

GENERAL INSTRUCTIONS

For Use with All DOM REL Forms

Please read these instructions before you file your papers. These instructions may contain some legal words that are not familiar to you. A list of common legal words and their definitions is attached.

u DO I NEED A LAWYER?

The answer is probably YES if:

- n the case is contested and the other side has a lawyer.
- n you do not have an address for the other side.
- n you cannot locate the other side to serve him or her with your papers.
- n this is a divorce case and either side has a house, a pension, or a large amount of property or income. Even if it is a friendly divorce, you **SHOULD** talk to a lawyer before you sign any settlement papers or file anything in court.
- n you and your spouse do not agree on who should have custody of the children.
- n you think the court will need information that you cannot get.
- n you are seeking an annulment.

You may also need a lawyer if after reading these instructions you feel you need help to file your case.

You can talk to or get a lawyer at any time during the course of this case, **BUT** getting a lawyer at the last minute usually will not be grounds for a postponement, and many lawyers will not take a case at the last minute.

If you are looking for a lawyer or legal advice, see the Family Law Resource Guide. Most circuit courts have a Pro Se Assistance Program to provide help on a walk-in basis to people who do not have a lawyer. Ask the Clerk's Office or the Family Support Services Coordinator in your court for information on the Pro Se Assistance Program.

u WHERE SHOULD I FILE MY FORMS?

All family law cases are filed in a circuit court, except for a Petition for Protection from Domestic Violence, which can be filed in a circuit court or the District Court. There are circuit courts and District Courts in all Maryland counties.

n IF YOU ARE FILING AN ANSWER

If you are filing an Answer, you must file in the county where the Complaint, Petition or Motion was filed. If you think the other side filed in the wrong county, you can ask the court to move the case to a different county. This is a situation that may require a lawyer's assistance.

n IF YOU ARE FILING A COMPLAINT, PETITION OR MOTION

If you are filing a Complaint, Petition or Motion, you have some choices:

- 1 A DIVORCE case must be filed in the county where you live or where the other side lives or works.
- 1 A case about CUSTODY, VISITATION or CHILD SUPPORT can generally be filed where the child or either parent lives. [Special rules may apply if the child no longer resides in Maryland. In this situation you may need the assistance of a lawyer].
- 1 A NAME CHANGE must be filed in the county in which you reside.

If there is an earlier case between you and the other side in one county, you may be able to file this case in a different county.

u HOW MUCH WILL THIS COST?

There is a fee which must be paid when you file a case. The fee may vary depending on whether you are filing a new case or reopening an old case. The court may also charge a fee for other services such as having the sherriff's department serve your papers on the other side, co-parenting education, and mediation. These fees vary. Ask the clerk to tell you the amount of all fees and when the fees will need to be paid.

To ask the court to delay or excuse the fees if you have little or no money or income, file the form DOM REL 32 at the beginning of your case.

u HOW DO I START?

Read and follow the instructions below to start your case.

- n See the checklist at the end of these instructions to choose the forms you need for your case. **If you need assistance with the forms, contact the Pro Se Assistance Program in your local circuit court.** Please remember that the Clerk's Office cannot assist you in the selection of the proper form or aid you in the completion of forms.
- n There are instructions to help you complete the forms. Read the forms and instructions carefully.

- n Complete each form you need to start or answer the case.
- n Make sure all names and addresses are correct.
- n If you do not have an address for the other side and have done everything you can to find the address, call the Legal Forms Helpline (1-800-818-9888) to see if resources are available in your county to help you. You may be able file a Motion for Alternate Service, DOM REL70. For help with that form, consult the Pro Se Assistance Project in your local circuit court.
- n You may need to file a Domestic Case Information Report (DCIR) in addition to the DOM REL forms. This form helps the court determine how to schedule your case. Please complete the form and check each box that you think applies to your case. If you are not sure whether or not you need to file the DCIR form, please check with the Self-Help Clinic in the courthouse.
- n File all completed forms with the Clerk of Court. You should have at least three (3) copies of your papers when you are filing your case: one for the court; one for the other side; and one for yourself.
- n All papers you file with the court must also be served on the other side.

u **WHAT IS SERVICE?**

"Service" or "service of process" is making sure the other side gets a copy of the papers you are filing. If you are starting a case, your case cannot go forward until the other side is "served."

u **HOW DO I SERVE SOMEONE?**

n **IF YOU ARE SERVING AN ANSWER:**

You MUST mail a copy of the answer and a copy of everything you are filing to the other side. Fill in the certificate of service at the bottom of the Answer. Do not forget to file your answer with the Clerk of Court.

If you are serving a counterclaim with your answer, you may serve the counterclaim (including all other DOM REL forms you have attached to the counterclaim) by mailing copies of everything to the other side. Fill in the certificate of service at the bottom of the counterclaim. Do not forget to file the counterclaim and all of the forms attached to the counterclaim with the Clerk of Court.

n **IF YOU ARE SERVING A COMPLAINT, PETITION, OR MOTION:**

The court will issue a Writ of Summons. You must make sure that the Writ of Summons is attached to a copy of the complaint, petition, or motion. These papers must be served on the

other side along with any other forms you have filed, such as a Domestic Case Information Report or a financial statement.

Choose a method of service. Service can be made one of several ways:

- 1 by sheriff;
- 1 by private process; or
- 1 by certified mail using a friend or relative or other adult.

YOU CANNOT SERVE THE OTHER SIDE YOURSELF. Whichever method you choose, proof that the other side was served must be filed with the court. A person can be served at home, at work, or anywhere else the person happens to be.

n SERVICE BY SHERIFF:

You can have the sheriff serve the other side. The sheriff will charge a fee. Ask the Clerk of Court the amount of the fee. The clerk will send your papers to the sheriff. You will need to check with the clerk to see if the other side has been served. The sheriff will send the clerk a "return of service" to prove the sheriff served the papers.

n SERVICE BY PRIVATE PROCESS:

There are two ways to serve someone by private process: 1) by a private process serving company for a fee; or 2) by an adult over the age of 18. You CANNOT serve the papers yourself.

1 PRIVATE PROCESS SERVING COMPANIES:

This method is often fast and is also good if the other side is hard to locate. Ask the Clerk of Court to give you back the Writ of Summons and the other papers to be served. Give the process server the Affidavit of Services (Form DOM REL 55) and the papers to be served. Ask the process server to return the completed Affidavit of Service to you once the other side is served. File the completed Affidavit with a copy of the Writ of Summons attached with the Clerk of Court.

1 PRIVATE PROCESS USING AN ADULT OVER THE AGE OF 18:

This is an inexpensive way to serve someone. THE PRIVATE PROCESS SERVER CANNOT BE YOU. The adult serving the papers must give the papers directly to the other party. The papers cannot be left at the other party's address or left with anyone else. Have the person who served the other party fill out an Affidavit of Service (DOM REL 55) completely. Then file the Affidavit, with a copy of the Writ of Summons attached, with the Clerk of Court to prove the other side was served.

n SERVICE BY CERTIFIED MAIL SENT BY AN ADULT OVER THE AGE OF 18:

This is a good method of service if the other side lives far from you. It does require that the other side accept the papers and personally sign the receipt (green card).

An adult, other than you, should take the papers to the Post Office and follow the instructions for mailing by certified mail, restricted delivery, return receipt requested. The adult must fill out an Affidavit (DOM REL 56) indicating that he or she mailed the papers and the other party received them. If the other party receives the papers, the receipt (green card) will be returned to you with the other side's signature. Attach the receipt (green card) and a copy of the Writ of Summons to the completed Affidavit, and file the Affidavit with the Clerk of Court as proof that the other party received the papers.

If the receipt (green card) is returned with the wrong signature or if the entire envelope comes back undelivered, you will have to make another attempt at service or see an attorney.

u WHAT HAPPENS IF SERVICE IS NOT MADE?

There may have to be several attempts to serve the other side by using different methods. A Writ of Summons is only good for 60 days -- this means you have to have the other party served within those 60 days. You will have to ask the Clerk of Court in writing to issue a new Writ of Summons if the other side has not been served within 60 days. You may be able to file a Motion for Alternate Service, DOM REL 70, if you cannot locate the Defendant. If several attempts to serve the other side have been unsuccessful, you may want to consult a lawyer for help.

u WHAT HAPPENS IF SERVICE IS MADE?

The person has 30 days to answer if he or she is served in Maryland, 60 days to answer if he or she is served out-of-state, and 90 days to answer if he or she is served outside the United States.

u HOW DO I GET A HEARING DATE?

In most counties, a court date is automatically scheduled. If you have filed for a divorce or if you are involved in a custody case, and if the case is contested, many counties will set a date for a Scheduling Conference and send you a notice requiring you to attend.

If you have filed for divorce and the other party has filed an answer indicating that they agree with your request, you must contact the Clerk of Court in writing to request an uncontested hearing be scheduled. See DR 59 for a form to request a hearing.

If the time for the filing of the answer has passed and the other side has not filed an answer, you should file a Request for Order of Default (DOM REL 54). If the judge signs the Order of Default, you will then be able to request that an uncontested hearing be scheduled.

If you have not heard from the court once the answer is filed and you do not know what to do, you should contact the Clerk of Court to determine whether you need to request a hearing. You may request a hearing or other proceeding using the Request for Hearing or Proceeding Form (DOM REL 59).

In order to ensure that you receive proper notice of all hearings, be sure that the Clerk of Court *and* the opposing party or their attorney always have your correct address. If you move while the case is pending, be sure to inform both the Clerk and the opposing party of your change of address *in writing*.

NOTE: If you have been the victim of domestic violence, or otherwise have concerns about your safety or the safety of your children, you may request that your address not be disclosed to the opposing party. If this is the case, do not put your address or the address of children residing with you on court documents. Contact the Clerk of Court to provide the court with your correct address and leave your address off all official documents - - and inform them of your request not to disclose your address. You should still send copies of all papers you file with the court to the opposing side, but they should not have your address on them].

u **WHAT HAPPENS IN COURT?**

On the day your case is scheduled, make sure you are there early. Often you will need to check in with the court personnel in the courtroom. If you are not there when your case is called, your case could be thrown out or the court could rule in favor of the other side. If you have to miss your court date because of an emergency, contact the court BEFORE you are scheduled to be in court.

You **may** be able to have the court look at documents or other evidence, such as pay stubs or pictures. Have your documents and other evidence with you that day; have them in order; and have extra copies.

The other side and his or her witnesses also will have a chance to tell his or her story and can present the same kinds of evidence. You will have a chance to cross-examine the other side and his or her witnesses.

u **WHAT IF I STILL HAVE QUESTIONS AFTER READING THESE INSTRUCTIONS?**

If you do not understand these instructions or you still have questions, please return to your local Pro Se Assistance Program for additional help. You can contact the Legal Forms Helpline at 1-800-818-9888 or the Family Law Hotline at 1-800-845-8550 for free legal advice on using the DOM REL forms or on family law issues.

DICTIONARY

Absolute Divorce: the final ending of the marriage. Both parties are legally free to remarry. See Annotated Code of Maryland, Family Law Article, Section 7-103. See also Limited Divorce.

Affidavit: a written statement made under oath.

Annulment: a court's decision that a marriage is void; it never legally existed. It is available only under certain limited circumstances.

Answer: the written response to a complaint, petition or motion.

Child Support Guidelines: Maryland has child support guidelines which must be followed in awarding child support. The guidelines provide formula for calculating support based on the number of children in the family, and the combined gross income of the adults. There is a worksheet which each side must fill out. The court will review the figures on the worksheet and apply the guidelines. There are only a few circumstances when the court can award child support higher or lower than the guidelines. See the Annotated Code of Maryland, Family Law Article, Sections 12-201 through 12-204.

Complaint: a legal paper that starts a case.

Contempt: failure to follow a court order. One side can request that the court determine that the other side is in contempt and punish him or her.

Corroborative Witness: a person who testifies for you and backs up your story. If you are asking the court to grant a divorce, you must bring to the hearing a witness who can corroborate your grounds for divorce.

Custody - Sole & Joint: refers to the legal arrangements regarding with whom a child will live and how decisions about the child will be made. Custody has two parts: legal and physical. Legal custody refers to decision-making authority. If a parent is awarded sole legal custody, it means that they alone can make major decisions for the child including, for example, medical/dental and educational decisions. Physical custody refers to where the child lives on a regular basis. If they choose to settle the case, parents can make any custodial arrangement that is in the best interest of the children. If the court must decide custody, the judge will have to determine what is in the best interest of the children.

Default: a party's failure to answer a complaint, motion or petition.

Defendant: the person the case is brought against.

Discovery: a way for getting information from the other side or other people. Discovery methods include *interrogatories* (written questions which one side gives the other side to complete) and *depositions* (a question and answer session conducted in person and recorded).

Dissolution: the legal end of a marriage.

Evidence: testimony of witnesses and documents which are presented to the court and considered by the court in making a decision.

Grounds for Divorce: the legal basis for a divorce. The law sets out specific circumstances under which a divorce will be granted. Before the court will grant a divorce, the person seeking the divorce must prove that those conditions exist.

Filing: giving the Clerk of Court your legal papers.

Judgment: a court's decision.

Limited Divorce: establishes certain legal responsibilities while the parties are separated but does not end the marriage. See Annotated Code of Maryland, Family Law Article, Section 7-102. See also Absolute Divorce.

Marital Property: includes ALL property acquired during the marriage, even it is not titled in both names, with some exceptions. See Annotated Code of Maryland, Family Law Article, Section 8-201(e) for definition and Sections 8-203 through 8-205 for how the court treats marital property.

Magistrate: hears cases like a judge. A magistrate's decision is reviewed by a judge before becoming final.

Motion: a request to the court.

Pendente lite: temporary arrangements for custody, child support, child visitation, alimony, use and possession of the family home, etc. until a final hearing.

Petition: a legal paper that starts a case.

Plaintiff: the person who started the case.

Pro se / Proper Person: representing yourself in court without an attorney.

Reconciliation: married people getting back together.

Service: providing a copy of the papers being filed to the other side.

Spouse: husband or wife.

Subpoena: a form issued by the court requiring someone to appear in court and/or bring documents.

Uncontested Divorce: when the defendant is not going to try to stop the divorce *and* there are no issues for the court to decide about children, money or property.

Use and Possession: the right of the parent who has custody of a minor child of the marriage to remain in the family home for up to three years from the date of the divorce, under certain circumstances. See Annotated Code of Maryland, Family Law Article, Section 8-206 through 8-211.

Venue: the county where the case is heard.

Writ of Summons: a form issued by the court directing a party to respond to a complaint, motion or petition.