of service, you must prepare an *Application for Service by Alternate Means* (DIV1302) and get an order signed by a judge. The judge's order will tell you what you have to do to serve the papers. Frequently the order will include publishing in a newspaper, and you must pay the costs unless you have a fee waiver that covers publication costs.

The *Application for Service by Alternate Means* must contain the following information:

- The last known address of the Respondent;
- The Petitioner's most recent contacts with the Respondent;
- The last known location of the Respondent's employment;
- The names and locations of the Respondent's parents, siblings, children and other close relatives;
- The names and locations of other persons who are likely to know the Respondent's whereabouts.

Forms for *Application for Service by Alternate Means* are available from Court Administration or online at <http://mncourts.gov/GetForms.aspx?c=15&p=60>.

## Step 7

### Form 11.1: Confidential Information Form and Form 11.2 Confidential Financial Source Documents and Public Assistance Notice

Fill Out Form 11.1: Confidential Information Form. The law requires that you provide social security numbers in a divorce. Include names and social security numbers for you, your spouse, and any joint children on Form 11.1. If you are unable to get access to records to accurately report social security numbers, write "unknown" in place of the number. If you listed any financial assets in questions #33 and #37, include the name of the financial institution, the account holder name(s), and account numbers on Form 11.1. All information listed on Form 11.1 will be kept confidential. **Failure to use Form 11.1 means these numbers could be available to the general public and you could be charged court costs and the court may order other sanctions against you for the failure to keep these account numbers confidential.**

You should also know that if at a later point in the divorce proceeding you need to file financial records (like bank statements, credit card statements or income tax returns) you should fill out Form 11.2 and use that as a cover sheet for the financial records. Using these forms ensures that your social security number and financial records will be kept in a confidential part of the court file.

**Fill Out Form 11.2: Confidential Financial Source Documents.** You are required to file a *Financial Affidavit* with the court, and to attach proof of income such as pay stubs and income tax returns. These personal financial records will be part of your court file and available to anyone who may look at the file, UNLESS you attach Form 11.2 to the *Financial Affidavit*. If you file Form 11.2 as a cover sheet with the financial records, court staff will then keep your records confidential from the public. Your spouse and the judge will still have access to the confidential information. On Form 11.2 check the box to indicate the type of record you want kept confidential, and fill in the periods covered by the record (such as tax return for year 2012) You do not need to serve a copy of Form 11.2 on your spouse.

**Do you or your spouse receive Public Assistance from the State?** If you or your spouse have applied for or are receiving assistance from the State of Minnesota for your family, such as

MFIP, Tribal TANF, General Assistance, Medical Assistance, MinnesotaCare, Child Care Assistance you must notify the county child support office of your divorce action. Fill out the form called *Notice to Public Authority* (court form DIV813). Make a copy of the *Notice*. Hand-deliver or mail the copy of the *Notice to Public Authority* to the child support office in the county paying the assistance. You may deliver or mail the copy yourself, or ask someone else to do it for you. The person who delivered or mailed the copy must fill out the *Affidavit of Service to Public Authority* stating when the *Notice* was served on the Public Authority. The *Affidavit* must be signed under penalty of perjury. You will file the *Notice to Public Authority* and *Affidavit of Service to Public Authority* with the court when you file the *Summons and Petition*.

## **Step 8**

### **Fill Out the Certificate of Representation and Parties Form**

Fill out the *Certificate of Representation and Parties* form (CIV102). The purpose of this form is to tell the court where to send notices. If either party has an attorney, the notices will be sent to the attorney. If a party has no attorney, notices are sent directly to the party.

This form is written for parties without attorneys. The form informs the court that the parties are both self-represented and gives the court the parties' addresses and phone numbers. If you or your spouse has an attorney, cross out "self-represented" on the form and write in the name, address, phone number and attorney I.D number INSTEAD of the address of the party whom the attorney represents.

In filling out the form, DO NOT fill in the case number or date that the case was filed. The Court Administrator will fill in that information after you file the form with the court.

**WARNING:** At this time you may not know if an attorney represents your spouse, or you may not know all the information requested about your spouse. If you do not know all or some of the information about your spouse, write "unknown." However, the law requires you, as the Petitioner, to provide to the court all **new** information about you and your spouse (addresses, phone numbers and whether an attorney represents you or your spouse) within seven (7) days of learning this new information. You must write to the Court Administrator and provide this information. All letters you write to the Court Administrator must include your name, your spouse's name, and the case number.

## **Step 9**

### **File the Forms with the Court**

File these documents:

- Summons
- Petition for Dissolution of Marriage
- Financial Affidavit with proof of income

- Form 11.2 Confidential Financial Source Documents (relating to your Financial Affidavit)
- Affidavit of Personal Service OR Waiver of Service of Process
- Form 11.1 Confidential Information Form
- Certificate of Representation and Parties
- Notice to Public Authority and Affidavit of Service to Public Authority (required only if you or your spouse are receiving public assistance from the State of Minnesota. See Step 7)

File the documents. Make sure you have a copy of each document for your records. You can file the forms with the court in person or by mail. There is a court filing fee. Make checks payable to “Court Administrator.” To file in person, take the documents to the court administrator’s office. To file the forms by mail, mail the documents to the court administrator’s office. After you file the documents, the court will mail a notice to you and your spouse informing you both of the case number and date that the *Summons and Petition* were filed.

### **IF YOU CANNOT AFFORD THE FILING FEE**

If you cannot afford this fee, a judge may waive it under certain circumstances. Ask court administration for a Fee Waiver form, called an In Forma Pauperis application. Fill out this application and sign it. Take the In Forma Pauperis application and a copy of your *Petition* to the court administrator’s office to have a judge review your application and decide if you must pay the filing fee. Court administration cannot accept your legal papers without either the filing fee or an order signed by a judge waiving the fee.

### **Step 10 Parenting Education Session and Child Education Session**

If there are children under the age of 18, classes may be required for you and your spouse before you can get divorced. The class addresses child support and parenting issues. If you and your spouse have children between the ages of 6 and 17, the children may be required to attend classes before you can get divorced. As the Petitioner, you must notify your spouse and/or your spouse’s attorney about the obligation to attend the parent programs and/or children’s program. Check with court administration for specific information about education requirements.

### **Step 11**



## Temporary Relief

If you and your spouse need a temporary order to address temporary custody, possession of the house, parenting time, child support, spousal maintenance or any other matter in the divorce, go to Court Administration and ask for the court form called “Temporary Relief Pending Final Hearing with Children.” If a judge signs a temporary order, that order is in effect until the judge signs the final order divorcing you and your spouse.

### Getting a Hearing Date for the Temporary Relief

Before you can get a hearing date to ask the judge to give you temporary relief, you must file your *Summons and Petition* and *Affidavit of Service* with the court. The court deputy will give you a hearing time and date for your *Temporary Relief Motion* with the judge who is assigned to hear your case.

## Step 12 Scheduling Statement

The Scheduling Statement is only needed if your case is contested. Your case is contested if your spouse serves you with an *Answer* in response to your *Petition*. If you receive a letter from the court telling you to file a Scheduling Statement, follow the instructions in the letter and call the court if you have questions. If you have settled the case with your spouse, or you have not received an *Answer* from your spouse, call the court and ask if you still need to file the Scheduling Statement.

## Step 13 The Next Step is Determined by Your Spouse’s Response to Your Petition for Dissolution of Marriage

Once you have filed the *Summons, Petition, and Affidavit of Service* with the court, your divorce case will proceed in one of the following ways:

1. **You and your spouse agree on all issues.** If you and your spouse agree on everything, go to Step 14 now for instructions on filling out the *Stipulated Judgment and Decree*.
2. **You receive an *Answer* from your spouse within 30 days of service of the *Summons and Petition* on your spouse.**  
If your spouse served you with an *Answer and Counterpetition*, it means that your spouse does not agree with everything you have asked for in your *Petition* and that your spouse is asking for something different. The first part of your spouse’s *Answer* will tell you the parts of your *Petition* with which your spouse partly agrees, totally agrees, or totally disagrees. Once you know the issues about which you and you spouse disagree, you and

your spouse should attempt to reach an agreement regarding those issues. If you work out an agreement, go to Step 14 and fill out the *Stipulated Judgment and Decree* form.

If you and your spouse DO NOT reach an agreement on all issues, your case is contested and you should talk to a lawyer. Representing yourself in a contested case is difficult. The court may require additional forms, such as the *Prehearing Statement*. This form is available from court administration or downloaded from [www.mncourts.gov/forms](http://www.mncourts.gov/forms) in the Divorce/Dissolution category.

3. **Your spouse sends you a letter or files a letter (other than an *Answer*) with the court stating that he or she disagrees with your *Petition*.**

If your spouse disagrees with your *Petition* your spouse is supposed to serve you with a written *Answer* within thirty (30) days of the date your spouse was served with the *Summons and Petition*. If your spouse does not serve you with an *Answer* within 30 days but your spouse sends you a written response such as a letter or memo, or files an informal response with the court or makes an appearance in court then you need to give your spouse one more notice\* before the court will grant the divorce.

\* The notice is called *Notice of Intent to Proceed to Judgment*. The notice can be obtained from court administration or downloaded from <http://mncourts.gov/GetForms.aspx?c=15&f=248>.

4. **Your spouse does not respond with an *Answer* or any other writing.** Your spouse has 30 days to serve you with a formal *Answer and Counterpetition*, stating that he/she disagrees with your *Petition*. If your spouse does not serve you with an *Answer* **and at least 50 days** have passed since your spouse was served with the *Summons and Petition*, you can ask the court for a “Default Judgment.” You need to fill out the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* (see Step 15), and *Affidavit of Default, Affidavit of Non-Military Status, and Default Scheduling Request* (see Step 16). 50 days after your spouse was served, you can file these forms with the court (see Step 17.) Read and follow the instructions at Steps 16 and 17. The information in this paragraph is an overview.

## Step 14

### You and Your Spouse Agree on All Issues

If you and your spouse agree on all issues, fill out the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* form.

Your spouse must also fill out a *Financial Affidavit* disclosing his/her income and attach proof of income (pay stubs, income tax returns, etc.) Your spouse must give you a copy and file the document with the court. Your spouse should also file Form 11.2 "Confidential Financial Source Documents" to keep the pay stubs and other proof of income documents confidential from the public.

Important Note: The *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* must be signed and dated after the *Petition* is served on your spouse, or after your spouse signs a *Waiver of Service of Summons*. Service of the *Summons and Petition* on your spouse starts the divorce action. You and your spouse cannot settle the action until it has been started by service of the *Summons and Petition*. If the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* is signed before the *Summons and Petition* are served, the judge will not sign the divorce decree.

The *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* form tells the court that you and your spouse have reached an agreement settling all of the issues involved in your divorce case. It also tells the court the exact terms of the agreement.

FILL IN THE 'HEADING' OF THE FORM WITH THE COUNTY, JUDICIAL DISTRICT, CASE NUMBER, YOUR NAME, AND YOUR SPOUSE'S NAME.

FILL IN THE INFORMATION ON PAGE 1 of the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree*:

- At Paragraph B, check off whether you have or have not been represented by an attorney during your divorce proceeding and, if you have an attorney, fill in that person's name.
- At Paragraph C, check off whether **your spouse** has or has not been represented by an attorney during this divorce proceeding and, if your spouse has an attorney, fill in the attorney's name.
- At Paragraph D, write the date that your spouse was handed the *Summons and Petition for Dissolution of Marriage*, OR the date your spouse signed a *Waiver of Service of Summons*. You can find this date on your copy of the *Affidavit of Personal Service or Waiver of Service of Summons*.
- At Paragraph E., check the YES box ONLY if your spouse served you with a written *Answer and Counterpetition*. If you received a written *Answer* from your spouse, then fill in the date that you received the *Answer and Counterpetition*.

**Starting on p.2, fill in all the remaining questions. If a question does not apply, write NA or not applicable. The *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree (Stipulated Judgment and Decree)* is very similar to the *Petition*. There are some important differences:**

- You and your spouse will sign the *Stipulated Judgment and Decree* and verify that all the information is correct and fully states your agreement on how to end your marriage, divide your property, and care for your children. Unlike the *Petition*, you cannot claim that information is "unknown." Either you or spouse should have the information.

- The requests in the *Stipulated Judgment and Decree* must reflect what you both agree to. You may have asked for sole legal custody in the *Petition*, but now agree on joint legal custody. Complete the *Stipulated Judgment and Decree* based on your agreement.
- In the *Petition* you were not asked to say how much child support should be paid, and how much spousal maintenance should be paid (if you asked for maintenance.) In the *Stipulated Judgment and Decree*, you are required to fill in those amounts. You and your spouse can use the child support calculator to figure out the child support amounts. If you are unsure about how to use the calculator or what the results mean, talk to a lawyer or the child support office. The calculator is available on-line at: <http://childsupportcalculator.dhs.state.mn.us> There are also written instructions available from the court for how to calculate child support.

**Both parents must help support their joint children unless they are financially unable to do so. If the joint children live with your spouse, you must pay child support to your spouse. If the joint children live with you, your spouse must pay child support to you. If you share physical custody, support will be calculated based on the time the children spend with each of you and your incomes. Minnesota law requires an employer or other source of funds to withhold child support from the employee’s paycheck and send it to the county where you are getting the divorce. The county will then send the child support to the parent who is supposed to receive it.**

#### **Signing the *Stipulated Judgment and Decree***

- If you have any questions about your legal rights, about financial or tax consequences, about child support or any other issue get advice from a lawyer before you sign the *Stipulated Judgment and Decree*.
- Do not sign the *Stipulated Judgment and Decree* unless the *Summons and Petition* have been served on your spouse. Under the signature lines, check off whether you are or are not represented by an attorney. If you are represented by an attorney, the attorney also signs the agreement and fills in his or her name, address, phone number and attorney identification number. If you are not represented by an attorney, sign the *Petitioner’s Waiver of Counsel*. If your spouse is not represented by an attorney, your spouse must sign the *Respondent’s Waiver of Counsel*.
- If you or your spouse receives public assistance, take the signed *Stipulated Judgment and Decree* to the office of the County Attorney. The County Attorney represents the child support office. The county must approve the child support provisions and sign in the designated blank on the form.
- Make copies of the signed *Stipulated Judgment and Decree* for you and your spouse. Then go to Step 16.

### **Step 15**

## **Findings of Fact, Conclusions of Law, Judgment and Decree**

The *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* is the form that the Judge signs. It is your “Divorce Decree.”

- **If you do not have an agreement with your spouse and your spouse did not serve you with an *Answer*, copy the information from your *Petition* into the *Findings* form. The *Petition* and *Findings* must be consistent. If information in the *Petition* is no longer accurate, such as a debt has been paid off, or you have a new address, put the new and correct information in the *Findings*, with a note explaining the difference.** In the *Petition* you were not asked to say how much child support should be paid, and how much spousal maintenance should be paid (if you asked for maintenance.) In the *Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree* you are asked to fill in those amounts to inform the judge how much support you think should be paid. You can use the child support calculator to figure out the child support amounts. If you do not have information about your spouse's income, you can ask the court to order child support based on other credible evidence you have about your spouse's potential income. This might include evidence of past earnings, education and other factors. The court can also order support based on evidence of what the parent is able to earn, or based on 150% of the minimum wage. If you are unsure about how to use the calculator or what the results mean, talk to a lawyer or the child support office. The calculator is available on-line at: <http://childsupportcalculator.dhs.state.mn.us> There are also written instructions available from the court for how to calculate child support.

Ask a friend or relative to help you compare the *Petition* and the *Findings* for completeness and consistency. **Make three (3) copies of the *Findings* form and keep one copy for yourself.**

**Go to Step 16.**

## Step 16 How to Obtain Your Divorce Decree

**If your spouse served you with an *Answer*, your case is contested and Step 16 does not apply to you.** If your case is not contested you will finalize your divorce by filing additional papers and attending a court hearing. Read the applicable section below.

### **I. You and Your Spouse Signed a Stipulated Judgment and Decree:**

File the following completed papers, in addition to the papers filed at Step 9:

1. **The signed and notarized *Stipulated Judgment and Decree*.** You and your spouse must each sign the appropriate Waiver of Counsel and make sure these are attached to the “Stipulation.” There is a Respondent’s Waiver of Counsel and Petitioner’s Waiver of Counsel. Make certain to bring your copy of the signed *Stipulated Judgment and Decree* to court with you.
2. Respondent's Financial Affidavit and Form 11.2 Confidential Financial Source Documents
3. **Default Scheduling Request.** To fill out this form:
  - Fill in the names of the Petitioner and Respondent
  - Fill in the case number

- Checkmark the line “Hearing Required or Requested.”
  - Checkmark the line “with minor children.”
  - Print your name, address and phone number
4. **Affidavit of Non-Military Status.** This is a document signed by you, stating that your spouse is not in the military service.
- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name.
  - Sign the *Affidavit of Non-Military Status of Respondent*.

**NOTE:** If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice. Your spouse must sign a waiver of rights under the Servicemembers Civil Relief Act, or other steps must be taken.

Go now to Step 17 for information on where to file the above listed papers.

## **II. Your Spouse Did Not Serve You with an Answer and Did Not Sign a Stipulated Judgment and Decree**

File the following papers when **at least 30 days** have passed since your spouse was personally served with the *Summons and Petition*:

**Note on Service by Alternate Means:** If you were ordered to serve your spouse by publication, you can file the forms 51 days after the first date the *Summons* was first published in the paper. If you were ordered to serve by mail, and not by publication, you can file 51 days after the *Summons and Petition* were mailed to Respondent.

1. **The Findings of Fact, Conclusions of Law, Judgment and Decree.** Keep a copy for your records.
2. **Affidavit of Default**  
To fill out the *Affidavit of Default*:
  - Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
  - On the first blank line, write in your name.
  - On the next blank line, write in the date that your divorce papers were served upon your spouse.

Do not sign the *Affidavit of Default* until at least thirty (30) days have passed since your spouse was personally served with the *Summons and Petition*, or 51 days since the first date of publication if the papers were served by publication, or 51 days since the papers were mailed if the judge ordered service by mail. Do not sign the *Affidavit of Default* if your spouse served you with an *Answer*.

3. **Affidavit of Non-Military Status**

To fill out the *Affidavit of Non-Military Status*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name.
- Sign the *Affidavit of Non-Military Status*.

NOTE: If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice.

4. **Default Scheduling Request**

To fill out the Default Scheduling Request:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- Checkmark the line “Hearing Required or Requested.”
- Checkmark the line “with minor children.”
- Fill in your name, address and phone number.

Go now to Step 17 for Information on where to file the above papers.

### **III. Your Spouse Appeared by a Pleading Other than an Answer:**

If your spouse did not file an *Answer* or appear in court at a hearing scheduled in your case, but did file a letter or other written response, or sent you a written response, then you must notify your spouse at least 14 days before the scheduled hearing that you intend to ask the court for an order based on your *Petition*. This requirement is in Minnesota Rules of Court, Rule 306, Rules of Practice-District Courts. Notify your spouse by using the *Notice of Intent to Proceed to Judgment* form. The *Notice* form is available from the Court Administrator or downloaded from <http://mncourts.gov/GetForms.aspx?c=15&f=248>.

File the following papers when **at least 30 days** have passed since your spouse was personally served with the *Summons and Petition*.

Note on *Alternate Service*: If you were ordered to serve your spouse with the *Summons and Petition*, by publication or by mail, wait 71 days after the first date the *Summons* was published in the paper, or 71 days after the *Summons and Petition* were mailed, before filing the following forms.

1. **The Findings of Fact, Conclusions of Law, Judgment and Decree.** Keep a copy for your records and bring it to the hearing.

2. **Affidavit of Default**

To fill out the Affidavit of Default:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name.
- On the next blank line, write in the date that your divorce papers were served upon your spouse.

Do not sign the *Affidavit of Default* until at least thirty (30) days have passed since your spouse was served with the *Summons and Petition*. Do not sign the *Affidavit of Default* if your spouse served you with an *Answer*.

3. **Affidavit of Non-Military Status**

To fill out the *Affidavit of Non-Military Status*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- On the first blank line, write in your name.
- Sign the *Affidavit of Non-Military*.

NOTE: If your spouse IS in the military, you CANNOT sign this Affidavit. See an attorney for advice.

4. **Default Scheduling Request**

To fill out the *Default Scheduling Request*:

- Fill out the top part of the form the same as you did in your *Petition*. Write in the case number.
- Checkmark the line “Hearing Required or Requested.”
- Checkmark the line “with minor children.”
- Fill in your name, address and phone number.

5. **Notice of Intent to Proceed to Judgment, with attached Affidavit of Service of the Notice of Intent**

Go now to Step 17 for Information on where to file the above papers.

<b>Step 17</b> <b>File the Remaining Papers</b>
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**When to File**

1. **If you have a *Stipulated Judgment and Decree*:**  
You can file as soon as you have all the papers completed.
2. **If you served your spouse personally, and your spouse did not respond:**  
You can file 30 days after your spouse was served with the *Summons and Petition* if the education requirements have been met.
3. **If you served your spouse by publication or by mail (pursuant to court order) and your spouse did not respond:**  
You can file 51 days after the first date the *Summons* was published if the education requirements have been met.



4. **If your spouse did not serve you with an *Answer* but your spouse sent you a letter disagreeing with your *Petition* or filed such a letter with the court.**

You can file at the time indicated in # 1-3 above provided you notified your spouse of the hearing date at least 14 days before the hearing date. You notify your spouse by mailing to your spouse the *Notice of Intent to Proceed to Judgment*.

### **What to File**

See Step 16 for information on what documents must be filed to complete the divorce.

### **Where to File**

File the papers with court administration. Going to the Courthouse to file your papers is recommended, because any omissions or problems noted by court administration can be explained and possibly corrected immediately. Papers may be filed by mailing them to the Court Administrator.

## **Step 18** **Attend the Default Hearing**

As Petitioner, you must go to the hearing. If you have a *Stipulated Judgment and Decree*, it is highly recommended that Respondent attend the hearing also. If you and your spouse both attend the hearing, questions or concerns the Judge may have about your *Stipulated Judgment and Decree* can be addressed to both of you. Bring a copy of the *Stipulated Judgment and Decree* to court.

When you get to court, check in with the Court Administrator or court bailiff outside of the assigned courtroom. Arrive early to give yourself time to find the courtroom and get organized. Dress nicely. Your clothes should be clean, neat and conservative. You cannot bring food or drink into the courtroom. Hats and chewing gum are not allowed in the courtroom. Do not bring your children to the hearing unless instructed otherwise by the judge.

Before and during the hearing, it is very important to be polite to everyone in the courtroom. Call the judge “your honor.” If the Respondent is at the hearing, do not argue with or speak directly to your spouse during the hearing. You are in court to talk to the judge.

Even though your case is settled or the Respondent never answered, you still need to present your case to the judge.

#### **If you have a *Stipulated Judgment and Decree*:**

1. Tell the judge your name and that you are the Petitioner.
2. Read the *Findings of Fact* into the record starting with Paragraph 1. When you get to the *Conclusions of Law*, stop reading.
3. Ask the judge to give you the *Stipulated Judgment and Decree* from the court file.

4. Tell the judge that you signed the *Stipulated Judgment and Decree*, and that your spouse signed it also. Tell the judge how you know your spouse signed it. (Did you watch your spouse sign it? Or, do you recognize your spouse's signature and if so, do you recognize the signature on the *Stipulated Judgment and Decree* as your spouse's signature?)
5. Tell the judge that you and your spouse read the *Stipulated Judgment and Decree*, and that the *Stipulated Judgment and Decree* is a fair and equitable settlement of all issues of your marriage.
6. Ask the judge if there are any questions.
7. Respond truthfully and politely to any questions the judge asks you.

**If your spouse did not respond:**

1. Tell the judge your name and that you are the Petitioner.
2. Read the *Findings of Fact* into the record starting with Paragraph 1. When you get to the *Conclusions of Law*, stop.
3. Ask the judge if he/she has any questions.
4. Respond truthfully and politely to any questions.

<p><b>Step 19</b> <b>After the Hearing</b></p>
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You are not divorced until both the judge and the Court Administrator/Deputy have signed the divorce decree. This can take several days after the hearing. You will receive from the court either a copy of the *Findings of Fact*, *Conclusions of Law*, *Order for Judgment and Judgment and Decree* or a notice that the *Findings of Fact* are ready, once the judge and Court Administrator/Deputy have signed it. As Petitioner, it is your responsibility to serve Respondent with a copy of the *Decree*. Serve the Respondent as follows:

1. Obtain a copy of your final divorce decree after it has been signed by the judge and the court administrator. (The *Findings of Fact*, *Conclusions of Law*, *Order for Judgment, Judgment and Decree*) You may make the copy yourself.
2. a. If you and Respondent signed a *Stipulated Judgment and Decree* and it states in the *Stipulated Judgment and Decree* that service of the *Judgment and Decree* can be made by mail, do the following: Have someone other than you, who is at least 18 years of age, mail to the Respondent a copy of the final *Decree* you obtained from the court. The *Decree* must be sent by first class U.S. mail with sufficient postage, addressed to Respondent's home address. If you do not have a current address for Respondent, address the envelope to Respondent's last known address.

- b. If you and Respondent did not sign a *Stipulated Judgment and Decree*, someone else, at least 18 years of age, must serve the *Decree* on Respondent by handing it to Respondent.
3. The server must fill out the *Affidavit of Service by Mail* form if service was by mail. The server should fill out the *Affidavit of Personal Service* if the *Judgment and Decree* was handed to Respondent. File the *Affidavit* with the court to prove that you served the Respondent with the final *Decree*. Serving the Respondent with the *Decree* helps prove the Respondent knew what was ordered, in case you need to ask the court to enforce the order through a contempt motion.

You can then file the *Affidavit of Service* in person or by mail with the Court Administrator.

### **OTHER STEPS AFTER ENTRY OF THE *DECREE***

It is the responsibility of the parties to take all necessary steps to put into effect the orders of the court. For example, if you changed your name you will need to get your driver's license and social security card changed to reflect your new legal name. If you or Respondent were awarded pension or medical benefits, the company or provider will need to see the *Decree* and may have other requirements before making the changes ordered by the court. If you and/or Respondent own real estate, there are additional steps you must take to transfer the title to the real estate to the party who was granted the real estate in the *Decree*.

Under Minnesota law, both spouses have an interest in real estate, even if only one spouse's name is on the deed or title of the property.

Proof of divorce and proof of who was awarded interests in the real estate is usually recorded in the real estate records before selling or mortgaging the property after the divorce.

To give that proof, the complete divorce decree can be filed in the real estate records. Or, a short version of the divorce decree can be filed, called *Summary Real Estate Disposition Judgment Form* (SREDJ). The SREDJ only includes information needed for real estate title purposes. If you file the SREDJ, information about your children, work, and other personal matters is not available in the county real estate records. The Minnesota Judicial Branch publishes a set of instructions to help you with the SREDJ process. Those instructions can be found on the court's website at <http://mncourts.gov/GetForms.aspx?c=15&f=572>.

**Get legal advice from an attorney if you are not sure what actions to take with your real estate.**