

FAMILY LAW INFORMATION AND INSTRUCTIONS

CONFIDENTIALITY: If you have concerns about keeping information confidential, such as your address and/or social security number, please consult an attorney. You should also know that Domestic Violence Protection Orders or Stalking Orders are available free of charge at the circuit court clerks' offices. You may request assistance in obtaining Domestic Violence Protection or Stalking Orders from your local domestic violence or sexual assault program or you may call the Wyoming Coalition Against Domestic Violence & Sexual Assault (1-307-755-0992). There are also private attorneys who may be willing to assist clients in these matters. If you have ever obtained a Protection Order against the other party, this information should be indicated in the *Complaint for Divorce* or the *Counterclaim*.

Read through the following information and instructions before completing the forms. You must fill out all forms as completely as possible. If your forms are not complete, the Judge may reject your packet.

Information:

A divorce action starts with the filing of the *Complaint for Divorce*. A *Complaint for Divorce* is a written request to the court for a divorce. The person who originally asks for this legal action is called the **Plaintiff** and remains the Plaintiff throughout the case. The Plaintiff will file the *Complaint for Divorce* with the **Clerk of the District Court**, whose office is usually located in the county courthouse or a branch of the county courthouse. A case number, also called a **civil action number**, is assigned and an official court file is opened. Delivering the *Complaint for Divorce* to the Clerk's office is called **filing** a case.

Case Number: When you start a lawsuit by filing the paperwork with the Clerk of the District Court, a case number will be assigned by the Clerk. You must include that case number on all further paperwork in the "**caption**." The caption is the top section of a pleading, motion, and complaint stating the name of the Plaintiff, Defendant, the District Court the case is filed in and the case number.

Once a case has been filed, a copy must be formally given to (a/k/a **served** on) the Defendant. The person against whom the original legal action is being requested is called the **Defendant**, and he or she is expected to answer the *Complaint for Divorce*. The Defendant remains the Defendant throughout the case. **Personal service** of the *Complaint for Divorce* and *Summons* on the Defendant by a **Sheriff** is required for the *Complaint for Divorce* unless the Defendant completes an **Acknowledgment and Acceptance of Service** form. Formal service is required for the *Complaint for Divorce* so the Court has proof that the Defendant actually received the papers. Other forms of service exist, but these are the easiest methods that meet the formal service requirement for a *Complaint for Divorce*.

Instructions:

STEP 1. *Answer or Answer and Counterclaim.*

Two options exist – you may either answer the *Complaint for Divorce* or answer and file a counterclaim. Both options are explained below:

OPTION A. Answer to Complaint for Divorce. If you have been served or have signed an *Acknowledgement and Acceptance of Service* form, you should file an *Answer to Complaint for Divorce* with the Clerk of District Court where the *Complaint for Divorce* was filed. An *Answer to Complaint for Divorce* is a written document explaining to the court exactly which provisions you agree with and which provisions you deny. If you fail to answer, a default judgment may be entered against you and your spouse may be entitled the relief he or she asked for in the *Complaint for Divorce*.

You must fill in the caption. DO NOT forget to include the case number. This is located in the caption of the *Summons* and/or *Complaint for Divorce*.

- i. **Admit or Deny.** To answer the papers, you should go through each and every paragraph of the *Complaint for Divorce* and either “admit” or “deny” each paragraph. If you do not have sufficient information to either admit or deny a particular allegation, you must state that in your *Answer to Complaint for Divorce*. If you disagree with something and you fail to “deny” it in your *Answer to Complaint for Divorce*, the Judge can find that you admitted it.
- ii. **Time limit to answer. You have only a limited amount of time to file an Answer to Complaint for Divorce.** Generally, if you were served within the State of Wyoming, you will have 20 days to file the *Answer to Complaint for Divorce*. If you were served outside the State of Wyoming, you generally will have 30 days to file an *Answer to Complaint for Divorce*. If you do not file an *Answer to Complaint for Divorce* by your deadline, then your spouse may obtain a *Decree of Divorce* giving him/her everything he/she requested in the *Complaint for Divorce*.
- iii. **Computation of Time Limits.** In computing most time limits, unless otherwise stated, the day the pleading is served shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. A "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor.

NOTE: If you have any question or concerns as to when the deadline to file the *Answer to Complaint for Divorce* is, you should consult an attorney.

- iv. **REQUIRED INFORMATION FOR CHILDREN:** Certain information is required to be given **under oath** for each child, unless you have a court order or are operating under another law allowing you to maintain confidentiality of addresses or other identifying information. If the information is not provided, the court, upon motion of a party or its own motion, may stop the case from going forward until the information is provided. The information necessary is included in the *Answer* and the *Answer and Counterclaim*.
- v. **Notarizing Signatures:** You will need to sign the *Answer to Complaint for Divorce* and have it notarized. Notarial Officers may administer the oath and witness your signature, or in many cases, clerks of court will be willing to administer the necessary oath. Each clerk's office has their own policy so check with them first before seeking notarization of your signature on the forms.
- vi. **Certificate of Service:** Copies of all documents sent to or filed with the court must be sent to the Plaintiff before the judge will consider them. This certificate is included at the end of each document that requires it.
- vii. **Copies:** Make two (2) copies of the document. The original will be filed by the Clerk of District Court, one copy is for the Plaintiff and the other copy is for you (the Defendant). You will need to repeat this step for all documents you file with the Clerk's office.

OR

OPTION B. Answer and Counterclaim for Divorce. If you want the Judge to grant relief to you (for example, give you the divorce, award property to you, order your spouse to pay alimony, take your previous last name back, etc.) you should file an **Answer and Counterclaim for Divorce**. An *Answer and Counterclaim for Divorce* responds to the *Complaint for Divorce* and gives you an opportunity to tell the court what you want to happen with the divorce. First, you will go through each and every paragraph of the *Complaint for Divorce* and either "admit" or "deny" each paragraph. Second, the *Counterclaim for Divorce* portion of the document asks the Judge to give you what you want. You must fill out all of the information in the *Answer and Counterclaim for Divorce* completely.

- i. **Restoration of Wife's previous name:** The wife should state whether or not she would like to resume her prior name in either the *Complaint for Divorce* if she is the Plaintiff, or in a *Counterclaim* if she is the Defendant. This is the wife's choice ONLY; the husband cannot demand that his wife's name be changed.
- ii. Follow **Step A(ii)** through **Step A(vii)** above.

NOTE: If you have any question or concerns as to when the deadline to file the *Answer and Counterclaim for Complaint for Divorce* is, you should consult an attorney.

iii. **Plaintiff's Reply to Your Counterclaim.** The Plaintiff must reply to the *Counterclaim*. If you file a *Counterclaim*, the Plaintiff will have 20 days to "reply" by filing a *Reply to Counterclaim*. The Plaintiff will either admit or deny the separate allegations in your *Counterclaim*. If the Plaintiff fails to reply to the *Counterclaim*, you may be entitled to file *Default* paperwork seeking the relief you request in your *Counterclaim*.

STEP 2. Initial Disclosures. The law requires certain information be made available within thirty (30) days after the Defendant is served, including a schedule of financial assets; schedule of non-financial assets; schedule of all debts owed individually or jointly; location(s) of safety deposit box(es); employment information; information regarding other income and retirement accounts; and a summary of the facts believed to support the claim of superior entitlement to custody where child custody is at issue.

A. **WHEN TO SERVE:** Initial Disclosures must be sent to the Plaintiff (or his/her attorney) **WITHIN 30 DAYS AFTER YOU ARE SERVED. Be sure to keep a copy of this document for your records.**

B. **DO NOT FILE THE INITIAL DISCLOSURES WITH THE CLERK.** This form is only given to the Plaintiff (or his/her attorney).

STEP 3. Fill out a *Confidential Financial Affidavit*.

- A. **Fill out a Confidential Financial Affidavit and attach all required documents.**
- Both parties are required to file a *Confidential Financial Affidavit* with the court with all the necessary supporting documentation.
 - **Required Attachments.** The *Confidential Financial Affidavit* must be supported with documentation of both current and past earnings. Proper documentation of current earnings includes, but is not limited to pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period. Include copies of income tax returns for the previous two years and your most recent pay stub(s) to show how much you have made so far this year.
 - The *Confidential Financial Affidavit* may be filed with the Clerk's office at the same time you file your *Answer* or *Answer and Counterclaim*.

STEP 4. If you and the Plaintiff agree on all of the terms in the *Decree of Divorce*, the *Decree* will need to be filled out completely, signed by both you and the Plaintiff and both of your signatures must be notarized. **In addition to signing the *Decree*, you should initial each page of the *Decree* to verify that each page contains the terms you agreed upon.** Here is some important information about the *Decree of Divorce*:

- **Custody and Visitation.** You and the Plaintiff need to determine which custody and visitation plan will apply in your circumstances. It is unusual for the Court not to award any visitation or supervised visitation for the non-custodial parent.
 - *If there is a concern that your child(ren) may be harmed by the other parent physically and/or emotionally, you should seek advice from someone familiar with parenting and child development issues. There may be an organization in your community that can help facilitate visitation between the children and you or the other parent. You can also contact the facilitators of any parenting classes in your community for ideas or additional resources.*
- **Factors to be considered for awarding custody and visitation.** The *Decree of Divorce* contains several options for custody and visitation arrangements. Ideally, both parents will work together to select the proper custody and visitation plan depending upon the family circumstances. In awarding custody and setting forth a visitation plan, Wyoming law requires that the Court consider the following factors:
 1. The geographic location of each parent;
 2. Each parent's willingness and ability to perform the child care duties associated with the child(ren), relative to the child(ren)'s stage of development such as feeding, changing, bathing, preparing the child(ren) for school, taking responsibility for the child(ren)'s homework, etc.;
 3. Each parent's ability to care for the child(ren)'s needs (consider not only historical involvement but a parent's willingness and ability to learn the necessary skills, as well);
 4. The lack of hostility between the parents;
 5. The ability of both parents' work schedules and the child(ren)'s schedule to accommodate extended access;
 6. The child(ren)'s age(s) and strength of attachment to each parent;
 7. The child(ren)'s relationship with his/her friends.
- **Child(ren)'s interests should control.** The use of a calendar for scheduling purposes is highly recommended. The parents' work schedules and the child(ren)'s school and extracurricular activities need to be considered when developing a visitation plan. This is especially true for those parents who do not

enjoy a traditional work week. While visitation should be an enjoyable and enriching experience, it is an obligation and responsibility for each parent as well as a right and a privilege. Both parents must also have a good faith commitment to developing and carrying out a visitation plan. You need to focus on what type of schedule would be in the child(ren)'s best interest.

- **Parenting classes.** At any time the Court may require parents to attend appropriate parenting classes, including, but not limited to, parenting classes to lessen the effects of divorce on children. Both parents are generally required to attend classes when they are ordered. If the class is ordered, you **MUST** file a **Certificate of Completion** with the Clerk's office. This certificate is provided by the class instructor.
- **Child Support Payments.** You will need to determine the amount of child support due based upon the *Confidential Financial Affidavits* you and the Plaintiff completed. You may use the ***Child Support Computation Form*** as a guide to help you calculate the support due. Another option is to go online to:

http://www.laramiecounty.com/_departments/_district_court/calculator.aspx

to calculate child support.

- **You CANNOT agree that no support will be paid.** The statutes allow for a reduced amount of support when you agree on joint physical custody and each parent keeps the child(ren) overnight for more than forty percent (40%) of the year and both parents contribute substantially to the expenses of the children in addition to the payment of child support.
- Where the combined ***net monthly*** income of ***both*** parents is less than eight hundred forty-six dollars (\$846.00), the non-custodial parent has to pay twenty-two percent (22%) of his/her net income for one (1) child and twenty-five percent (25%) of his/her net income for two (2) or more children, but the minimum amount of child support a person has to pay cannot be less than fifty dollars (\$50.00) per month for each family unit in which there are children to whom the noncustodial parent owes a duty of support.
- There are **NO DEVIATIONS** from the presumed support allowed **UNLESS** the Court **CHOOSES** to deviate from the set amount because the amount was unjust or inappropriate in the particular case. The Court must include the specific reasons for deviation in the *Decree of Divorce*.
- **NO AGREEMENTS FOR LESS THAN THE PRESUMED SUPPORT CAN BE APPROVED IF GOVERNMENT OR STATE BENEFITS (SUCH AS MEDICAID (TITLE 19), FOOD STAMPS,**

POWER, ETC.) ARE BEING PROVIDED ON BEHALF OF ANY CHILD. This means the Court cannot lower the amount of child support calculated by using the net income of you and the Plaintiff even if you and the Plaintiff agree to a lower amount of support.

- **Medical Support.** The law requires that medical support for the child(ren) be included as part of any child support order. The Court shall order either or both of the parents to provide medical support, if insurance can be obtained at a reasonable cost and the benefits under the insurance policy are accessible to the children. This may include dental, optical or other health care needs for the child(ren). In addition, the Court will order that any medical expenses not covered by insurance and any deductible amount on the required insurance coverage be paid by one or both parents. If both parents are ordered to pay for expenses not covered by insurance, the Court will specify the proportion for which each parent is responsible (for example, 50% to Plaintiff and 50% to Defendant).
- **When will your divorce become final?** Your divorce will not be final until the judge signs the *Decree of Divorce* and it is filed with the Clerk of Court. This process may take time if the Judge requires changes to the proposed *Decree*. You must verify with the Clerk's office that the *Decree of Divorce* has been file-stamped before you can be sure your divorce is final. The time limit to appeal a decree begins to run from the day the *Decree of Divorce* is filed with the Clerk's office.

STEP 5. If you and the Plaintiff do NOT agree on all issues of your divorce, you will need to have a trial:

A. **Trial.** If you and the Plaintiff cannot agree on all issues, your case will have to be heard and decided by a Judge at a trial.

- **Caution:** It is strongly recommended that you hire or find an attorney to represent you at trial, though you may represent yourself. You proceed at your own risk and will be expected to know the laws.

B. **Request a trial date.** If the Plaintiff has **NOT** done so, you will need to request a hearing by completing a *Request for Setting*. Write in "trial" where it asks the type of hearing. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually one (1) to three (3) hours). You also need to decide whether or not you want a Court reporter to record the proceeding. **SEE BELOW FOR DETAILS ON GETTING A COURT REPORTER.** If a hearing is not recorded by an official court reporter, a transcript of the hearing will not be available. It is very difficult to appeal the Judge's decision if you do not get a Court reporter to take down everything that is said at the trial.

- You must file the *Request for Setting* and the *Order Setting Divorce Trial and Requesting Pretrial Statements* with the Clerk's office, and the Court will fill in the hearing date and time and mail a copy to you and the other party. You will need to provide an addressed, stamped envelope for you and the Plaintiff to the Clerk.

Once a trial date has been set, do the following:

C. **Pretrial Disclosures.** - Both parties must provide to the other party AND PROMPTLY FILE WITH THE COURT the *Pretrial Disclosures* regarding the evidence that it may present at trial. If you have questions, you should contact an attorney.

- When are the *Pretrial Disclosures* due? Unless otherwise directed by the Court, these disclosures must be made at least **30 days before trial.**
- Take the original and two (2) copies to the Clerk for filing. Keep one copy for your records and send the other copy to the Plaintiff (or his/her attorney).
- **Settlement before trial.** In the event that your case settles before the trial, you must present the Court with the completed and signed *Decree of Divorce* in writing before the Court will take the trial off of the schedule. There will be no continuances or canceling of the trial date based on telephone calls. If you need a continuance, you should contact an attorney for assistance in seeking one.
- **Court reporter.** If you wish to have a Court reporter you are required to provide notice to the official Court reporter as soon as possible, but at least **three (3) working days** before the matter is set for hearing. You can provide notice to the court reporter by phone or by submitting a written request. Please note that if providing notice through the mail, the request must be received by the court reporter at least three working days prior to the hearing. The Clerk will be able to inform you which court reporter to contact. The three-day notice requirement will not be waived by the Court. The notice is required for all civil matters including jury trials.
- **Evidence and witnesses.** At the hearing, you will need to present your evidence and witnesses. If the *Order Setting Divorce Trial and Requesting Pretrial Statements* is entered (signed by the Judge), you must follow the terms and provide the Court with the information requested in that document, including copies of exhibits you want to introduce at the trial and a list of your proposed witnesses and what their testimony is going to be about within the time frame ordered (usually 3 to 5 days prior to the trial). Under the law, the Judge cannot help you or assist you at trial. You are on your own without an attorney.
- **Final Decision (Decree of Divorce).** Following the trial, the Judge will make a decision or may take the matter under advisement, meaning he or she will need to think further before making a determination. If the Judge instructs you, you must take that decision and type it into the *Decree of Divorce* incorporating the Judge's decision.

- **You are again reminded that, if you choose to continue without an attorney, you are expected to know what to do and how to do it. The judge will not guide you through the trial/hearing, tell you how to proceed or advise you on the law.**

- **When will your divorce become final?** Your divorce will not be final until the judge signs the *Decree of Divorce* and it is filed with the Clerk of Court. This process may take time if changes to the proposed *Decree* are required by the Judge. You must verify with the Clerk's office that the *Decree of Divorce* has been file-stamped before you can be sure your divorce is final. The time limit to appeal a decree begins to run from the day the *Decree of Divorce* is filed with the Clerk's office.

RECAP for Defendant's Documents:

1. File an *Answer* or *Answer and Counterclaim* within 20 days from the date you were served (or 30 days if served out of state)
 - Mail a copy to the Plaintiff and keep a copy for your records
2. File a *Confidential Financial Affidavit* and the required attachments
 - Mail a copy to the Plaintiff and keep a copy for your records
3. Assist the Plaintiff in filling out the *Decree of Divorce* if you both agree on all of the terms.
Sign the *Decree of Divorce* in front of a notarial officer.
4. If you and the Plaintiff do NOT agree on all of the terms, and a trial is needed, follow these steps:
 - a. File a *Request for Setting and Order Setting Divorce Trial and Requiring Pretrial Statements* **ONLY** if the Plaintiff has **NOT** done so.
 - b. Take an original and two (2) copies of the *Order Setting Divorce Trial and Requiring Pretrial Statements* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Plaintiff with enough postage to cover the cost of mailing the *Order Setting Divorce Trial and Requiring Pretrial Statements* to you and the Plaintiff).
 - c. File your *Pretrial Disclosures* **30 days** before the trial date.
 - Mail a copy to the Plaintiff and keep a copy for your records (do not file with the Court)
 - d. No later than 3 working days before the trial, request a court reporter, if desired (and if the Plaintiff has not already done so)
 - e. Attend the Trial
 - f. Complete and file any additional documents required by your Court.

Your divorce is final when the *Decree of Divorce* has been signed by the Judge and filed by the Clerk.