



MINNESOTA GUIDE & FILE

NEXT STEPS: Starting a Divorce with Children (Phase 1)

Write down the email and password you used for your Guide & File account; you will need this information later to go back to your Guide & File account or to go to the eFS System (Minnesota Judicial Branch's web-based system that allows you to eFile documents in Minnesota district courts).

Email: _____
Password: _____

Below are the next steps for starting a **Divorce with Children (Phase 1)** case after you have finished the Minnesota Guide & File interview.



STEP 1: Review the Completed Forms

- Are your forms complete? Is the information accurate and true? If you find any errors, go back into the interview (<https://minnesota.tylerhost.net/SRL>) and make changes.
- Print all of the forms that you see listed on the **Summary Page** in the interview.

STEP 2: Organize the Forms

When you are representing yourself in court it is important to be **organized**. By the end of a divorce case, there can be hundreds of pages. The beginning of the case is a good time to set up a way of organizing your forms.

You will have many documents and forms at the end of the interview. Some of these, like this *Next Steps* handout, is for your information only and do not need to be served on your spouse or filed. Other forms are legal pleadings that need to be signed, served, and filed.

Minnesota Guide & File will create the following forms for you at the end of the interview:

- *Summons* (DIV803);
- *Petition* (DIV802) and attachments as needed;
- *Financial Affidavit for Child Support* (FAM102);
- *Certificate of Representation and Parties* (CIV102);
- *Instruction for Court Forms CON111 and CON112* (CON110);
- *Confidential Information Form* (CON111);
- *Confidential Financial Source Documents* (CON112);
- *Affidavit of Personal Service* (DIV903);
- *Notice of Lawsuit and Request for Waiver of Service of Summons* (CIV022A);
- *Waiver of Service of Summons* (CIV022B).

If you or your spouse have applied for or receive assistance from the State of Minnesota for your family, Guide & File will also create these forms for you:

- *Notice to Public Authority* (DIV813);
- *Affidavit of Service to Public Authority* (DIV816).

If you did not upload any documents within the interview, there are other documents that you may need to include with the *Petition*, depending on your situation and how you answered questions. These are noted throughout the *Petition*.

- Copy of Support Order
- Copy of Court Order for Harassment Restraining Order and/or Order for Protection
- Copy of Paternity Order
- Copy of Recognition of Parentage
- Copy of Spouse's Non-Parentage Statement
- Schedule C for Self-Employment (Petitioner and/or Respondent)
- Receipt or signed letter from child care provider showing cost of child care

STEP 3: Sign the Completed Forms

Sign the completed forms. Some forms, like the *Petition for Dissolution of Marriage* and *Financial Affidavit for Child Support* require you to sign under **penalty of perjury**. This means you are saying that everything in the form is true. If you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/?id=609.48>).

STEP 4: Make Copies

Make **two copies** of all of the forms listed in Step 2 that will be filed with the court. One set of copies is for your records.

You need to have one set of copies (**not** the originals) served on your spouse (see Step 5 below). The originals, printed single-sided, will be filed with the court later on (see Step 9).

STEP 5: Serve Your Spouse

Your spouse **must** receive a copy of every form and document that you file with the court, most importantly, the *Summons*, *Petition*, *Financial Affidavit* and any attachments. Delivering a copy of the forms to your spouse is called “service of process” and is what starts a divorce. Below are three options for Service of Process. Read about each process to decide which option is best for you.

- **Service of Process Method # 1: Waiver of Service**

- Generally, the respondent (your spouse) has a duty to avoid you having to pay unnecessary costs of serving the *Summons* and *Petition*. **Rule 4.05** of the Minnesota Rules of Civil Procedure allows you to ask your spouse to *waive* service of the *Summons* and *Petition*.

To make this request, you will need to send or deliver to your spouse, along with the *Summons* and *Petition*, the following:

- 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 spouse 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 may order the spouse 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 #2: Personal Service**

- This is the most common method for serving divorce papers. With personal service, you must have someone, other than yourself, who is at least 18 years old (a friend, family member, or the Sheriff) hand-deliver the *Summons, Petition, Financial Affidavit* (and any attachments) directly to your spouse.
- A few important notes on personal service:
 - Forms must be handed directly to your spouse, not mailed or left with someone at their house.
 - Your spouse can be personally served at home, at work, or anyplace you know they will be.
 - Papers **cannot** be served on a legal holiday.
- Whoever serves your spouse, known as the “server,” must then 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. You will file the *Affidavit* with your forms in Step 9.

- **Service of Process Method #3: Service by Alternate Means**

- This process can only be used if you cannot find your spouse or if you have tried personal service but they are avoiding the server. In order to serve by “alternate means” you must first get permission from a judicial officer.
- To get permission for Service by Alternate Means you must fill out and file the *Application for Service by Alternate Means* (DIV1302) with the court. You can find the forms, along with Instructions, online at <http://mncourts.gov/GetForms.aspx?c=15&p=60>.
- The *Order for Service by Alternate Means* will give you permission to either serve your spouse by mailing the forms to their last known address or by publishing the *Summons* in a legal newspaper.

STEP 6: Get Proof of Service

HOW YOUR SPOUSE WAS SERVED	FORM NEEDED TO PROVE SERVICE
Friend or Family (hand-delivered)	<i>Affidavit of Personal Service</i> (DIV903)
Sheriff (there will be a fee for this service, unless you have a fee waiver)	<i>Certificate of Service</i> (that the Sheriff gives you) or <i>Affidavit of Personal Service</i> (DIV903)
Handing or mailing forms to spouse yourself	<i>Waiver of Service of Summons</i> (CIV022B)
Service by Alternate Means	<i>Affidavit of Service by Mail Pursuant to Court Order</i> (DIV1304) or <i>Affidavit of Publication</i> (legal newspaper will give you)

Add the form proving service to the group of papers you will be filing with the court

STEP 7: Serve the Notice to Public Authority (if needed)

If you or your spouse have applied for or are receiving assistance from the State of Minnesota for your family, you must let the county child support office know of this divorce. Fill in any missing information and sign the *Notice to Public Authority* (DIV813) that was created through Guide & File. Make a copy of the signed *Notice*.

- Hand-deliver or mail the copy of the *Notice* (DIV813) and *Confidential Information Form* (CON111) 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. Whoever delivers or mails the *Notice* must fill out and sign the *Affidavit of Service to Public Authority* (DIV816). The *Affidavit of Service to Public Authority* will be filed with the court with your other forms.

STEP 8: Decide *When to File the Divorce Papers*

You may not need to file right away. Review these options, and then choose the one that fits your situation the best:

OPTION A – WAIT	OPTION B – AGREEMENT	OPTION C – NOW
<p>If your spouse was personally served with the divorce papers, your spouse has <i>30 days</i> to respond or object.</p> <p>To object to something in your divorce forms, your spouse will need to serve you with a form called an <i>Answer</i> (and they will file this with the court, too).</p> <p>If you do not think your spouse will serve you with an <i>Answer</i>, then one option is to WAIT to file until after a “default” period of time has passed.</p>	<p>If your spouse is served and wants to reach an agreement on all issues, you can work with your spouse to complete a form called <i>Stipulated Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree</i> (DIV806).</p> <p>Each spouse must list in DIV806 all of their financial and property information and then sign the form under penalty of perjury. This will be filed with all of the forms you created to start the divorce.</p>	<p>If you think your spouse will object to something you are asking for, OR if you need to get into court right away because of an urgent or complicated issue, then you can file your papers with the court right after your spouse is served with a copy of your forms.</p>

Note: If your spouse serves you with an *Answer and Counterpetition*, then that means you have a contested case, and you should file your divorce papers right away if you cannot reach an agreement.

STEP 9: File the Divorce Papers

Once you are ready to file your divorce papers, you can either file the papers at the courthouse or electronically file (eFile). **Once you choose to eFile (either through Guide & File or the eFS System), you will need to continue to eFile through the eFS System for the rest of the case.** See Minn. Gen. R. Prac. 14.01(b)(5)(i) (https://www.revisor.mn.gov/court_rules/rule.php?type=gp&id=14).

Notice of Filing Fee:

- A filing fee is due no matter how you decide to file. You can find the filing fees for your county online starting at <http://mncourts.gov/Help-Topics/Court-Fees.aspx>.
- If you cannot afford to pay the filing fee you can ask for a Fee Waiver. Fill out the *Affidavit for Proceeding In Forma Pauperis* (IFP102) and the *Proposed Order for Proceeding In Forma Pauperis* (IFP104) and file it when you file the other divorce forms. The forms are available online at <http://www.mncourts.gov/GetForms.aspx?c=19&p=69>. Be aware that the judicial officer may ask to either see proof that you receive public assistance (if that applies) or proof of your income when reviewing your forms.

Note: If you are eFiling your forms, be sure to use the “Prepare for eFile” button on the top of the form to create a flattened PDF form to upload.

Checklist of forms – Whenever you decide to file, the following is a list of forms that need to be filed with the court.

- Summons* (DIV803)
- Petition* (DIV802), along with any attachments
- Proof of Service (see Step 6 above)
- Certificate of Representation and Parties* (CIV102)
- Form 11.1* (CON111)
- Form 11.2* (CON112), along with any attachments
- Financial Affidavit for Child Support* (FAM102)

Forms, if needed:

- Notice to Public Authority* (DIV813)
- Affidavit of Service to Public Authority* (DIV816)
- Fee Waiver Forms - *Affidavit for Proceeding In Forma Pauperis* (IFP102)
- Fee Waiver Forms - *Proposed Order for Proceeding In Forma Pauperis* (IFP104)

Ways to file	How to file
At the Courthouse	<ul style="list-style-type: none"> • You will need to file the original forms, listed above, with court administration in the county where you or your spouse lives. • This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at http://www.mncourts.gov/Find-Courts.aspx.
Electronic filing through Minnesota Guide & File (COMING SOON!)	<ul style="list-style-type: none"> • If you would like to electronically file through Guide & File, you can log back into your account (https://minnesota.tylerhost.net/SRL). NOTE: Once you decide to eFile you must continue to eFile for the entire case. • The forms completed at the end of your interview will automatically carry over to eFile through Guide & File. You will then need to upload proof of service. If you did not upload copies of court orders or documents throughout the interview, you will need to upload those forms as well. • Along with the civil filing fee and costs, there is also a fee of \$5 for using the eFS System every time you file. If you are using a Fee Waiver, that fee can be waived by uploading the Fee Waiver form.
Electronic filing through eFS System	<ul style="list-style-type: none"> • If you have an account, or want to create one, with the eFS System, you can file electronically (eFile). See http://www.mncourts.gov/eFile. NOTE: Once you decide to eFile you must continue to eFile for the entire case. • You will need to upload each form that you saved to your computer from Guide & File, as well as the proof of service. If you did not upload copies of court orders or documents throughout the interview, you will need to upload those forms as well at this time. • Along with the civil filing fee and costs, there is also a fee of \$5 for using the eFS System every time you file. If you are using a Fee Waiver, that fee can be waived.

If you decided to wait to see if your spouse serves you with an *Answer*, **and at least 50 days have passed** since your spouse was served, you can ask the court for a “Default Judgment.” For detailed instructions, see DIV801 (online at <http://www.mncourts.gov/mncourtsgov/media/CourtForms/DIV801.pdf?ext=.pdf>) and start on page 24, Step 13(4).

If you and your spouse have an agreement, then you can also file the *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree* (DIV806) along with the forms listed above.

STEP 10: What is Next?

After you file your divorce forms, the court will send you a notice giving you the court file number for your case and, in some counties, the notice will also tell you the name of your judicial officer. You might get a court date, too. You can contact Court Administration in your county to find out what will happen next.

Please note: Your divorce will not be final for several weeks or months, depending on your case. Between now and when your divorce is final, you may need to ask the court for an order on child support, spousal maintenance, custody, parenting time, or other matters. This is done by filing a *Motion for Temporary Relief with Children*.

How and when you are able to file this motion depends on where your divorce is filed since some counties have different rules and timelines. Check with Court Administration in your county **before** filling out the motion paperwork. You can find all of the forms for a *Temporary Relief Pending Final Hearing With Children* online at <http://mncourts.gov/GetForms.aspx?c=15&p=57>.

For more information about Divorces, please look at the “Divorce/Dissolution” Help Topic online starting at <http://www.mncourts.gov/Help-Topics/Divorce.aspx>.

Need Help?

Contact the Statewide Self-Help Center at 651-435-6535, or <http://mncourts.gov/Help-Topics/Self-Help-Centers/Self-Help-Centers-Contact.aspx>.

For help with the eFS System (see Step 9 above), contact the eFS Support Center at 612-902-9585 or 1-844-918-1724 (if calling long distance from a landline phone) or eCourtMN@courts.state.mn.us.