

DIVORCE FILING PROCEDURES

FOR PARENTS WITH MINOR CHILDREN

1. If you want to begin the divorce process, go to the Clerk's Office at your local family court or to the court's website at www.vermontjudiciary.org. Ask for:
 - Informational pamphlets about the divorce process
 - Forms needed to file for divorce
 - Information on the court's Divorce Education Program, called **the Pro Se Education** course.
 - Information on the court's Workshops to assist people to file for divorce, if available in your county.

2. Attend the *Pro Se* Education Program. Ask the Clerk's Office about the next scheduled program, which is mandatory if you are not represented by an attorney.

3. Fill out these Forms:
 - Cover Sheet (Form #800)
 - Summons, Complaint for Divorce, Notice of Appearance, and Affidavit of Child Custody (Form #836)
 - Affidavit of Income and Assets (Form #813)
 - Child Support Order, page 1 only (Form #802)
 - Health Department Vermont Record of Divorce or Annulment
 - Affidavit of Military Service
 - NOTE: You may choose to fill out a separate Notice of Appearance (Form# 831), Summons (Form#832), Complaint For Divorce (Form #833) and Affidavit Of Child Custody (Form #834) instead of the Combined Form #836.

4. a. Mail or hand-deliver the forms listed above to the court, along with a \$250.00 filing fee, check payable to the Vermont Family Court. (You also need to discuss with the court staff how this paperwork is going to be served on your spouse, and pay those fees. (See "pamphlet #22, Serving the Paperwork) If you do not have enough money to pay the fee and cost of service, you may file an Application to waive the fees (to proceed *In Forma Pauperis*, Form #228) Ask the Court Clerk for details.

b. If you and your spouse are in full agreement with the conditions of your divorce, it may be possible for your filing fee to be reduced. If the following documents are fully completed, if both you and your spouse mutually agree upon the terms of the final divorce, and **if the court/judge finds the documents that you file acceptable**, the filing fee will be \$75.00, plus the cost of service:
 - Cover sheet (Form #800)
 - Summons, Complaint for Divorce, Notice of Appearance and Affidavit of Child Custody (Form #836) for both parties
 - Health Department Vermont Record of Divorce or Annulment
 - Affidavit of Income and Assets (Form #813)
 - Child Support Stipulation and Proposed Order

- Child Support Worksheet
 - Proposed Temporary Order (The Court has sample forms)
 - Final Divorce Stipulation (The Court has sample forms)
 - Proposed Final Order (to include property, parental rights and responsibilities and parent/child contact) (Samples are available)
 - Acceptance of Service (defendant)
5. The court will set a date for a conference with the case manager to establish how much child support one parent must pay to the other. The case manager can also help you reach a settlement on parental rights and responsibilities (custody). The court will notify you and the other parent of the date of the case manager conference.
6. On or before the date of the first hearing case manager conference you and your spouse **must**:
- A. Exchange tax returns for the last two years with all attachments; file a written certification with the court that you have exchanged these tax returns.
- B. Fill out and exchange the Affidavit of Income and Assets (Form #813), with all the attachments.
- C. File with the court:
1. Your last four pay stubs from employment;
 2. If you are self-employed, your monthly income and expense statements (documents) since you last filed your tax returns;
 3. Documentation of all other income you have received since your last-filed income tax return (including social security, workers' compensation, unemployment compensation, disability and pensions).
- D. If possible, attempt to reach agreement with your spouse on:
1. Which parent will have responsibility for your children while you wait for a final order, **and**
 2. Parenting schedule that will provide contact between the children and both parents while you wait for a final divorce order. (Form 825)
- E. Notify the Court Clerk if you are unable to reach agreement with your spouse on these issues.
- F. If possible, attempt to reach agreement on how much gross income you each make and how much child support one parent must pay to the other, using the child support guidelines. (You may make an appointment with The Office of Child Support to help you with this step by calling 1-800-786-3214 or ask the Family Court Clerk for the local telephone number or visit the OCS website at www.ocs.state.vt.us).
- G. Mail or hand-deliver to the court any written agreements (Stipulations) that you and your spouse have made.
- H. If you have not reached agreement on all issues or if you have not received notice from the court that your agreement has been approved, attend the conference scheduled with the case manager.
- I. If you cannot reach agreement at the case manager's conference, you will be scheduled for a hearing before the Magistrate.
- J. Receive the Temporary Order on parental rights and responsibilities, parent-child contact, and child support and do as the order says.
- K. Attempt to reach a final agreement with your spouse on parental rights and responsibilities, parent-child contact, child support, property division, spousal

support, and other issues that are important to you. (You and your spouse may wish to ask a mediator to help you to reach agreement.) Mail or hand deliver to the court any written agreements (stipulations) that you and your spouse have made.

L. If you reach a final agreement and mail or hand deliver the stipulation to the court, the court will notify you of the date and time of your "uncontested divorce hearing." Prepare for the hearing and then go to the courthouse at the scheduled time. The Judge will hold a hearing and sign an Order, which, in many cases, will be the same as your agreement. The hearing will take approximately 15 minutes.

M. If you do not deliver a written stipulation to the court, the court will notify you of the date for a status conference by telephone or at the courthouse. At this conference, the court may ask you and your spouse:

1. What issues are in disagreement and how can agreement be reached?
2. What additional information do you need before you are ready to reach agreement?
3. When will you be ready for a hearing to decide the contested issues?

N. If you and your spouse cannot reach agreement on all issues, the court will notify you of a date for a final contested hearing. Prepare for the hearing and go to the courthouse at the scheduled time. The judge will decide the case immediately after the hearing or take the case under advisement and give you a written decision. The Judge will sign an Order.

O. Receive the Final Divorce Order and do what the order says. Only the judge can change or modify the order. The divorce becomes final at the completion of a waiting period called a *nisi* period, which is three months unless the court makes it shorter.

Pamphlet #21, July 2008

**You can obtain helpful information, as well as court forms at:
www.VermontJudiciary.org.**