

***INFORMATION PACKET***

***FOR***

***DIVORCE WITH CHILDREN***

Provided by:

Judges of the Sixth Judicial Circuit,  
Pinellas County

Administrative Office of the Courts

Clerk of the Circuit Court

**November 2004**

**COMMONLY ASKED QUESTIONS**  
**from Pro Se Litigants - Family Law**  
**(Cases with Children)**

*as of November 2004*

**1. How do I get a divorce?**

YOU CANNOT GET A SIMPLIFIED DIVORCE IF YOU HAVE CHILDREN, EVEN IF YOU AND YOUR SPOUSE ARE NOT CONTESTING ANYTHING.

If you have children, think your divorce might be contested, or cannot find your spouse, you should have a lawyer, but if you must proceed without a lawyer, contact the Clerk of Court for forms to be used in filing a Petition for Dissolution of Marriage. There are several mandatory forms that must be filed in cases with minor children, such as a Financial Affidavit and a Uniform Child Custody Jurisdiction and Enforcement Act affidavit. You must also attend, in person, an approved parent education and family stabilization class.”

**2. I cannot find my spouse to be served with the Petition for Dissolution of Marriage. What can I do?**

You may explore a method called “Constructive Service” when your spouse cannot be located to be personally served with the Dissolution (Divorce) petition. You can do this by posting or publication. You should contact the Clerk of Court for more information on this method. Constructive service is a very technical area of the law; legal advice is strongly recommended. Failure to correctly follow the law may prevent you from getting divorced.

**3. These forms are too confusing. I don’t understand some of the words. Can you help me fill them out?**

The court cannot assist you in filling out the forms. If you think you need assistance, you may try contacting the Clearwater Courthouse Pro Se Assistance Project, 464-3267, Community Law Program, Clearwater Bar Foundation, or Lawyer Referral Service. Both the St. Petersburg and Clearwater Bars have a lawyer referral program where you can talk to a lawyer for 1/2 hour for a fee.

**4. What’s a Petition?**

“Petition” is a legal term, but basically it is just a piece of paper that tells the judge what you want and why you think you should get it. Petitions are used to start several different types of lawsuits, such as divorce, paternity, modification of child support, etc. All Petitions require personal service on the other party by the Sheriff or a private process server.

**5. I filed a petition for divorce and there was no answer. What do I do now so I can get a hearing. Somebody told me something about a default motion and a non-military affidavit, what are those and where do I get them?**

If the Petition was served on your spouse and your spouse did not file a written response within twenty (20) days of the date of service, you may go to the Clerk of Court and ask for a Request for Default form. Note: the clerk cannot process defaults until 25 days has lapsed due to allowances for postal mail. You will also have to complete a Nonmilitary Affidavit, stating that your spouse is

not currently serving in the military. After you have completed and filed these forms, the Clerk may enter a Default, if appropriate, in your case.

Once the Default is entered, you may proceed with your case without further notice to your spouse. However, the law requires that your spouse receive notice of any final hearing in the dissolution (divorce) action.

- 6. The Clerk requires that I file a Nonmilitary Affidavit before they will enter a default in my case. My problem is, my wife IS in the military, so I can't truthfully file one. Does this mean I can't get a default?**

It probably means you can't get a default issued by the Clerk. You can also have your Motion for Default heard by a judge or one of the General Magistrates instead of requesting one from the Clerk. However, this situation is complicated by Federal Law and you should have a lawyer assist you.

- 7. I can't afford to pay for the parent education and family stabilization course. The Clerk told me to call you.**

You may contact the Clerk again and ask them for their form "Motion to Waive Fee" for this course. The Clerk will bring the Motion to the judge's attention. You will be notified of the judge's decision when you receive a copy of the Order in the mail.

- 8. I already took a parenting divorce course twice in Michigan during my last two divorces. Do I HAVE to take this one?**

You may contact the Clerk of Court and request a form Motion to Waive Attendance at this course. The Clerk will bring the Motion to the judge's attention. You will be notified of the judge's decision when you receive a copy of the Order in the mail.

- 9. Do I have to attend the parent education and family stabilization class in person or can I take a class on the internet?**

You must attend a class in person. If you have a very good reason that you cannot attend a class in person (for example you live outside of Florida) then you must ask the court's permission to take a class online. You must have the court's permission before you take an internet class.

- 10. I cannot pay my child support payments because payments are too high/I am disabled/I'm out of work/the child is deceased/the child is living with me. What can I do?**

If you want your child support payments lowered or discontinued you must file a written Petition for Modification specifically asking the court what it is you want and why. The Petition, accompanied by a current financial affidavit, must be personally served on your spouse, and you must set a hearing before a Judge, General Magistrate, or Hearing Officer.

- 11. The Hearing Officer ordered me to pay child support, yet I do not have visitation rights with my child. What can I do?**

The Hearing Officer only has the authority to address issues of support. If you want Shared Parental Responsibility or visitation issues addressed, you must file a written Petition asking the court for what you want and why, and schedule a hearing with written notice to the other party. Remember, all Petitions must be served by personal service, you may not mail it or hand deliver it.

**12. My daughter left for the military and left her child in my custody. I need to get a court order to enroll her in school. How do I go about that?**

You may contact the Clerk of Court, Juvenile Division, to obtain forms entitled "Petition for Temporary Custody Under Chapter 751." This procedure may only be used when both legal parents are in agreement with the custody arrangement.

**13. My son just got divorced and my former daughter-in-law will not let me see my grandbabies. Do I have any rights?**

You can investigate filing for grandparent visitation. Before filing this petition you are encouraged to seek legal advice. You must ask the court, in writing, what you want and why, and set a hearing. You must provide notice to your son and former daughter-in-law.

**14. My ex is not paying the court ordered child support. If I can only talk to the judge to explain, and I know he/she will throw him in jail.**

You may not speak to the judge/General Magistrate/hearing officer unless you have filed a written motion and properly scheduled a hearing with notice to all parties.

There are two forms that cover this issue, a) Motion form b) Package 9-Motion for Contempt or Enforcement. Either of the forms may be used. You should fill the forms out the best you can, telling the judge what it is you want and why. You must then file your motion, send a copy to the other party and call to schedule a hearing. Depending upon where your case is located you may also be required to send the other party a Notice of Hearing.

You might also contact the Florida Department of Revenue at 800-622-5437 to request their assistance in obtaining your child support.

**15. What should my Motion say?**

The court cannot tell you what your Motion should say. You should try your best to tell the judge what it is you want the court to do, and why you think the court should do it. Your Motion should not just focus on what you personally think is right, but should be supported by evidence and applicable law. It is always advisable to seek legal advice before coming to court.

**16. My child's father keeps threatening to take my baby away. I want permanent custody.**

If you are married, both parents have equal "custody" rights to the children unless and until there is some court action to the contrary.

If you and the father of the child were never married, and there is no court order establishing paternity, the father technically does not have any legal rights or responsibilities as to the child. Either party can file a Petition or Complaint to establish paternity. If you have an existing

Department of Revenue Child Support Enforcement case, the issues of custody and visitation must be added to that case by filing a supplemental petition to add those issues.

**17. I just tried to pick my child up from visiting his grandparents and they won't give him back, what do I do?**

Call the police or Sheriff's Department for assistance. If there is no court action and the Department of Children and Families is not involved in your case, you as the parent have the sole right to custody of your child in relation to disputes between persons not the parents of the child.

**18. I'm not satisfied with how long it's taking Department of Revenue (DOR) to go after my child's father for child support. How can I file the paperwork myself and get the support started now?**

If an order for child support has already been entered, you may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You should attach a copy of your Order or Final Judgment that sets the child support amount. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

Procedures will be different if the other parent has never been ordered to pay child support.

**19. I'm going to be out of work for 3 months because of work slow downs and a temporary layoff. I need to do something temporarily so I won't be in arrears, what do I do?**

You may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing and the Judge or hearing officer will consider your request. If you will experience a permanent change in your salary, then a supplemental petition may be more appropriate. Seek legal advice.

**20. My ex-spouse uses the times when he/she picks up the children for visitation to try to cajole me into coming back, harass me, or start fights with my boyfriend/girlfriend, in front of the children. What can I do to stop this behavior?**

Mediation is sometimes a useful tool in working out these problems. You may obtain a form Motion in the law library or our internet site ([www.jud6.org](http://www.jud6.org) representing yourself in court section). You must complete this form, file it and send it to the other party in your case.

Once at mediation, you and your ex-spouse can work out a detailed schedule that meets your current needs.

If mediation doesn't work, you may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

If personality conflicts or other issues prevent communication between you and the other party you can request information on the Parent Facilitator Program or the CASA Visitation Center.

- 21. My spouse just picked my children up for visitation and left the state without my permission. He kidnapped them! I want my kids back, I'm afraid I'm never going to see them again! What do I do, the police won't help me and I can't afford an attorney?**

If you think your child has been kidnapped, you should contact the Office of the State Attorney or local police. If you know where your child has been taken, you will probably have to go to court there and show your Florida judgment giving you custody of your child.

- 22. I'm trying to sell my house and now I find out that the Clerk of Court has filed a child support lien against my house. How do I get rid of this? I'm not in arrears, the account is wrong.**

You may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

- 23. My wife had custody. The Department of Children and Families did a dependency action and I got the child, but child support continues coming out of my check. What's happening - DCF told me they would take care of everything?**

You may obtain a supplemental petition packet. You should fill it out the best you can, telling the judge what it is you want and why. You should attach a copy of your dependency court order. You must then serve the other party by sheriff or licensed process server and schedule a hearing. You may also be required to complete and send out the Notice of Hearing to the other party.

If the Department of Revenue is involved in the case, you should contact them and send them a copy of the dependency order.

- 24. I don't mind my ex having visitation but I don't like the other people that are around my child during visitations. I want the judge to tell him/her that these people are not allowed around my child!**

Unless your court order or final judgment puts limitations on your ex spouse's contact with your child, there is probably not much you can do. If you feel your child is in some kind of danger, you can contact the statewide Abuse Registry at 1-800-962-2873. You might also obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing. Pinellas County also has a Parent Facilitator Program and a Visitation Center, you may want to investigate one of these programs as well.

- 25. My husband's new wife slaps my son around and I want her told to stop it! What can I do?**

If you feel your child is in some kind of danger, you can contact the Abuse Registry. You might also obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

- 26. I filed a petition to change my child's name but I have no idea who the father is so I can't serve him.**

You can file the Petition but it will be up to the judge to decide whether to grant it since the father does have a right to notice. You should seek legal advice before proceeding.

- 27. My new husband wants to adopt my children. I have no idea where their father is so I can't serve him, DOR can't even find him. Why do I have to work so hard to find him when they can't either?**

The natural father has a right to notice of the adoption. You must make a diligent search for the father. Also keep in mind that adoptions are a highly technical area of the law which receive close judicial scrutiny. You should seek legal advice before attempting to file your own adoption action. It is desirable that you retain a lawyer to handle the adoption for you.

- 28. When we got divorced the court only put in the paperwork "liberal access" when it talked about visitation what does that mean? This needs to change, he/she shows up whenever he/she wants to and expects to be able to take the kids and it's causing problems. How can I change this?**

Mediation is sometimes a useful tool in working out visitation problems. You may obtain a form Motion from the law library or from our internet site at [www.jud6.org](http://www.jud6.org). You must complete this form, file it and send it to the other party in your case.

Once at mediation, you and your ex-spouse can work out a detailed schedule that meets your current needs.

If mediation doesn't work, you may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

If personality conflicts or other issues prevent communication between you and the other party you can request information on the Parent Facilitator Program or the CASA Visitation Center.

- 29. My husband and I just got divorced. We agreed that there wouldn't be any child support, so why did the judge order it?**

Child support is a benefit for the child. It cannot be waived by the parents. The court must follow the law even if you do not want child support.

- 30. I'm under 18 and I got my girlfriend pregnant. Now I've found out that her mother is planning to take my baby out of the State after it's born and put it up for adoption. I don't want that, I want my child. Can I file something to stop her from doing this. The baby isn't due for another 3 months.**

You cannot, as a minor, file a lawsuit. You might have one of your parents or guardians, on your behalf, file a Motion or Petition for an injunction asking the court to prevent the child from being removed from the state.

- 31. I don't care for the way my daughter is taking care of her child, I want custody. They got divorced in Pinellas County, how can I ask to get custody?**

You should seek legal advice on your rights as a Grandparent. If you feel the child is being abused or neglected you should contact the Department of Children and Families Abuse registry at 1-800-962-2873.

**32. I have a custody order from another state. My spouse took our child to Florida without my permission. How can I get my out of state order enforced?**

You must personally appear at the Clerk of the Circuit Court in Clearwater. They have established a procedure whereby you may request that our court recognize and enforce your out of state order. You should bring a certified copy (must have original notary seals) of your out of state order with you.

**33. I have an order for visitation/child support that came from another State/County. I've lived here for awhile and now my ex isn't honoring this order. How can I get this transferred into this court?**

Visitation: If you have an order or judgment from another jurisdiction, to enforce it you first must register it with our Clerk's office and then ask this court to enforce it. You should contact the Clerk of the Circuit Court in Clearwater for information about this procedure. (727-464-3267). You will need an original certified copy (with original notary seals) of your out of state order to file with the clerk. Note: if the child doesn't reside in Florida, you may need to pursue this matter in the state where the child resides.

Child Support: You should first contact the Department of Revenue for assistance in having your out of jurisdiction child support order enforced. If that is unsuccessful, follow above directions given for enforcement of foreign visitation orders. Note: There are many legal issues involved in enforcing or modifying a child support order, if the other parent doesn't reside in Florida you should seek legal advice.

**34. I just got sent to jail in a child support case and there isn't a purge amount in the paperwork. I'm going to lose my job if I don't get out of jail!**

The only legal remedy at this point is an appeal. If there is no purge amount in their order, that probably means you were sent to jail on a criminal contempt charge. (For failing to appear for a hearing, for example.) If that is the case, then there is no purge; the jail sentence is a "punishment" for failing to comply with a court order.

**35. I just found out that there was a child support enforcement hearing I didn't know about and a warrant went out for my arrest. What can I do?**

You can voluntarily appear before the appropriate child support enforcement hearing officer. (Clearwater or St. Petersburg.) You should call the hearing office first to make sure someone will be available to assist you.

**Note: Legal advice is preferred and always recommended to assist you in answering any questions.**



## **What to expect...DIVORCE in the Sixth Judicial Circuit, Pinellas County**

### **Introduction**

A divorce is a painful and difficult experience. If you understand the functions and limitations of the legal system, the process becomes more tolerable. This pamphlet should provide you with a greater understanding of the process to help you get through your divorce with realistic ideas and goals.

### **Limitations**

Florida's divorce system is based on the principle of "no-fault," meaning that a divorce will be granted if either party believes that the marriage is over. Generally, the causes of the failure of the marriage are not an issue in court. All that matters is that the marriage needs to be ended.

It is impossible for us to heal the emotional wounds created by your divorce. You must understand that the legal system is not a tool for punishment of your spouse. The courtroom is no place for revenge. We must decide your case on the basis of its unique facts. In most cases, the law does not permit us to compensate either of you for the other's misconduct.

Please do your best to keep emotions out of the case. Your feelings of anger, pain, and betrayal are understandable but expressing them inappropriately in court may interfere with your ability to provide us with the information we need.

### **Settlement**

The best way to conclude your case is to settle it. Through compromise and cooperation, a settlement can lead to greater mutual satisfaction and lessened animosity between you and your spouse. In most cases, negotiations toward settlement can be more productive and far less expensive than trial.

If negotiations fail and you must try your case, we will make rulings that will permanently affect you and your children. Our rulings must be made exclusively upon the limited evidence that is presented in court, and nothing else. Because we are restricted in what we can and cannot do, a settlement can offer a wider range of options.

### **Variations**

Every divorce is different. Your results may be very different from your neighbor's, friend's, or relative's. You cannot rely upon what happened in their cases and assume that your results will be the same. Cases that seem similar may, in fact, be very different and will be treated differently under the law. For this reason, you should look to your lawyer for your legal advice and information. Your friends and relatives usually do not have a grasp of the law and your case, and accepting their advice may hinder you in the long run.

### **Finances**

Unless you settle your case, we must allocate the income and assets accumulated during the marriage. The law is that you and your spouse were financial partners during the marriage and are presumed entitled to share in both the assets and income the partnership made. You must make a full disclosure of your finances on a court approved Financial Affidavit.

For most people, lifestyles change after a divorce. Since divorces do not create property or income, we must divide the marital resources between two separate households. It costs more

to run two households than one. If you or your spouse has not been employed during the marriage, it may be necessary to seek employment.

In considering a settlement, you should consider whether you can afford the attorney's fees to fully litigate your case. Fees and costs in contested cases can be quite high. Usually, a settlement prior to trial reduces the expenses considerably, an important consideration if you come to the divorce with limited resources.

## **Issues**

A divorce generally involves four major issues: Child custody/visitation, child support, alimony, and a division of property/debts. We may also be asked to enter an order (called an Injunction) prohibiting or requiring certain actions. After the case is concluded, we may later be asked to modify custody and/or support.

You need to understand each of these aspects of your case.

## **Child Custody**

All parents seeking a divorce in the 6th Circuit must first attend an approved parental education and family stabilization course. Please ask the clerk for a current list of approved courses. The course will help you understand what affect divorce has on children, and how you can make the transition less traumatic for them. Remember, your marriage may be ending, but you will always be parents to your children.

Most parents will share parental responsibility for their children after the divorce. In doing so, you must communicate and confer with each other in making decisions that will affect your children.

Usually, we will give one parent primary residential care (custody) of the children. Unless there is a good reason, we will grant the other parent frequent visitation. In determining primary custody, we will give great weight to the issue of which of you is more likely to encourage the children to visit the other.

We decide custody solely on what is best for the children. Often, one of the parties is hurt by our decision, especially if that party sees the decision in a "win/lose" light. In truth, there can be no loser if the children's welfare is protected.

In virtually all custody contests we will direct both parties to participate in mediation to resolve that issue. A mediator is an unbiased third party who can often assist the parties in reaching agreement upon what is best for the children. An agreement on custody will certainly make your case easier and help your children immeasurably in dealing with your divorce.

## **Child Support**

Aside from continuing to love your children and seeing them often, you have no higher obligation as a parent than to continue supporting your children after the divorce. Child support is more important than any other debt or financial obligation. Both parents are required to support the children but the nonresidential parent will be directed to pay his/her portion of the support to the other. This does not mean that the residential parent is not contributing to the support.

Florida has adopted guidelines for child support that we are required to follow. Your friends and relatives may have been involved in divorces years ago or in other states and receive or pay lower support than our guidelines provide. The child support in your case will be based

upon your income, your spouse's income, and the needs of your children under the guidelines established by the State.

### **Alimony**

We find it necessary to award alimony, or spousal support in many cases. As with child support, we will consider two factors: one party's need and the other's ability to pay. Both of these factors must be proven in court by the requesting spouse. Alimony may be awarded to either a husband or wife and, depending on the length of the marriage and other factors, the alimony may be permanent or for only a short duration.

### **Property Division**

Under Florida law, we must try to make an "equitable distribution" of marital property and debts. "Equitable" does not always mean "equal," although that is the starting point. Many factors, including child support, custody, and alimony awards, can cause us to make an unequal (but still equitable) division of property. We will not generally divide the property and debts that arise outside the marriage.

### **Injunctions**

If needed, we can order you or your spouse to do, or not do, certain things. We may order a party not to telephone the other, not to come to the other's place of business, not to interfere in the other's activities, and the like.

### **Attorney's Fees**

We can order one party to pay some or all of the other's attorney's fees. We do this to assure that both parties have equal access to competent counsel. We do not award fees in every case; we must first find that one party has a greater ability to pay than the other.

You cannot ever be certain that we will award fees. For this reason, and because of the great drain that fees can be on marital assets, everyone (parties and attorneys alike) should make every effort to resolve a divorce case as economically as possible.

### **Do's and Don'ts**

There are some rather clear cut rules that apply to every divorce. Pay heed to these rules and your divorce will be easier and less painful for all involved.

### **Have Reasonable Expectations**

You will certainly be disappointed if you expect to "win" on every issue. Rarely is either party happy about every ruling in a case. Even the best rulings leave both parties somewhat dissatisfied. Encourage your attorney to give you a realistic projection of the outcome of your case.

### **Keep communication open with your spouse/ex-spouse**

As long as you have children, you and your (ex-) spouse will have to work together. Your children will suffer to the degree that you and your former spouse cannot communicate or cooperate.

**Do not write letters to us**

We are not permitted to read such letters nor can we speak with you or your friends/relatives on the telephone. If there is something we need to know, inform us by scheduling a hearing.

**Get professional help to deal with your emotions**

If you have trouble with the hostility, anger, or depression that often occur in divorces, don't hesitate to get counseling to help you through it. Use professional help to deal with your hostility. Don't use us, your attorney, or the system to vent your anger; that would be counterproductive. A good counselor can help you, and your children, get through this difficult time.

**Encourage and support visitation**

If you are the custodial parent, you have a duty to encourage visitation. You must do more than just stay out of the way or leave the choice to the children. Encourage your children to see your former spouse frequently and to enjoy the contact. Never use support or visitation as a lever or bargaining chip in dealing with the other parent.

**Give your children a chance**

The way you and your spouse handle your divorce will have an enormous impact upon your children. If you argue and fight, their problems and pain will be magnified. By acting civilly, you can help them through one of the most difficult events of their lives.

**IMPORTANT! PLEASE READ!**  
**(Cases assigned to a Clearwater section 14, 22, 23, 25)**

You have just filed a Petition for Dissolution of Marriage (Divorce). Your divorce will not be final until after you have had a final hearing and the judge has signed your Final Judgment of Dissolution of Marriage.

You **cannot** set your final hearing immediately after filing your Petition. You must wait **at least** twenty (20) days before you can have your final hearing **EVEN IF YOU AND YOUR SPOUSE HAVE BOTH SIGNED A MARITAL SETTLEMENT AGREEMENT, UNLESS THERE IS A SPECIFIC WAIVER OF THIS PERIOD**. Additionally, if there are minor children involved in your divorce, you **MUST** attend an approved Parent Education and Family Stabilization course before you can set your final hearing. You can ask the Clerk for a list of the classes approved in Pinellas County.

You must have your Petition served on your spouse by the Sheriff or private process server unless you have filed a notarized Waiver of Service of Process signed by your spouse. You must wait twenty (20) days after the Sheriff or process server finds your spouse and hands him or her the divorce papers. Handing the papers to your spouse yourself **IS NOT GOOD ENOUGH**. If you cannot find your spouse to be served, return to the Clerk's Office and ask about service by posting or publication. Note: Constructive service is a complicated area of the law, if you cannot locate your spouse you should seek legal advice.

After your spouse is served, either by the Sheriff, private process server, or through posting or publication (constructive service), you might receive a written response (Answer) from your spouse on or before the twenty (20) day time period. If this occurs, you may call to request your final hearing. If you do not receive a written response and the twenty (20) day time period has gone by, (28 days after posting or publication) you may return to the Clerk's office and file a written request for Default. Note: due to allowances for mailing, the clerk will not process a default until 25 days have lapsed (32 days for publication or posting). After the Clerk enters the Default, (generally 3 to 5 days to process) you may set your case for final hearing. If the clerk cannot process your default you may have to set a court hearing for the court to enter the default.

When your case is ready to be set for final hearing you may call **727-582-7200** to request a final hearing date.

Simply because you are given a date for a final hearing does not insure that a final hearing will be held. You are responsible for making sure all necessary documents have been filed and proper procedure followed in bringing the case to final hearing. If there are serious deficiencies at the time of final hearing, the hearing will be continued and you will be required to correct these deficiencies before returning. Neither the Clerk of Court, the General Master's office, the Court's Information and Resource Center, or a judge's office can give legal advice or act as your attorney.

We appreciate your cooperation and patience.

**CAUTION: ANY INFORMATION PROVIDED IN THIS DOCUMENT SHOULD NOT BE CONSTRUED AS, NOR TAKE THE PLACE OF, LEGAL ADVICE. THIS INFORMATION IS INTENDED TO ASSIST YOU IN AVOIDING COMMON ERRORS. YOU SHOULD RETAIN A LAWYER TO ASSIST YOU WITH YOUR LEGAL QUESTIONS.**

**IMPORTANT! PLEASE READ!**  
**(Cases assigned to St. Petersburg sections 9, 12, 17, 24)**

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You cannot set your final hearing immediately after filing your Petition. You must wait **at least** twenty (20) days before you can call to set your final hearing **EVEN IF YOU AND YOUR SPOUSE HAVE BOTH SIGNED A MARITAL SETTLEMENT AGREEMENT**. If you and your spouse have signed a marital settlement agreement, you may call twenty (20) days after the date you filed your Petition to request that your final hearing be scheduled. Note: If there are minor children involved in your divorce, you **MUST** attend an approved Parent Education and Family Stabilization course before your Final Judgment will be entered. You can ask the Clerk for a list of the classes approved in Pinellas County.

You must have your Petition served on your spouse by the Sheriff or private process server unless you have filed a notarized Waiver of Service of Process signed by your spouse. You must wait twenty (20) days after the Sheriff or process server finds your spouse and hands him or her the divorce papers. Handing the papers to your spouse yourself **IS NOT GOOD ENOUGH**. If you cannot find your spouse to be served, return to the Clerk's Office and ask about service by posting or publication. **Note:** Constructive service is a complicated area of the law, if you cannot locate your spouse you should seek legal advice.

After your spouse is served, either by the Sheriff, private process server, or through posting or publication, you might receive a written response (Answer) from your spouse on or before the twenty (20) day time period. If this occurs, you may call to request your final hearing. If you do not receive a written response and the twenty (20) day time period has gone by, (28 days after posting or publication) you should return to the Clerk's office and file a written request for Default. **Note:** due to allowances for mailing, the clerk will not process a default until 25 days have lapsed (32 days for publication or posting). After the Clerk enters the Default, (generally 3 to 5 days to process) you may set your case for final hearing. If the clerk cannot process your default you may have to set a court hearing for the court to enter the default.

When your case is ready to be set for final hearing you may call **727-582-7200** to request information on how to set your final hearing date. When you call, your docket will be reviewed for readiness. If your case appears to be ready to set you will be given another phone number. This number is a recording. Please leave your name, case number and telephone number. Your message will be taken by a court staff member, who will order your court file for review. If your file does not appear ready for hearing after this review, you will be notified in writing of what you still need to do before your case will be set for final hearing. If your file appears to be in order, you will be notified in writing of your hearing date. Due to the heavy volume of divorce cases in family court, this can be a time consuming process. This service is provided as a courtesy to assist you in setting your case for final hearing, but you should be aware that it may take several weeks before you are notified by court staff about when your final hearing will take place.

We appreciate your cooperation and patience.

**CAUTION: ANY INFORMATION PROVIDED IN THIS DOCUMENT SHOULD NOT BE CONSTRUED AS, NOR TAKE THE PLACE OF, LEGAL ADVICE. THIS INFORMATION IS INTENDED TO ASSIST YOU IN AVOIDING COMMON ERRORS. YOU SHOULD RETAIN A LAWYER TO ASSIST YOU WITH YOUR LEGAL QUESTIONS.**

**Administrative Office of the Courts**  
**The Sixth Judicial Circuit of Florida**  
**(727)582-7200**

**CASE PROGRESSION CHECKLIST**  
**DISSOLUTION OF MARRIAGE WITH DEPENDENT OR MINOR CHILD(REN)**

This checklist has been prepared to assist you with the necessary procedure for bringing your case to final hearing. This checklist lists the minimum requirements and, even though fairly specific, may not be all-inclusive for every case. **It is not intended, and should not be substituted for proper legal advice from an attorney.** You should, however, find that making sure all necessary steps noted below are followed would reduce procedural difficulties and time delays.

**I. INITIAL FILING:**

**A. Petition.**

- Petition for Dissolution of Marriage with Dependent or Minor Child(ren)-Form 12.901(b)(1).

**B. Required forms filed with initial petition:**

- UCCJEA Affidavit - Form 12.902(d), is required in most matters involving children, including request for the name change of a minor child.
- Child Support Guideline Worksheet – Form 12.902(e). (If you do not know the other party’s income, you may file this worksheet after his or her financial affidavit has been served to you.)
- Financial Affidavit - Form 12.902(b) or 12.902(c) (according to your income-see instructions on form).
- Non-military Affidavit - Form 12.912(b). **This form is required only for obtaining a default on petitions that have been personally or constructively served.**
- Affidavit of Indigency - Form 12.902(a), if you are requesting that filing fees and sheriff’s fees be waived. (The clerk will also require you to fill out a short financial affidavit in addition to this form.)
- Corroborating Witness Affidavit - Form 12.902(i) or photocopy of Florida Drivers License, Florida Identification Card, or Voters I.D. **Issue date of copied document must be at least six months before date case is filed with Clerk of Court.**
- Summons: Personal Service on an Individual – Form 12.910(a). **Not required if the other party has signed a waiver of service.**
- Process Service Memorandum - Form 12.910(b).

**Out of State Service Information:** If service is required on a party residing outside of the state of Florida, the party who filed the petition must obtain service procedure information including fees, from the local officials responsible for process service where the other party resides. This information, along with applicable fees (in the form of a money order), must be provided to the Clerk’s Office. The Clerk’s Office will forward the completed summons and paperwork to the address you provide for the out of state agency. **Most other states will not honor a Florida Affidavit of Indigence.**

**OR:**

- Answer, Waiver, and Request for Copy of Final Judgment of Dissolution of Marriage-Form 12.903(a).

**If the other party has signed a waiver of service you may skip Section II entitled, “Service of Process.” The remaining sections still apply.**

**C. Required fees.**

- Filing fee paid or fee waiver (Affidavit of Indigence) granted by Court.
- Fees paid for process service by Pinellas County Sheriff, or fees waiver (Affidavit of Indigence) granted.

**D. Required class**

- Completion of approved Parent Education and Family Stabilization Course. **Note:** If one party resides in another Florida county or out of state, the party must receive court approval to take the class available in their area of residence.

**E. Optional Forms.**

- Motion for Referral to General Magistrate - Form 12.920(a) (A General Magistrate is an Attorney appointed by the Chief Judge to take testimony and make recommendations to a judge. The primary purpose of having a General Magistrate hear family law matters is to reduce the cost of litigation and speed up cases.)
- Order of Referral to General Magistrate - Form 12.920(b).

**II. SERVICE OF PROCESS:**

**A. Personal Service.**

- Summons returned “served” and the Original Return of Service has been filed by Clerk in your court file.
- After 20 days have passed from the day Respondent was served, check to see whether Respondent filed an answer or **any** paper within the 20 day period. If yes, you may check this item. **(If both checked, skip to Section IV; if no answer filed, go to “B”)**

**If your summons is returned to the clerk “NOT SERVED”**

1. **Alias summons:** Return to the Clerk of Court to request an **Alias** (2<sup>nd</sup> attempt at service) or **Pluries** (3<sup>rd</sup> or more attempt at service) service to be processed by the clerk of court.
  - Complete Summons: Personal Service on an Individual-form 12.910(a).
  - Process Service memorandum-form 12.910(b).

**If you are still unable to serve the other party**

2. **Constructive Service:** is only to be used after you have completed an actual diligent search for the other party and have been unable to locate them.
  - Notice of Action for Dissolution of Marriage – Form 12.913(a). Constructive service is also known as “service by publication.” The document must be posted or published for 32 days before you can proceed further with your case.
  - Affidavit of Diligent Search and Inquiry 12.913(b).

**If constructive service is used, the court may grant only limited relief. In all cases it is best to have your petition personally served. This is a complicated area of the Law and you may wish to consult with an attorney before using constructive service.**

**If proper service is not obtained, the court cannot hear your case.**



**B. Default.**

- Respondent failed to answer or file any paper after service.
- Motion for Default filed with Clerk - Form 12.922(a) (no sooner than 25 days after date of service.) **and**
- Default entered by Clerk **Note:** If the other party has filed **anything in the case** the clerk will not be able to process the default. This is also true if the other party is a member of the military service. If the clerk is unable to process your default, you will need to file a motion for the “court to enter the default” send a copy to the other party and set a hearing on your motion.

**Only now is the case potentially ready for setting for trial/final hearing.**

**III. FINANCIAL DISCLOSURE:**

If your petition involves financial issues such as property, child support or alimony, each party has a right to the production of certain documents during the discovery phase of the case. See Fla. Fam. L. R. P. 12.285.

- Certificate of Compliance with Mandatory Disclosure - Form 12.932. The actual documents (tax returns, pay stubs etc.) should not be filed in the court file. The documents should be provided to the other party and this affidavit should be filed with the Clerk to notify the court that the listed documents have been provided to the other party. You may be required to bring these documents with you to the hearing.

**Note:** If the other party refuses to provide you with their financial information, a motion to compel can be filed with the court requesting the court to order the other party to provide you their financial information.

**OR:**

- Waiver of Mandatory Disclosure documents signed by both parties. This means that both parties agree NOT to exchange these documents, however, the requirement to file financial affidavits cannot be waived.

**IV. SETTING A HEARING:**

- After an answer is filed or a Default has been entered, contact the following office to set your hearing. If the other party filed a counterpetition you are required to respond to their counterpetition. If the other party filed a motion to dismiss your petition, a hearing must be set (by either party) to address the motion to dismiss before you can set a final hearing. Pending motions may also prevent your final hearing from being set as they must sometimes be addressed before a final hearing.
- Call the resource center at 727-582-7200 to request final hearing. Your court records will be viewed for completeness and you will either be given a court calendar date or you will be given further instructions for setting your final hearing.

Depending upon which Judge your case is assigned to, you may be required to prepare the Notice of Hearing – please be sure that you have completed the **certificate of service** section on the bottom of the form. There is one notice of hearing in your package, if you need more they can be obtained from the clerk of court for a fee or downloaded from [www.jud6.org](http://www.jud6.org) (Representing yourself in court section) for free. You will need the free acrobat reader (available from [www.adobe.com](http://www.adobe.com)) software installed on your computer to access the forms on our web page.

**Distribute as follows:**

- 1) Original filed with Clerk’s Office
- 2) Copy to other party or their attorney (must be received 5 days prior to the hearing date).
- 3) Copy maintained for your use (optional).

**If you do not properly complete this step, your hearing could be delayed.**

**NOTE: IF YOU ARE INVOLVED IN OTHER CASES, SUCH AS AN ACTIVE DEPENDENCY CASE, YOUR CASE COULD BE REFERRED TO A UNIFIED FAMILY COURT JUDGE FOR HEARING. IF THIS IS YOUR SITUATION, PROCEDURES FOR SETTING A HEARING WILL BE SLIGHTLY DIFFERENT. PLEASE CONTACT THE RESOURCE CENTER AT THE ABOVE PHONE NUMBER FOR ASSISTANCE.**

**V. FINAL HEARING:**

A. Make arrangements for child care if applicable. Children not allowed to attend without prior Order, per Fla. Fam. L. R. P. 12.403.

B. Bring to final hearing:

**Stamped (\$.60), pre-addressed legal size (9.5” business size) envelopes for each party, one for each if before Judge, two for each if before General Magistrate.**

Driver’s License, Florida Identification Card or Voter’s Identification card.

**Certified copies** of all previous court orders affecting children (custody, visitation, support, dependency), or other matters in your case (Alimony, distribution of assets/liabilities) especially if those orders were entered by a Court in another state or county.

Pay stubs (from past 3 months), certified copies of other support orders that you are required to pay, documentation of assets and liabilities.

Completed child support guideline worksheet - Form 12.902(e).

If support is ordered a “Memorandum to Clerk” will need to be completed. Please bring address information for yourself and the other party to the hearing.

Income Deduction Order and 2 copies, if case involves support.

Final Disposition Form (obtain from Clerk).

**Other possible documents you may need.** If your petition in any way concerns real property (such as a house or piece of land) you may need the legal description of that piece of property at your hearing. Documentation of any stocks, bonds, retirement accounts (such as 401K plans), and social security benefits, may also be required at the hearing.

## **VI. AFTER THE FINAL HEARING:**

**When can I expect my final paperwork to arrive?** If your hearing was before a general magistrate and both parties appeared, for the final hearing, you will be asked at the end of the hearing if you wish to waive the objection period. If you both agreed to waive the objection period, the general magistrate's office prepares the order and sends it directly to the judge. If both parties did not appear, or one party does not waive their opportunity to file objections, then you will first receive a copy of the magistrate's findings and recommendations in the mail shortly after the hearing. After 15 days, if there is no objection, the findings and recommended order will be forwarded to the judge's office for signature.

**How do I get the support taken out of the other party's paycheck?** Unless the other party is self-employed, income deduction orders are usually entered in cases where support has been ordered. If your hearing was before the general magistrate, your order is not final until you receive the "order confirming findings and recommendations of general magistrate" in the mail after your hearing. Once you have received this order, it is generally your responsibility to contact the clerk of court to obtain a "certified" copy of your income deduction order. It is then your responsibility to mail the certified income deduction order to the employer. It is suggested that you use certified mail so you have proof that it was received by the employer. If the other party changes jobs frequently, you may need to follow this procedure every time they change jobs. The income deduction order is not made out to a specific job, it should be accepted by any employer (note: this should include employers in other states). The income deduction order makes the employer a party to the case.

**The FLSDU:** The State of Florida Disbursement Unit handles all income deducted support payments for the State of Florida. Their toll free automated number is 877-769-0251.

**"If you are a person with a disability who needs any accommodation in order to participate in a court proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Within two (2) working days of your receipt of any notice or order requiring your presence at a hearing, please contact the Human Rights Office, 400 S. Ft. Harrison Ave., 5<sup>th</sup> Floor, Clearwater, FL 33756, (727) 464-4062 (V/TDD)."**