

FILLING OUT THE 813 FINANCIAL AFFIDAVIT OF INCOME AND ASSETS

The 813 Affidavit of Income and Assets is a seventeen page form, including two Instruction Sheets and two Attachments ("Rental Income Attachment" and "Self Employment Attachment.")

You will need to fill out this form when filing your divorce. The Court has a hard copy of the form, or you may fill it out and print it from our website at: www.vermontjudiciary.org.

The 813 Affidavit was developed to gain financial information from parents in order to determine child support amounts. The form is broken down into sections, and depending on the type of case you are filing and your financial situation, you may not have to fill out all of the sections.

The Instruction Sheet has instructions on the first page telling you which sections you MUST fill out, and some general definitions of terms on the second page. Please read the Instruction Sheet before filling out the form.

Below are some general instructions for filling out the form.

SECTION I: GENERAL INFORMATION AND AFFIRMATION:

THIS SECTION MUST BE FILLED OUT

At the top of right hand corner of the page is a space for your name. THIS SPACE FOR YOUR NAME IS ON ALL PAGES OF THE FORM. Fill out your name on each page.

Fill in the county name where you are filing your divorce, for example "Addison County."

Next to "Docket No.", fill in the number that the court has assigned your case, which you can get from the court staff. **IT IS IMPORTANT TO REMEMBER THIS DOCKET NUMBER, and to add it to ALL paper work you file with the court.**

If you are the person who is filing the divorce, put your name above the line marked "**plaintiff.**"

If you are the person who has been served the divorce paperwork by your spouse, you are the "**defendant,**" and you should put your name in the line above.

You will be known as the "plaintiff" or "defendant" while the divorce is pending.

Fill in all of the boxes asking for your name, address, etc. **IT IS IMPORTANT** that you fill in both your mailing address and your street address if you have both. **PLEASE ADVISE THE COURT IMMEDIATELY IF YOUR ADDRESS CHANGES.**

Under "Type of Action," there are two columns of boxes. PLEASE FILL IN ONLY ONE COLUMN.

IF THIS IS A NEW ACTION, AND THERE IS NO FINAL ORDER IN THE MATTER, THEN CHECK THE BOXES UNDER "INITIAL ACTION."

There are three actions: "Divorce", "Parentage", and "Civil Union." **CHECK ONLY ONE, and then fill in whether or not you have minor children (children under 18 or still in high school).**

IF YOU HAVE A FINAL ORDER AND ARE ASKING THE COURT TO CHANGE OR ENFORCE THE ORDER, THEN CHECK BOX UNDER "POST JUDGMENT ACTION."

If you are asking the court to change the conditions of the Order, you are asking the court for a "**Modification**." If you are asking the court to make the other party do what the Order says, you are asking the court for an "**Enforcement**" of the Order. Please fill out the box that applies to the type of action you are requesting: child support, spousal maintenance, parental rights and responsibilities or other (please detail what you are asking the court for in that line).

The box at the bottom of the page is marked "**AFFIRMATION**." This means that you are swearing that the information that you are giving to the court on this form is true to the best of your knowledge, and that you acknowledge that you might face criminal or other sanctions if you are found to have lied to the court. **THIS SECTION MUST BE SIGNED IN FRONT OF A NOTARY PUBLIC** The notary public must witness your signature, SO DO NOT SIGN IT AHEAD OF TIME. (You may bring this to the courthouse to sign before court staff if you do not know a notary public.)

Within the Affirmation section you should check off **ALL** of the boxes for the Sections that you will have filled out in the 813.

SECTION II: INCOME

THIS SECTION MUST BE FILLED OUT

Please remember to put your name in the upper right hand corner of the page.

Check one of the categories: that someone else employs you, that you are self-employed or that you are currently unemployed.

If another person employs you, please fill in the name, address and phone number of your employer. There is another box for you to fill in the name of a second employer. (And you may add a sheet of paper to the form if there are others.)

If you are self-employed you will need to fill out the "Self Employment Attachment" located at the end of the form.

A. "Monthly Gross Income from Employment."

Your gross income is income before any deductions are made (such as taxes, retirement, medical insurance, etc.).

1. **Monthly Pre-Tax Salary or Wages:** on this line put down all of your income from your salary, prior to any deductions. If you are paid weekly at your job, multiply your wages by 4.33 to determine the monthly amount. If you are paid every two weeks, multiply by 2.165 and if you

are paid twice a month, multiply the amount by 2 to determine the monthly amount. SHOW THE CALCULATION ON THE LINE PROVIDED ON THE FORM, for instance $\$100.00$ (paid weekly) $\times 4.33 = \$430.00$ which is your monthly gross income.

2. **Monthly Income from Tips, Commissions, Bonuses or Royalties.** On this line fill in any other income you receive monthly from the above sources.
3. **Income from Rental Property.** Put in the amount that you receive, if any, from Rental property that you own. You must also fill out and attach the "Rental Income Attachment" found at the end of this form or attach schedule E from your most current tax return.
4. **Monthly Income from Self-Employment.** Fill in ALL of your monthly income, including all sources. You must fill out and attach the "Self Employment Attachment" found at the end of the form or schedule C of your most current tax return.
5. **Does your employer pay any of your personal expenses?** If you receive other benefits from your employer, such as use of a car or housing, for example, you need to calculate the monthly value of this and put in the amount.

B. "Other Sources of Income."

You need to fill in the amount received from **ALL** other sources as named in this section. This includes pensions, unemployment, workers' compensation, disability, social security or veteran's benefits. If you are receiving Social Security Benefits, please indicate the type of benefits you are receiving.

If you have interest or dividend income from your investments or trust or annuity income, you must fill in the monthly amount you receive.

Spousal maintenance (alimony) from either this relationship or a prior relationship should be reported.

Gifts, prizes or lottery winnings should also be listed in this section.

Calculate the monthly amount by multiplying the amount as outlined in "Monthly Pre-tax salary or wages" above. If you have income from a source not on this list, add it in Number 11, and explain the source of this income.

"TOTAL MONTHLY INCOME" Add up ALL of the sources of your income and put it on this line.

C. "Public Benefits"

If you receive public benefits, check the "yes" box, and then check off the type of benefits received, as well as the monthly amount received where marked on the form.

SECTION III: INCOME/EXPENSES RELATED TO MINOR CHILDREN OF THIS RELATIONSHIP

YOU MUST FILL OUT THIS SECTION IF YOU HAVE CHILDREN UNDER THE AGE OF 18 FROM THIS RELATIONSHIP.

Please remember to put your name in the upper right hand corner of the page

1. "List all minor children of this relationship." In the boxes of this section, please put the name, birth date and school grade of the children under the age of 18 (or still in high school if over 18) that you have the with other party in this action.

Put the primary address of the children, which is the place where they reside most of the time and is considered their home.

2. "Children from another relationship whom you have a duty to support."

Put the number of children from other relationships that you have an obligation to support. This can be your own children, adopted children or stepchildren that you have a legal duty to support. This does not include other children living in your household, if they are not related to you (for instance, the children of your roommate, or girlfriend or boyfriend).

3. "Monthly Cost of Health Insurance paid by you for the children of this relationship."

You should calculate the cost of your medical insurance as follows: Take the amount you currently pay monthly and subtract the amount you would pay if you didn't have the children on your insurance. Put the amount after subtraction on the line next to the question.

4. "Out of Pocket Child Care Expenses for children of this relationship"

If you pay for childcare or babysitting costs for the children, or share this expense with your spouse, put down the amount that you pay monthly. If you receive a childcare subsidy, subtract this amount for the total. At the Case Manager's conference, the case manager will be able to qualify the after tax amount if you receive a tax credit.

5. "Extraordinary Monthly Expenses for children of this relationship."

If you pay extra expenses for your children that are unusual, you should note this on this line. These expenses would include medical bills that are more than the standard deduction of \$200.00 (calculated at \$16.67 per month), as well as education expenses (for example private schooling, tutoring or the like) or if your child has special needs. Please check the box that applies and write down what these expenses are for.

6. "Pre-Existing monthly child support obligation for children not of this relationship."

If you are under court order to pay child support for children of another relationship, you should write the monthly amount on this line. **NOTE:** Only write down the amount you actually pay each month.

7." Monthly income received by a child of this relationship."

In this box you should write down the type of income received by the child (Disability, Social Security, or other income), the name of the child, the monthly amount received and the name of the parent who actually receives this income for the benefit of the child. Note if the child receives SSI or SSD from either parent.

8. "Other information...."

In this section you should tell the court the following:

- a. Whether you own real estate other than your primary residence (where you live), and list the equity of the property. (The equity is the value of

- the property (what its worth) minus any loans, such as a mortgage, that you have on the property);
- b. The number of vehicles that you own and the total equity that you have in the vehicle;
 - c. The total value of other assets that do not produce any income for you, such as personal property, money in your checking account, antiques, boats, etc. (You may wish to fill out Section V, Supplemental Affidavit of Property and Assets first, and then take the numbers from that section to fill in here.)

SECTION IV—EXPENSES

Please remember to put your name in the upper right hand corner of the page

Household Expenses and Expense related to Debts

You must fill out Section IV if:

- 1. You or the other party has requested Spousal Maintenance.** Maintenance used to be known as “alimony” It could be temporary (until the divorce is final), for a fixed period of time (for instance for a limited number of years for a specific purpose, such as education) or permanent. If you have requested maintenance in your divorce, or there’s been a change in circumstances that require a change (“modification”) in the maintenance amount, or you are asking the court to enforce an Order for Maintenance, you need to fill out this Section.
- 2. You or the other party has requested a child support deviation** The Child Support Guidelines were put in place to have standard support amounts set by the court. If there are extraordinary reasons for setting a different amount (deviation) and you have requested the court consider this, then you must fill out this Section.
- 3. You Self Employed and child support needs to be established or modified.** If you are self employed the court will need to look at your income, including your Self Employment Attachment (found at the end of the form). You must fill out this Section
- 4 A motion to enforce payment of child support has been filed against you.** If there is a Motion to Enforce filed against you in this case, then this Section needs to be filled by you.
- 5. The other side has requested this information as part of Discovery; or The Court has ordered you to provide this information.** The other party or the Judge or Magistrate can request more information from you. The other party can file what’s called a “Discovery” Motion and request that you fill out this section of the form. The Court can order you to fill out this form if it feels it needs more information from you about your finances.

This Section begins with having you list your debts and the money that you owe to others.

Under **LOANS** on page 6 of the 813 form, you should list the following:

1. The **mortgage** on your primary residence, including the name of the lender (who loaned you money, such as your bank, credit union or private person), the balance owed on the mortgage and what your monthly payment is.
2. **Second Mortgage:** if you have other mortgages on your primary residence you should give the same information as above.
3. **Home Equity Loans** should also be listed with lender's name, amount owed and monthly amount. **Add up 1,2, and 3 so you can transfer the amount to the monthly expense sheet on the next page, page 7 of the form, Line 6 "Housing: Rent or Mortgage".**
4. **Other mortgages.** If you have additional property on which there are loans due, or you have other loans on your primary home, list them here. **Add up information and transfer the amount to the monthly expense sheet on page 7 of the form, Line 6 "Housing: Rent or Mortgage" for loans on your primary residence or Line 40, total loan payments**
5. **Vehicle Loan #1**-fill in the name of the lender, the balance due on the vehicle and your monthly payment.
6. **Vehicle Loan #2:** If you have an additional vehicle, give the same information for this as well. If you own other vehicles, list the lender, loan amount and monthly payment on a separate piece of paper and attach to this form. **Add up lines 5 and 6 and transfer the amount to the monthly expense sheet on page 7 of the form, Line 21, "Total Car Payments".**
7. **Personal loan:** If you have a personal loan, list the lender, loan balance and the monthly amount you must pay. If you have additional loans, put them on a separate piece of paper and attach to this form.
8. **School/College Loans:** if you have educational loans, list the lender(s), loan balance and monthly amount.
9. **Other loans:** if you have other loans, list the same information here. **Add up lines 7,8 and 9 and transfer the amount to the monthly expense sheet on page 8 of the form, Line 40, "Monthly loan payments".**
10. Under **CREDIT CARD DEBT** at the bottom of page 6, list all of the credit cards, even if the card is not in your name. In the left hand column list the name of the person who holds the credit card. Write in the name of the company that issued the card (example: Provident or American Express), your balance on the card and what your monthly payment is. Put down **ALL** of the cards that you own or use. USE A SEPARATE PIECE OF PAPER IF NECESSARY AND ATTACH TO THIS FORM. **Add up the combined monthly payments for all of your credit cards and transfer the amount to the monthly expense sheet on page 8 of the form, Line 62, "Total monthly credit card payments".**

"MONTHLY EXPENSES", pages 7 and 8 of form.

Please remember to put your name in the upper right hand corner of both pages.

This section allows you to list your expenses in detail, including taxes, housing, vehicle and other expenses for you and your children.

There are two columns for you to fill out:

1. If all of the Expense is paid by you alone, put it in first column "Expenses paid by you"; and
2. If you are living with someone else and they contribute to the household expense, you need to fill in BOTH columns with the amount paid by you in

the first column, as well as the amount paid by others in the second column. An example of this would be that you are presently residing with someone (mother, girlfriend, boyfriend or roommate) and the total rent for your housing is \$500.00 per month, but you share the rent and each pays \$250.00. List \$250.00 in both columns.

Expenses are listed as follows:

1. Taxes: Federal
2. State Taxes
3. Social Security
4. Medicare
5. Contributions to retirement deducted by employer.
THE INFORMATION FOR 1,2,3,4 AND 5, CAN BE FOUND ON YOUR PAYCHECK.
Put down the amount that you pay MONTHLY for these items.) IF YOU ARE SELF-EMPLOYED, PLEASE GET THIS INFORMATION FROM YOUR BOOKKEEPER OR ACCOUNTANT.
6. Housing (Rent or Mortgage) –the amount paid each month.
IF THIS IS MORTGAGE INFORMATION, FILL IN THE AMOUNT YOU ADDED UP FOR LINES 1,2, and 3 OF PAGE 6 (previous page).

Lines 7 through 16 all concern your monthly housing expenses. If someone else in your household contributes to any of these expenses, put that amount down in the second column. For example, if you have a roommate or are living with a family member who pays part of the household expenses, put down ONLY the amount you pay each month.

Lines 17 through 20 asks for the insurance payments that you make each month, including life insurance, health, dental, disability and your car insurance. Be sure to put down the monthly amount. Again, some of the information concerning health insurance can be found on your pay stub.

Lines 21 through 24 concern your vehicle(s). Line 21 should be the total of lines 5 and 6 of the LOAN section on the previous page 6. If you are leasing a car, put down the monthly lease payment.

Lines 25 through 45 are various expenses that you pay for yourself. Be sure to put in the monthly amount in the column (for example, if you spent \$600.00 on a vacation, break that down to \$50.00 per month on that line (39)).

Line 40 lists your total monthly loan payments, which you can find on page 6.

On line 46 you should total up lines 1 through 45 for your total expenses for yourself.

Lines 48 through 59 are monthly expenses for your children.

Lines 45 and 59 list "Miscellaneous" expenses: If you have an expense that is not listed in any of the lines, you may put the expense here. Attach a separate piece of paper to explain and detail this expense.

After you add up your monthly payments for your children in line 60, add your total expenses from line 46 along with your total credit card payments from page 6 to your children's expenses in Line 60 to determine your **TOTAL MONTHLY EXPENSES**.

SECTION V: SUPPLEMENTAL AFFIDAVIT OF PROPERTY AND ASSETS

YOU MUST FILL OUT THIS SECTION IF:

1. You are a party in a newly filed divorce or civil union dissolution; or
2. You are requested to fill it out by the other party as part of discovery; or
3. You are ordered to fill it out by the Court.

Please remember to put your name in the upper right hand corner of both pages.

Even if you have to fill out this section, YOU ONLY HAVE TO FILL OUT THE SECTIONS THAT RELATE TO PROPERTY THAT YOU OWN.

Page 9 of the 813 gives you a list of items that are included in this section. If you don't have the property you should check the box next to "Neither I nor the other party own...(real property, vehicle, bank accounts, etc.). If you don't own any property, you should only fill out page 9.

At the bottom of page 9 you are asked if you have sold or given away any asset in the past year or withdrawn any funds from an account other than your regular bank account. If you have done so you should list the details of the conveyance.

If you do own or have an interest in one of the types of property listed, you need to check off the box that says "I have listed all of the...", then go to section 5 and fill out the questions that have to do with this type of property.

The types of property listed in this Section are:

1. Real Property, which would be your home or any other real estate that you own;
2. Personal Property, which are things like your furniture, jewelry, collections, etc.;
3. Vehicles;
4. Investments, such as money market accounts, savings accounts, mutual funds;
5. Bank Accounts;
6. Retirement Accounts, which would include pension plans;
7. Life Insurance policies; and
8. Any interest you may have in a Business(es).

If you own any of these properties you need to fill out the section that applies.

Please be sure to consult with your pension administrator, bookkeeper or accountant, if you have questions about any of these sections.

If none of these sections apply to you, mark the page 9 as noted above.

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