

## HOW TO FILE FOR DIVORCE

This is an explanation and procedural guide to help you understand the steps that are required to obtain a Dissolution of Marriage.

1. **Notice of Limitation of Services Provided** - Read this document carefully and sign the Acknowledgment at the bottom. File it with the Clerk of Court when you file your Petition.
2. **Petition** - Complete the petition by filling in the blanks and checking the appropriate boxes. Complete the **Civil Cover Sheet** and file it with your petition. The clerk will fill in the case number and division at the time you file your petition. Check the type of case as "Dissolution." Jury trials are not available in divorce cases. Fill out the Petition completely. Do not leave blanks. If something does not pertain to you, put N/A or cross through it.
3. **Uniform Child Custody Jurisdiction and Enforcement Act Affidavit (UCCJEA)** - Complete this affidavit if you have children born of the marriage. This affidavit must be filed with your petition. **EACH party must file a separate UCCJEA.**
4. **Financial Affidavit** - Complete the Financial Affidavit and attach a copy of your last three tax returns and a photocopy of your last three pay stubs to the copy you are delivering to your spouse. **Do not file tax returns or pay stubs with the Clerk. You must file a Financial Affidavit and, if you have children, a Child Support Guidelines Worksheet. The parties cannot agree to waive the filing of the Financial Affidavits or the Child Support Guidelines Worksheet.**
5. **Notice of Social Security Number** - the Florida Statutes require that this document be filed in all divorce actions. Complete the social security disclosure and file it with your petition. Two Notice of Social Security Number forms are included in the packet, **one for each party.**
6. **Child Support Guidelines Worksheet** - (If you have children born of this marriage) Both parents are required to support their children after the divorce. Florida has adopted guidelines that are published in the statutes. The court is required to order each parent to pay his/her proportionate share of the guideline amount. To determine what amount of child support each parent must pay, complete the child support worksheet from the information on your financial affidavits. Follow the instructions exactly. **THIS CANNOT BE DONE UNTIL BOTH FINANCIAL AFFIDAVITS HAVE BEEN FILED.**
6. The court will direct the nonresidential parent to pay his/her portions of the child support to the other parent through the Clerk of the Court by Income Deduction Order. **YOU MUST COMPLETE THE MEMO TO CLERK** and place it in your file so an account will be set up to keep track of your payments. This does not mean that the residential spouse is not contributing to the support. **Florida courts cannot order any child support amount except what is set in the guidelines for your number of children.**

Note: Child Support continues until a child becomes 18 or otherwise self-supporting. **However, child support may continue after a child reaches 18 if the child is still in high school, performing in good faith with a reasonable expectation of graduating before the age of 19. Under those special circumstances, you must notify the Clerk of the Court. Child support may continue until graduation from high school or until the child reaches age 19, whichever comes first.**

7. **Make *two copies* of all the above documents. One set of copies is for you to keep. One set of copies is for your spouse. The *originals* must be filed with the Clerk of the Court.**

8. File the Notice of Limitation of Services Provided, the original Petition with the Civil Cover Sheet, the Notice of Social Security Number, the UCCJEA Affidavit (if applicable), the Child Support Guidelines Worksheet (if applicable), and the Financial Affidavit with the Clerk of the Court in the county where you live:

<u>Indian River</u>	<u>Martin</u>	<u>Okeechobee</u>	<u>St. Lucie</u>
2000 16th Avenue	100 East Ocean Blvd.	304 NW 2nd. Street	201 S Indian River Drive
Family Relations	Family Services	Family Services	Family Relations
Indian River Courthouse	Martin Courthouse	Okeechobee Courthouse	Clerk of Court's Building
Vero Beach, FL 32960	Stuart, FL 32994	Okeechobee, FL 34972	Ft. Pierce, FL 34950

9. Once you have made the necessary copies, please staple the pages of each form together. Bring this instruction sheet with you when you file your documents. The deputy clerk will give you the case number. When you file, you must pay a filing fee. You must bring a summons and an extra copy of the summons with you when you file your case if you and your spouse do not have an agreement.

**Standing Orders** - Upon filing for divorce, the Clerk of the Court will hand the petitioner a Standing Domestic Relations Order. This is a court order, signed by the current family judge, which limits and directs your behavior while this action is pending. It is directed at both parties, and a copy will be provided for each party by the Clerk of the Court. If you have minor children of this marriage, you will also be given the Standing Order of Referral to Parent Education Class. This order directs parents of minor children to attend and complete a parenting class, and contains a list of companies, approved by the Court, who provide these parenting classes to divorcing couples. **This is required by Florida law, and must be attended before you will be given a hearing date.** You will receive a certificate of completion at the end of the class. This must be placed in your court file.

10. **SERVICE**

**A. IF YOU AND YOUR SPOUSE HAVE AN AGREEMENT**

If you and your spouse have agreed to file for divorce and have reached an agreement about all of the issues in your case, then you will not have to pay the sheriff to serve the divorce papers on your spouse. In this situation your spouse must complete and sign the **Answer** to the petition for divorce, and both parties must complete, sign and notarize the Marital Settlement Agreement if there are children involved, **AND/OR** property and debt to divide. Make sure you have filed the **original Petition, completed Financial Affidavits** for both of you, **Notice of Social Security Number** forms for both of you, a **completed Answer** form, and the **Marital Settlement Agreement**, signed and notarized by both of you.

Note: Your spouse must still complete the Financial Affidavit and the Notice of Social Security Number form. As soon as your Marital Settlement Agreement is signed, notarized and filed with the Clerk, you may skip to Step 13.

11. **SERVICE (continued)**

**B. IF YOU DO NOT HAVE AN AGREEMENT WITH YOUR SPOUSE**

**(1) WITH SUMMONS-** Complete the Summons: Personal Service on an Individual, and the Service Memorandum. Bring the Summons and an additional copy to the Clerk of the Court when you file your case. The Clerk will return the original Summons to you along with the copy. Take both, along with a copy of the Petition, a copy of your completed Financial Affidavit, a copy of your completed UCCJEA, a **blank** Financial Affidavit for your spouse to complete, a **blank** Social Security Disclosure form and a **blank** Answer form, to the Sheriff's Civil Division, or to a private process server to have the papers served on your spouse. The Sheriff's Office charges \$40.00 for this service or the private process server will charge a fee for their service.

After the petition has been served on your spouse, the sheriff or the process server, will forward to you a form indicating when and where your spouse was served. This is called a Proof of Service. When you receive this form and the attached original Summons, file both with the Clerk of the Court as proof that your spouse was served. Keep a copy for your records.

If your spouse has not responded after twenty-five (25) days from the date of service of the Petition (not counting the day he or she was served), you may file a Motion for Default and a Non-military Affidavit with the Clerk of the Court. Keep a copy of the Motion for Default for your records.

\*\*(Twenty days is the response time and the Clerk of the Court has to allow five days for mailing)

**(2) BY PUBLICATION** - In some cases if you do not know where your spouse is located you can publish a Notice of Action in the newspaper. See the specific instructions on the Notice of Action form and the Affidavit of Diligent Search and Inquiry form.

**Diligent Search** – The Court will let you serve your spouse by publication only when you have conducted a diligent search and you still cannot locate your spouse. Part of your diligent search is to complete the Non-Military Affidavit included in your packet. Keep a list of all of the ways and/or persons you have contacted during your search and attach that list to the **Affidavit of Diligent Search and Inquiry.**

**Affidavit for Service by Publication** - Once you have made your search, complete the Non-Military Affidavit and the Affidavit for Service by Publication to request permission to publish your notice and to tell the Court what you have done to try to find your spouse. You will also need to complete the **Notice of Action of Dissolution of Marriage.** Deliver all of these forms to the Clerk of Court. The Clerk will need to sign and apply the Court seal to the Notice of Action.

**Publishing** - You must publish your Notice of Action of Dissolution of Marriage in your local newspaper. You will need to contact them, because there is a charge for this service. If you have real property, then **you must include the legal description** in your Notice of Action. Take the Notice of Action to the newspaper in the county in which you have filed for divorce. Your Notice of Action will be published once a week for four weeks. Get a copy of the paper the first time it will appear and notify the newspaper immediately if there is an error. If there is an error, you will need to prepare a new Notice of Action for the Clerk to sign and go through this procedure again. If the newspaper made the mistake, they should not charge you for the second publication.

The newspaper will send a Proof of Publication to you. You must file the Proof of Publication with the Clerk of Court.

#### **AFTER PUBLICATION -**

Your spouse has until a certain date to respond. If your spouse responds to the Notice of Action published in the newspaper, call the Self-Help Case Manager. If your spouse does not respond by the date indicated in the Notice of Action, then complete the **Motion for Default** and deliver it to the Clerk of Court. Even if your spouse does not respond to the publication, you will still be able to get a divorce by having the Judge enter a Default Final Judgment.

#### **AFTER SERVICE**

12. **Default** – The court clerk will sign this form to officially declare your spouse to be in default if no response to the petition has been filed. Once the Clerk enters the Default, you may request a final hearing date by delivering four (4) pre-addressed, stamped envelopes to the Clerk’s Office.
13. The Self Help Case Manager will set the date and time for the final hearing. However, in order for the Self Help Case Manager to give you the final hearing date, your file must be complete. Complete the Final Disposition Form and place it in the court file for use after hearing. You must also have completed the parenting seminar (if applicable) and a copy of your certificate of completion must be in your file. When your file is complete, submit four (4) stamped envelopes (two addressed to you and two addressed to your spouse) to the Clerk of the Court.
14. The time and date of your final hearing will be mailed to you by the Court. Please allow at least four weeks for the Order Scheduling Final Hearing to arrive after the final documents have been submitted.
15. Arrive at the Courthouse at least 15 minutes before you are scheduled to have your hearing. Bring with you a copy of all documents you have filed with the court. You will also need proof of your residence. The following are sufficient proof of residence:
  - a) A Florida driver’s license issued at least six months before you filed for divorce;
  - b) A person who can testify that you have lived in Florida for the six months before you filed for divorce; or
  - c) An affidavit of witness who has personal knowledge that you have lived in Florida for the six months before you filed for divorce.
16. At the end of the final hearing, the judge will either grant your divorce, or tell you that there is a problem with your case and what that problem is. In most cases, the Judge cannot tell you how to solve the problem.

**Mediation** – If you and your spouse cannot agree on the issues involving your children, or how to divide the assets and debts of the marriage, you may be ordered to attend mediation.