



CENTER FOR ARKANSAS
LEGAL SERVICES



LEGAL AID *of* ARKANSAS
Equal Access to Justice

Divorce Packet

Inclusions

- Divorce Fact Sheet
- Divorce Without a Minor Instructions
- Complaint for Divorce
- Entry of Appearance, Waiver of Service of Summons, and Waiver of Notice
- Affidavit of Service by Mail
- Decree of Divorce



Divorce Fact Sheet

Introduction

A divorce starts when one spouse (husband or wife), the plaintiff, files a complaint for divorce in circuit court. The defendant is the person the plaintiff wants to divorce.

To be divorced in Arkansas, one of the parties must live in Arkansas at least 60 days before the plaintiff files for divorce. Any children of the parties must live in Arkansas for six months before the court can decide custody and visitation.

Grounds

Arkansas is a fault divorce state, so the plaintiff must prove there are reasons (grounds) for divorce. The most common grounds for divorce are general indignities and separation for 18 months.

Service

The plaintiff must tell the defendant about the divorce by serving them with the Complaint for Divorce and a summons.

The plaintiff may serve the defendant using a process server or deputy sheriff or by sending the paperwork by certified mail.

It is possible to serve the defendant by publication, but only if the plaintiff has done everything they can to find the defendant. This type of service is called "service by warning order."

If the defendant is in jail or prison or active military duty, then special rules apply to service and how long the defendant must answer the lawsuit.

Once the defendant is served they generally have 30 days to file a written answer with the court. If the defendant does not file a written answer, then the court may grant the divorce without any notice to the defendant.

Settling Issues

In most cases, the plaintiff must wait at least 30 days from the date the complaint was filed to finalize the divorce. If the plaintiff and defendant agree on all the issues of the marriage, then the case may be finalized without a contested hearing.

In all divorce cases, the plaintiff must prove grounds for divorce and 60 days' residency. The only no-fault divorce is if the parties have been separated for more than 18 months. These things may be proved by the testimony of the plaintiff and a witness. If the parties disagree, then the case must go to a judge to decide.

Some of the Issues the Judge May Decide

Custody and Visitation

The law assumes that the parents should have joint custody of minor children unless domestic violence is involved. If the parents cannot agree on a custody arrangement, then the judge decides what is in the children's best interest. If the judge decides that joint custody will not work, then the judge decides who will have custody and who will have visitation. The judge will also decide if there are any restrictions on visitation.

Child Support and Alimony

The non-custodial parent will be ordered to pay child based on the Arkansas Family Support Chart. The judge may award alimony based on the facts of the case if one spouse has a need and the other spouse can pay.

Property and Debt Division

Any property or debt that either party acquired during the marriage can be divided in a divorce. If the parties do not agree to a division, then the judge will order a fair division.

Afterwards

Once the judge orders a final divorce decree, the terms cannot be changed just because a party does not like it or changes their mind. Custody, visitation, and support are the only things in the decree that can be modified at a later date.

The divorce decree lists the rights and responsibilities of each party. If one party does not follow the decree, then the other may file a motion for contempt of court asking the court to enforce the decree.

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1-800-952-9243).

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**Content provided by:
Center for Arkansas Legal Services**

Updated June 2017



Divorce Without a Minor Child Instructions

Filing in the Forms

COMPLAINT FOR DIVORCE

1. the county where you live
2. your legal name
3. the case number that will be assigned by the circuit clerk's office
4. your spouse's legal name
5. your legal name
6. your spouse's legal name
7. the county where you live
8. your former legal name
9. the county where your spouse lives
10. the city where you and your spouse were married
11. choose those that apply to your spouse:
 - a. has treated you with such indignities as to render your condition intolerable
 - b. has committed adultery in the last five years
 - c. has been convicted of a felony during the last five years
 - d. you have lived separate and apart from each other for 18 continuous months
 - e. has endangered your life with cruel and barbarous treatment

Sign and print your legal name, then address.

VERIFICATION

12. the county of the notary public signing this verification
13. your legal name

Sign and print your legal name. The notary public will fill out the rest of this sheet.

ENTRY OF APPEARANCE, WAIVER OF SERVICE OF SUMMONS, AND WAIVER OF NOTICE

14. the county where you live
15. your legal name
16. the case number that will be assigned by the circuit clerk's office
17. your spouse's legal name
18. the county where you live

Sign and print your legal name.

VERIFICATION

19. the county of the notary public signing this verification
20. your legal name

Sign and print your legal name. The notary public will fill out the rest of this sheet.

AFFIDAVIT OF SERVICE BY MAIL

21. the county where you live
22. your legal name
23. the case number that will be assigned by the circuit clerk's office
24. your spouse's legal name
25. your spouse's legal name

Sign and print your legal name.

ACKNOWLEDGMENT

Sign and print your legal name. The notary public will fill out the rest of this sheet.

DECREE OF DIVORCE

26. the county where you live
27. your legal name
28. the case number that will be assigned by the circuit clerk's office
29. your spouse's legal name
30. your legal name
31. your spouse's legal name
32. your witness's legal name
33. your legal name
34. those that apply to your spouse:
 - a. has treated you with such indignities as to render your condition intolerable
 - b. has committed adultery in the last five years
 - c. has been convicted of a felony during the last five years
 - d. and you have lived separate and apart from each other for 18 continuous months
 - e. has endangered your life with cruel and barbarous treatment
35. your spouse's legal name
36. your former legal name
37. your legal name
38. your spouse's legal name

The judge will fill out the rest of this sheet.



The Process

Proofreading

Read over these forms and make sure the information you have given is correct and complete. You must write in dates and the Case number in many of these forms. The Court Clerk will provide the Case Number for you. You must file your Complaint for Divorce at the county courthouse in the county where you live. Write in the appropriate date on the day that you file your forms.

Notarizing

Take the Divorce Complaint form to a notary public before you sign it. The notary will charge you for notarizing the complaint. The amount varies, but is usually under \$10. Look in the phone book to locate a notary.

Sign both the Complaint and the Verification Page in front of the notary who will then notarize the Verification Page and give it back to you. A notary cannot notarize a complaint that she did not see you sign. Do not forget to fill in your address and phone number underneath your signature on the Complaint.

Filing

Make three copies of your Complaint and take the copies and the original to the correct County Circuit Clerk. The filing fee for the Complaint is \$165 (in most counties as of August 2014) and must be paid at the time that you file.

If you cannot afford to pay the filing fee, then you can file an In Forma Pauperis (IFP) Petition. The petition, supporting affidavit, and order are at the same website you found this document (arlegalservices.org). You must get the IFP Order signed by a judge before you can file the divorce without paying the filing fees. If the IFP Petition is granted, the judge will enter an Order waiving your filing fee.

Ask the clerk to issue a standard Restraining Order when the divorce complaint is filed. A restraining order prevents each party from harassing the other or the children of the parties. Also, it prevents either party from selling or disposing of marital property while the case is pending.

Service

A summons is an order issued by the court to the defendant to answer the complaint within a certain amount of time. After you file a complaint with the court clerk, she will assign a case number to your case and issue a summons. A summons should be issued automatically, but in some counties you must request the summons form. Have an address available where your spouse can be served. You will then have to serve the complaint and summons on the defendant. This can be done in several ways.

Waiver of Service by the Defendant

After you have filed the complaint and it has been file stamped by the court clerk you must provide a copy of it to your spouse. Your spouse may then agree to waive the service of the

Summons and Complaint. If your spouse does agree to waive service then he or she must sign the Entry of Appearance and Waiver of Service of Summons Form that is provided in this packet. This form must also be notarized meaning that your spouse must sign the form in front of notary public.

Once this is done, you may file the Entry of Appearance and Waiver of Service of Summons, but you should file the Complaint first. If the defendant will not voluntarily sign an Entry of Appearance and Waiver of Service of Summons, you will have to use another method to serve the Summons and Complaint on your spouse. If you use the Entry of Appearance and Waiver of Service of Summons Form then you will not use the Affidavit of Service by Mail Form.

Service by Mail

The cheapest method of services is by mail. You will have to send the complaint and summons to your spouse at his or her last known address. You must send it certified mail, restricted delivery, return receipt requested. Only the defendant can sign for the letter. If your spouse does not sign for it or someone else signs for it, you have not gotten proper service. If you use the Affidavit of Service by Mail Form then you will not use the Entry of Appearance and Waiver of Service of Summons Form.

Setting the Hearing

Ask the clerk to issue a Notice of Hearing after:

- filing the Complaint for Divorce—waiting 30 days from the date the Complaint for Divorce was filed if your spouse signed an Entry of Appearance
- getting proper service—waiting the 30-day response time in service was by mail

Next, ask the clerk which judge the case is assigned to. Then, take the Notice of Hearing to your assigned judge's office. Once in the judge's office, you will need to speak to your judge's case coordinator. Ask the case coordinator to set a date and time for your divorce case to be heard by the judge. Ask the clerk if there is a regular scheduled day for pro se divorces (pro se means that you will not have an attorney represent you). The case coordinator will fill in the date and time of the hearing on the Notice of Hearing.

Take the "Notice of Hearing" back to the Circuit Court Clerk's Office and have it filed-marked. You will then need to send, by regular mail, a copy to the defendant.

Preparing for and Attending the Hearing

Preparing for the Hearing

You will need to find someone who can testify as your witness in court. This person should be 18 years old or older. This person may be a family member, but should not be a boyfriend or girlfriend. Your witness should have first-hand knowledge of your grounds for divorce and how long you have lived in Arkansas. The witness cannot testify as to what you told her, the witness must personally know about your grounds for divorce. See the "Presenting Testimony" section.



Attending the Hearing

When you go to your hearing, you will generally wait in the courtroom until the bailiff calls your case. When your case is called, proceed to the front of the courtroom. Ask the bailiff where you and your witness should sit. The judge or bailiff will direct you to proceed with your case. You and your witness will be sworn in along with the defendant and any witness your spouse brings.

Presenting Testimony

You will get to go first. You and your witness will have to testify according to the court testimony outline in this packet. If you have presented enough evidence to support your grounds and proof of residence, the judge will rule in your favor and grant your divorce. You will need to give the judge a copy of the Divorce Decree from this packet.

Entering the Decree

Once the judge signs the Divorce Decree, you will need to take it and the other two copies to the circuit clerk's office and file them. You will then be divorced. You must send your former spouse a copy of the signed Decree of Divorce

Checklist

- Did you prepare an Entry of Appearance and Waiver of Service of Summons (if your spouse agreed)?
- Did you have your spouse sign the Entry of Appearance and Waiver of Summons in front of a notary public? If not, did you have the Complaint, Summons, and Restraining Order served on the defendant using the Service by Mail method?
- Did you prepare the Complaint for Divorce according to the instructions? Did you sign the Complaint in front of a Notary Public?
- If you are not submitting a Petition for Leave to Proceed In Forma Pauperis, do you have the \$165 filing fee?
- Did you make three extra copies of the Complaint for Divorce to take to the court clerk?
- Did the court clerk file stamp all the copies of your Complaint for Divorce?
- If your spouse signed the Entry of Appearance and Waiver of Summons, did you file it after the Complaint for Divorce?
- If the waiver was not used, did you file the proof of service with the court clerk used after the defendant was served? Did you attach the return receipt?

- Did you call or visit the judge's case coordinator and request a hearing date after you filed proof of service with the court clerk?
- Do you have a witness who has agreed to go to court with you and corroborate (confirm) your grounds for divorce and residency?
- Did you make copies of the Decree of Divorce for the judge to sign?
- Did you review Your Court Testimony for the hearing contained in the Instruction Section for Filing a Pro Se Divorce?
- Did you review with your witness their testimony contained in the Instruction Section for Filing a Pro Se Divorce?

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Updated June 2017

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
(1)
_____ DIVISION

v. (2) _____ PLAINTIFF
CASE NO. _____
(3)

(4) _____ DEFENDANT

COMPLAINT FOR DIVORCE

Comes now the plaintiff, _____, *pro se*, and for a
(5)
Complaint for Divorce filed herein against the defendant,

_____, respectfully states and alleges:
(6)

1. That the plaintiff is a resident of _____
(7)
County, Arkansas, and has been for at least 60 days prior to filing this action, and
that this action arose in Arkansas.

2. That the plaintiff's former name of _____
(8)
be restored.

That the defendant is a resident of _____
(9)
County, Arkansas.

3. That this cause of action occurred within five years from the date of this
complaint.

4. That the plaintiff and the defendant were lawfully married on the _____ day of
_____, _____, in _____,
(10)
Arkansas, and lived together as husband and wife until they separated on or about
the _____ day of _____, _____; the parties have
continued to live separate and apart since that date.

5. That during the marriage, the defendant

_____.

(11)

6. That there are no minor children of the marriage and none are expected.

7. That there are no marital property rights or debts to be adjudicated.

WHEREFORE, the plaintiff requests that they be granted an absolute divorce from the defendant, and for all other just and proper relief to which they are entitled.

Respectfully submitted,

Sign: _____

Print: _____

Address: _____

VERIFICATION

STATE OF ARKANSAS)

) SS

COUNTY OF _____)

(12)

Comes now, _____, the undersigned, being duly sworn, states the following things, facts, and matters contained in the above and foregoing Complaint for Divorce are true and correct as I believe them to be.

(13)

Further, the affiant sayeth naught.

Sign: _____

Print: _____

Subscribed and sworn to before me, a notary public, this _____ day of
_____, 20_____.

Notary Public: _____

My commission expires on the _____ day of _____, 20_____.

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
(14)

_____ DIVISION

PLAINTIFF

(15)

v.

CASE NO. _____

(16)

(17)

DEFENDANT

ENTRY OF APPEARANCE, WAIVER OF SERVICE OF SUMMONS, AND WAIVER OF NOTICE

The defendant hereby enters appearance, waives requirements of service of summons and service of notice in this court, and states, under oath, the following:

1. I hereby waive service of summons upon me in the above styled court, cause, and time in which to answer. I waive service of notice of any hearing held in the matter.
2. I agree that this cause may be heard in vacation, on oral testimony, or on depositions and hereby waive notice of taking depositions, and the filing of cross-interrogatories thereto, and all irregularities in time of taking such depositions.
3. I am not a member of the Armed Services of the United States.
4. This cause may be submitted to the judge at any time or place, and the proceedings shall have the same force and effect as if done at a regular day of court.
5. I understand that the Circuit Court of

_____ County, Arkansas, will retain

(18)

jurisdiction of this cause for such further orders as may be necessary for the enforcement of the terms of the decree.

WITNESS my hand this _____ day of _____, 20_____.

Sign: _____

Print: _____

VERIFICATION

STATE OF ARKANSAS)
) SS
COUNTY OF _____)
(19)

Comes now, _____, the undersigned, being duly sworn, states the
(20)
following things, facts, and matters contained in the above and foregoing Complaint for Divorce
are true and correct as I believe them to be.

Further, the affiant sayeth naught.

Sign: _____

Print: _____

Subscribed and sworn to before me, a notary public, this _____ day of
_____, 20_____.

Notary Public: _____

My commission expires on the _____ day of _____, 20_____.

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
(21)
_____ DIVISION

(22)
v.

(24)

PLAINTIFF
CASE NO. _____
(23)
DEFENDANT

AFFIDAVIT OF SERVICE BY MAIL

The undersigned, having been duly sworn, states upon oath and affirmation:

1. That I am the plaintiff in the above captioned case.
2. That, on the _____ day of _____, 20____, I caused a certified letter, restricted delivery to the addressee only to be mailed to the defendant, _____, at the defendant's last known address, _____, along with a copy of the Summons and Complaint.
(25)
3. That, on the _____ day of _____, 20____, the letter was claimed, as evidenced by the return receipt signed by the defendant, attached hereto as Exhibit "A."

IN WITNESS WHEREOF, I have set my hand this _____ day of _____, 20____.

Sign: _____
Print: _____

ACKNOWLEDGMENT

The undersigned, being duly sworn, states on oath that they have reviewed the above named pleading and that the facts and matters contained therein are true and correct to the best of their knowledge and belief.

Sign: _____

Print: _____

Subscribed and sworn to before me, a notary public, this _____ day of

_____, 20_____.

Notary Public: _____

My commission expires on the _____ day of _____, 20_____.

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
(26)
_____ DIVISION

(27) PLAINTIFF
v. _____ CASE NO. _____
(28) DEFENDANT

(29)

DECREE OF DIVORCE

On this date, the plaintiff, _____, appearing *pro se*, the defendant,
(30)
_____, having been properly served, this matter having been submitted to the
(31)
court upon the Complaint for Divorce, and from the testimony of the plaintiff and witness,
_____, and other evidence before the court, the court DOTH FIND AND
(32)
ORDER:

1. This court has jurisdiction of the parties and subject matter of this cause of action.
2. The plaintiff, _____, has substantiated grounds for divorce,
(33)
that defendant treated the plaintiff _____
(34)
and so entitled them to an absolute divorce, by a preponderance of the evidence
and that the plaintiff is entitled to an absolute divorce from the defendant,
_____.
(35)
3. The plaintiff's former name of _____ is
(36)
hereby restored.
4. There were no children born during this marriage and none are expected.
5. Each party shall have full ownership, use, control, and financial responsibility for
all personal property presently in their individual possession, free and clear of any
claims of the other party.

6. Each party shall execute and deliver to the other and document of title necessary to insure the quiet enjoyment of said property by the other.
7. The plaintiff shall take financial responsibility, and hold the defendant harmless for debts in the plaintiff's name, for payment of debts which plaintiff incurred after the separation on the _____ day of _____, 20_____, and for those debts owed on any property which the plaintiff retains.
8. The defendant shall take financial responsibility and hold the plaintiff harmless for debts in the defendant's name, for payment of debts which the defendant incurred after the separation on the _____ day of _____, 20_____, and for those debts owed on any property which the defendant retains.
9. The parties shall execute all necessary documents and conveyances for the purpose of implementing the decree when and as called upon to do so by the other.
10. This court retains jurisdiction of the cause of action for enforcing the rights and obligations of the parties under this decree and for other proper purposes.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the plaintiff,

_____, be granted an absolute divorce from the defendant,

(37)

_____;

(38)

the bonds of matrimony heretofore existing between the plaintiff and the defendant should be, and hereby are, canceled, set aside, and forever held for naught; and all matter pertaining thereto shall be as set forth herein.

Circuit Judge: _____

Date: _____