



MINNESOTA GUIDE & FILE

Next Steps: Starting a Divorce with Children (Phase 1)

Printing at end of interview

Save 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).

Below are the next steps for filing a **Divorce with Children (Phase 1)** when choosing to print your forms at the end of the interview.

STEP 1: Review the Completed Forms

- Guide & File will many different forms (listed below) that you will need to review to be sure everything is correct. Take the time now to organize all of your forms since there will be many pages. Some documents, like these *Next Steps*, are for your information only and do not get filed with the court. Other forms are legal pleadings that you will need to review, sign, and file.
- Carefully read through your answers on all the forms. Are your forms complete? Is the information true and correct? If you find any errors, go back into the interview (<https://minnesota.tylertech.cloud/SRL>) and make changes.
- Print all of the forms and the *Next Steps* that you see listed on the **Summary Page** in the interview.

Minnesota Guide & File created the following forms at the end of the interview to review, sign, and file:

- *Summons* (DIV803);
- *Petition* (DIV802) and attachments as needed;
- *Financial Affidavit for Child Support* (FAM102);
- *Certificate of Representation and Parties* (CIV102);
- *Instructions for Court Forms CON111 and CON112* (CON110);
- *Confidential Information Form* (CON111);
- *Cover Sheet for Non-Public Documents* (CON112);
- *Affidavit of Personal Service* (DIV903);
- *Notice of Lawsuit and Request for Waiver of Service and Summons* (CIV022A); and
- *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, you may need to file other documents along with your *Summons* and *Petition*, depending on your situation and how you answered questions. These are noted throughout the *Petition*, and include but are not limited to:

- Affidavit of Service of Name Change Notice with Felony
- Copy of Support Order
- Child Support Guidelines Worksheet
- 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 (attach to Form 11.2)
- Receipt or signed letter from child care provider showing cost of child care

STEP 2: Sign and Date the forms

- Once your forms are complete, print or download the forms and the *Next Steps* listed on the **Summary Page** in the interview.
- Sign and date the 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>).
- Note – if you plan to electronically file your form, you can type your signature on the downloaded form. Type a “/s/” before your name to create a typographical signature. Otherwise, you can scan your hand-signed forms to upload.

STEP 3: Make Copies

Make copies of all the forms created on the Summary Page and listed in Step 1. One set will be for yourself and another for your spouse. You need to have one set of copies (not the originals) served on your spouse (explained in Step 4). The originals, printed single-sided, will be filed with the court later on (see Step 8).

STEP 4: Serve your Spouse

Your spouse **must** receive a copy of 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 and 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 any place 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* (DIV903), 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.

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 5: Get Proof of Service

- Friend or Family (hand-delivered) – *Affidavit of Personal Service* (DIV903).
- Sheriff (there will be a fee for this service, unless you have a fee waiver) – Certificate of Service (that the Sheriff gives you) **or** *Affidavit of Personal Service* (DIV903).

- Handing or mailing forms to spouse yourself – *Waiver of Service of Summons* (CIV022B).
- Service by Alternate Means – *Affidavit of Service by Mail Pursuant to Court Order* (DIV1304) or Affidavit of Publication (legal newspaper will give to you).

STEP 6: 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* will be filed with the court with your other forms.

STEP 7: 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

- If your spouse was personally served with the divorce papers, your spouse has *30 days* to respond or object. To object to something in your divorce forms, your spouse will need to serve you with a form called an *Answer* (and they will file this with the court, too).

If you do not think your spouse will serve you with an *Answer*, then one option is to **WAIT** to file until after a “default” period of time has passed.

Option B – Agreement

- 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 *Stipulated Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment and Decree* (DIV806).

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.

Option C – File Now

- 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.

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 8: File Your Forms with Court Administration

Once you serve your forms and are ready to file you have two options, explained below. The forms you need to file are listed above in Step 1.

A filing fee is due when you file your paperwork. Fees are listed, by county, online at <https://www.mncourts.gov/Help-Topics/Court-Fees.aspx>. If you cannot afford the filing fee, both you and your spouse will need to fill out Fee Waiver forms to ask to waive the filing fee. You can complete the forms through Guide & File (Request a Fee Waiver) or download the forms from the MN Judicial Branch website at www.mncourts.gov/forms under “Fee Waiver” category (<https://www.mncourts.gov/GetForms.aspx?c=19&p=69>).

You can file your forms two ways:

At the Courthouse:

- File the originals of the forms listed above with court administration.
- This can be done either in person at the courthouse or by mail. Addresses for courthouses are online at <https://www.mncourts.gov/Find-Courts.aspx>.

Electronic Filing through eFS System:

- The eFS System allows you to eFile your forms. This is a separate website from Guide & File. However, your eFS System login information is the same as your Guide & File login and password. Information for eFiling is on the MN Judicial Branch website at <https://www.mncourts.gov/eFile> under the “eFile and eServe Training” tab.
- Once you choose to eFile, you will need to continue to use 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/gp/id/14/).
- You will need to upload a signed copy of your forms that you saved to your computer.

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 9: What is Next?

- If you filed Fee Waiver forms to waive the filing fee, a judicial officer will review them and decide to grant or deny your request. If denied, court administration will let you know that a filing fee is required to move forward with your divorce.
- Once the case is opened, 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. If you eFiled your forms, be sure you have signed up as a service contact to receive any notices from the court.
- Please note: Depending on your case and the schedule of the court, your divorce may not be finalized for several weeks or months.

- 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 <https://www.mncourts.gov/Help-Topics/Divorce.aspx>.

Need Help?

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

For help with the eFS System (if eFiling your forms in Step 8), contact the eFS Support Center at 612-902-9585 or 1-844-918-1724 (if calling long distance from a landline phone), or <https://www.mncourts.gov/eFS-Support>