

Dissolution of Marriage
Instructions for Serving a Summons and Petition by Alternate Means
Minn. Stat. § 518.11(c)

When to Use the Application for an Order for Service by Alternate Means:

- In a Dissolution of Marriage case, the Petitioner arranges to have someone else hand-deliver the *Summons and Petition* to the petitioner's spouse. This is called "personal service."
- In some cases, it is not possible to find the spouse, and the Petitioner must ask the judge to order the *Summons and Petition* delivered some other (alternate) way.
- The judge's order can say that the papers must be **mailed** to the spouse's last known address and/or mailed to another address (like a relative's home) where it is likely the papers will be given to the spouse.
- The judge can also order the *Summons* to be **published** in a legal newspaper. The cost of publishing the summons must be paid by Petitioner, unless Petitioner gets a fee waiver (In Forma Pauperis or "IFP") signed by a judge that specifically waives the service of process and publication costs.

Steps to Request an Order to Serve by Alternate Means:

1. Complete these papers:
 - *Summons and Petition*
 - *Application for Service by Alternate Means*
 - *Order for Service by Alternate Means*. Fill out **only** the top portion with the County name, Judicial District, Court File Number, and names of Petitioner and Respondent. Do NOT mark the boxes or lines below "Name of Respondent."
 - *Affidavit for Proceeding In Forma Pauperis* if you need a fee waiver (only if you have a very low income and cannot pay the court filing fee and service of process costs).
2. File your *Summons and Petition* with the court. You must pay a filing fee, unless a judge signed a fee waiver.
3. At the same time you file your *Summons and Petition*, give your completed *Application for Service by Alternate Means* and *Order for Service by Alternate Means* to court staff. Court staff will forward your completed *Application for Service by Alternate Means* and *Order* to a judge for review, or tell you to go see the judge. If the judge finds that personal service cannot be made, the judge will sign an *Order for Service by Alternate Means* and file it with the court administrator's office. You will receive a copy of that *Order*.
4. Read the *Order for Service by Alternate Means* carefully.
 - If the *Order* requires **mailing** the *Summons and Petition*, get someone else, who is at least 18 years old, to mail the papers for you. The envelope must be addressed to your spouse, at the address or addresses listed in the *Order*. On the

envelope write "Forwarding address requested". The person who mails the papers for you must fill out the *Affidavit of Service by Mail* and sign it under penalty of perjury. By signing the *Affidavit of Service by Mail* under penalty of perjury, the server is stating that the information in the *Affidavit* is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions. The *Affidavit of Service by Mail* is your proof the papers were served on your spouse.

- If the *Order* requires publication, read carefully to see what county you must **publish** in. Take a copy of your *Summons* to a legal newspaper in that county. Ask court administration for the names of the local legal newspapers or contact the court in the county where publication is ordered. Your *Summons* must be published for three consecutive weeks in the legal newspaper. When it has been published three consecutive weeks, the newspaper will send you an *Affidavit* along with a clipping of the publication. The *Affidavit* indicates the three dates that your *Summons* was published. This *Affidavit* is your proof the *Summons* was published.

File all *Affidavits* with court administration (*Affidavit of Publication and Affidavit of Mailing*, if applicable). Keep a copy of each *Affidavit* for your records.

Other Important Information You Need to Know

Your spouse has 30 days after being served with your *Summons* and *Petition* to object by serving you with an *Answer*. If your spouse does not respond in 30 days, you can ask the judge to give you everything you asked for in your *Petition*, because your spouse would be in "default". If you have an *Order for Service by Alternate Means*, your spouse has defaulted when:

- It has been 51 days since someone mailed the papers to your spouse, and/or
- It has been 51 days since the *Summons* was first published in the newspaper.

If your spouse does not respond by serving you with an *Answer*, there are other forms you need to fill out and file to get your divorce. See the instructions that go with the divorce forms for more information about completing a "default" divorce.

If your spouse does not respond, and you served your spouse by publication or mail, the court must "reserve" spousal maintenance. You must check "the issue of maintenance is reserved" in the *Findings of Fact, Conclusions of Law, Order for Judgment, Judgment and Decree* you file with the court in the "default" process.

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 651-297-7651.