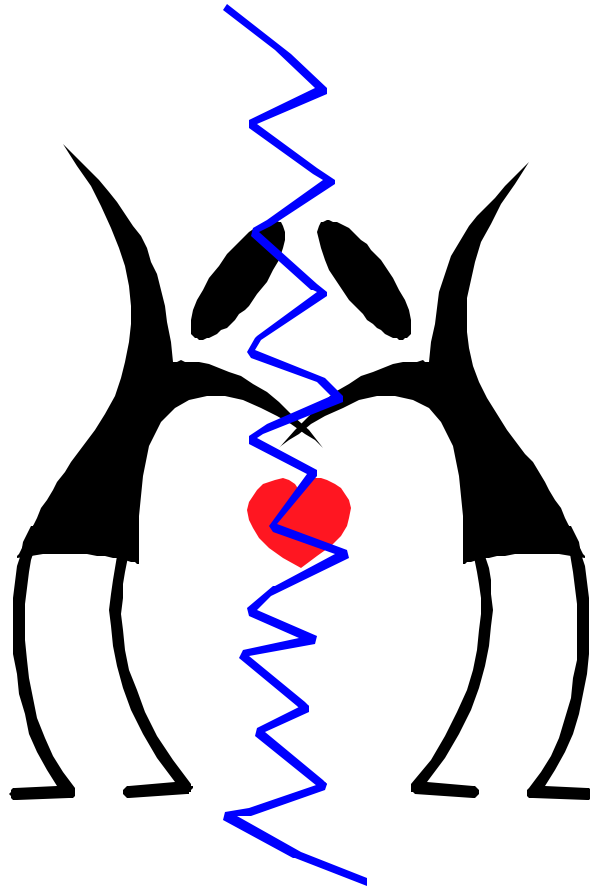


Divorce in Ohio

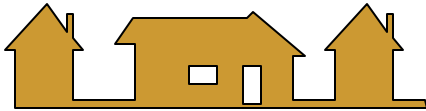


Instruction Packet

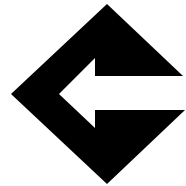
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You Can Get a Divorce in Ohio If:



1. You have been a **resident of Ohio** for at least six months.
2. You have been a **resident of the County you are filing in** for a period of time (usually at least 90 days.)
3. You can **prove one of the following** “grounds” (reasons) for divorce:
 - # you and your spouse have **lived separate** and apart for at least one year;
 - # you and your spouse are **incompatible**;
 - # your spouse committed **adultery**;
 - # your spouse was **extremely cruel**;
 - # your spouse is currently **imprisoned** in a state or federal prison;
 - # your spouse grossly **neglected his/her duties**; or
 - # your spouse was **habitually drunk** during the marriage.



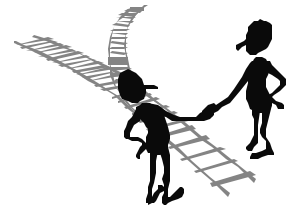
What Else to Do, Other than Get Divorced?

- 1) Try to mend the broken marriage by going to marital or personal **counseling** through a private therapist or member of clergy.
- 2) Get a **dissolution of marriage**. A dissolution is an agreed end to the marriage.



What is the difference between a dissolution and a divorce?

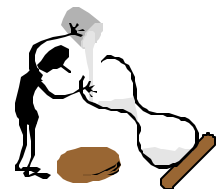
- # In a dissolution neither party is considered at fault for the break-up of the marriage, while divorce requires that one party be blamed for the break-up.
- # You can only get a dissolution if both you and your spouse agree that the marriage should end and agree on exactly how all marital property and debts should be divided, while a divorce can be granted even when parties disagree over these issues.



- # A dissolution will be granted much quicker than a divorce. A dissolution will be final in approximately one month, while a divorce will usually not be granted until at least three months after the original court papers were filed.
- 3) Get a **legal separation**. A legal separation is not an end to the marriage, but it does allow you and your spouse to divide up your property and debts.

Why would I file for a legal separation instead of a divorce?

- # You or your spouse need more time to decide whether or not you really want to end the marriage.
- # You or your spouse cannot or do not want to get divorced for religious reasons.
- # You can get a separation without having lived in Ohio for six months or your local county for any set period of time.



What Should I Do If My Spouse Is Abusive?

If your spouse has ever physically hit or otherwise harmed you or threatened violence against you, you need to be extremely cautious when filing for a divorce. Take one or more of the following steps to protect yourself.



If your spouse knows where you live, take steps to ensure that your home is safe or that you have another safe place to go. You may have to arrange for a friend to come stay with you or make their home available to you.

File for a Civil Protection Order (CPO). A CPO is a court order which can demand that your abusive spouse stay away from you at home, work, and public places. A CPO can also give you sole possession of a house and/or car that you jointly own with your spouse.



It is strongly suggested that anyone seeking a divorce from an abusive spouse—take the steps necessary to obtain a CPO. Although it is only a piece of paper and you may not feel that it can protect you, it creates a record of the abuse (which is important), and if your spouse violates the order, he/she could be put on probation or in jail for up to 30 days.

How do I get a Civil Protection Order?

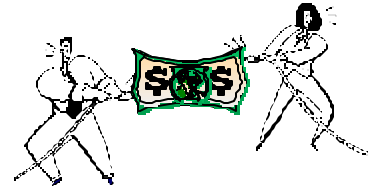
If you have limited income, call your local legal aid office and request assistance. To get the number for your local office call 1-800-589-5888.

OR

Go to your local Common Pleas Court, find the Clerk of Courts office, and request a copy of the Civil Protection Order packet. This packet contains all the forms you will need to obtain a protection order, as well as instructions on how to complete the forms.

Will a Divorce Solve My Financial Problems?

Getting a divorce will not get rid of debts that you built up during the marriage. Although the court may divide the debts between you and your spouse—but if your spouse does not pay his/her portion as ordered by the court, bill collectors will try to collect from you and failure to pay will show up on your credit record.



If you have a lot of debt or are behind in paying your bills or rent, it is wise to deal with this, separate from your divorce. You can go for credit counseling. To find the number of a consumer credit counseling agency near you call the Ohio Consumer Council at 1-877-742-5622.



If you think you will need only one lump sum of money to help you get current in your bills or your rent, call your local Department of Jobs and Family Services and tell them you are interested in getting adult emergency assistance to pay unpaid utility and/or rent bills.

What Paperwork Must I Complete?

To get a divorce, you must fill in the following court papers:

- # Complaint for Divorce;
- # Poverty Affidavit;
- # Judgment Entry;
- # Any forms required by local court rules; and
- # Affidavit for Service by Posting (when necessary).



The **Complaint for Divorce**: the document that begins the process—your request to the Court for a divorce. The Complaint tells the Court that it has authority to hear your case because you have lived in Ohio and the county where you are filing for the required periods of time, states the grounds or reasons you are requesting a divorce, and states exactly what you are requesting of the Court.

The **Poverty Affidavit**: the form which states that you do not have the money to pay the fee required to file for a divorce and allows you to file without having to pay this fee immediately. However, this fee waiver is only temporary. When your divorce is granted, either you or your spouse will be ordered by the Court to pay all or a portion of this fee.

An affidavit is a sworn statement made under oath and signed in the presence of a notary public.

Local Court Forms: usually forms that gather information regarding you and your spouse, including information on your employment, children, and financial situation. The Court will use this information to determine how to divide property and debts, whether waiver of the filing fee was proper, and who should be required to pay this and other Court costs when the divorce is final. You may be required to attach copies of your tax returns and W-2 for the previous year.

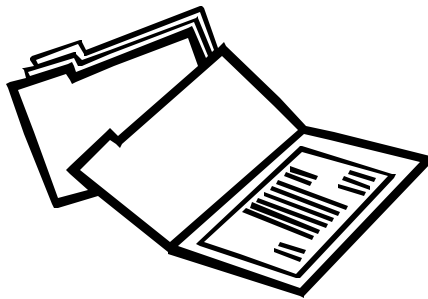
The **Affidavit for Service by Posting**: the form that needs to be completed and filed by those of you who do not have a current address for your spouse. The law requires that when you file for a divorce, your spouse must be notified of the filing so that he/she has the

opportunity to contest the divorce. This notification is called “service” and is usually completed when the Court mails a copy of the Divorce Complaint to your spouse.

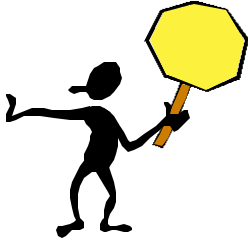
When you sign an Affidavit for Service by Posting, you are swearing that you have made efforts to locate you spouse, but could not do so. You must list the last known address you have for your spouse in the Affidavit.

When an Affidavit for Service by Posting is filed, the Court will post a notice of your filing in the courthouse, your local Department of Human Services and your local Municipal Court. This notice must be posted for six weeks. The court will also mail a copy of the Divorce Complaint to the last known address you provided for your spouse. Even if your spouse never sees the posting or receives this mailing, this is adequate service under Ohio law.

The Judgment Entry and Decree of Divorce: the actual Court order granting you a divorce, dividing up all marital property and debts, and requiring one or both parties to pay costs. After you present your case to the Court at the hearing, you will give this Judgment Entry to the Magistrate or Judge for his/her signature.



What Happens If I Change My Mind After My Divorce Papers Have Been Filed?



Anytime before the final hearing date, you can stop the divorce proceedings by filing a Notice of Voluntary Dismissal. This Notice is a request to the Court that your divorce case be dismissed.

A copy of the Notice of Voluntary Dismissal is included in this packet. Keep this form in a safe place.

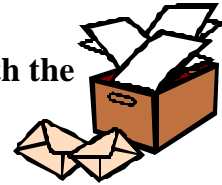
To stop the divorce proceedings, fill in and sign the Notice of Voluntary Dismissal, make four copies of the completed form, and take the original and copies to the Clerk of Courts to be filed. The Clerk will send a copy of this form to your spouse and give you a copy to keep for your records.

It is very important that you file this form if you want to stop the divorce from happening. If you simply don't show up for the Court hearing, the Court will be angry that you have wasted its time and will order that you pay the filing fee as well as Court costs.

What Happens After the Forms Are Completed?



1) **The Completed Forms are Copied and Filed with the Court**



When something is filed, a case number is assigned to it, and it is time-stamped by the Clerk and entered into the court record. The Clerk will give one copy of each form back to the person doing the filing, give one copy to the Judge, send one copy to your spouse, and keep two copies for the Court file. Keep your copy of these forms in a safe place.

2) **Your Spouse is Notified of the Divorce (“Service”)**



The Court will send one copy of all the forms to your spouse. This is called “service.” The law requires that your spouse be notified that you have filed for a divorce. You will not be able to get a divorce until service is completed.

Service will be completed by the Clerk of Courts. The Clerk will mail a copy of the forms you completed to your spouse to alert him/her that you are requesting a divorce. Sometimes the Court is unable to complete service. This could be for various reasons, but most often it is because your spouse is no longer living where you thought he/she was living.

If service is not completed, the Court will notify you (usually in writing). The notice form may provide a space for you to give another address for your spouse. Even if you do not have another address for your spouse, call around and try to find one. If you are successful, complete the form and mail it back to the Clerk of Courts so they can try service at that alternative address. If you do not have another address, write a letter to the Clerk of Courts requesting them to serve your papers by ordinary mail.

Wait about three weeks and then call the Clerk of Courts to see if service was successful.

If the Clerk tells you that your second attempt at service has failed or if you receive a second notice from the Court saying that service has failed, do the following things immediately!

- # Complete the Affidavit for Service by Posting included in this packet on page .
- # Go to a bank and sign the form in front of a notary public, who will then sign and stamp the Affidavit.
- # Make four copies of the notarized Affidavit and take the original and copies to the Clerk of Courts to be filed.

3) Your Spouse May Reply (“Answer”)

After your court papers are filed and service is completed, your spouse has 28 days to respond. If your spouse responds, he/she will do so by filing a document called an “Answer.” The answer admits or denies each item stated in your Complaint. Your spouse will only file an Answer if he/she opposed some part of the divorce. If your spouse files an Answer, you will get a copy of this document in the mail.



If you get an Answer in the mail, look at the bottom of the document to see if your spouse has an attorney representing him or her.

If your spouse has an attorney, it is not recommended that you represent yourself. We suggest that you **call your local legal aid office**. To get the number for your local office, call (800) 589-5888, or try to find a **private attorney** to take your case.

4) You Will Get Notice of the Final Hearing

Approximately three months after the Divorce Complaint is filed, you will receive notice in the mail of your final hearing date.



5) You Must Prepare for the Final Hearing

To prepare, do the following things:



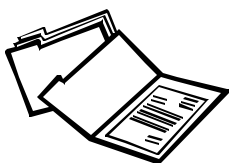
- # Write out what you plan to say to the Court at the hearing. Practice reading this script before the actual hearing date.
- # Identify one or more witnesses who know you and might be

willing to testify in Court that the grounds for your divorce are truthful. Contact these witnesses to see if they will testify for you. Once you have a final hearing date, make sure that you let these witnesses know the date, time, and place of the hearing. Call them the week before the hearing to remind them.

6) Attend the Final Hearing

On the day of the hearing:

- # Arrive at the courthouse well before the time set for your hearing. Go into the Courtroom and give your name to the Bailiff (sitting next to the judge). The Bailiff will call you when it is your turn.
- # Dress nicely, wear neat and clean clothes. Shorts, baseball hats, or ripped/torn clothing are not acceptable.
- # Bring with you to Court the following things:



- your copy of all Court documents;
- the Judgment Entry for the Magistrate or Judge to sign;
- the script you prepared to read to the Magistrate or Judge; and
- any questions you plan to ask of your witnesses.

- # When you are called into Court and the Magistrate or Judge asks you to proceed:



- Read through the script you prepared.
- If you have a witness, call each witness to the stand and ask them questions regarding: the truthfulness of what you have said.
- Give your Judgment Entry to the Magistrate or Judge to sign.

7) Check Your Mail

You will get a final certified copy of the Judgment Entry/Decree of Divorce in the mail within three weeks. When you get this Judgment Entry, your divorce is final.



COURT OF COMMON PLEAS COURT
_____ COUNTY, OHIO

SSN: _____
DOB: _____
Plaintiff,
v.

SSN: _____
DOB: _____
Defendant.

:
Case No. _____
:
:
:
JUDGE _____
:
:
:
:
**AFFIDAVIT FOR SERVICE BY
POSTING**
:
:

Plaintiff, _____, being first duly sworn, says that:

1. Defendant's last known address is _____
_____.
2. Service of Summons cannot be made because the present whereabouts of the Defendant are unknown to the Plaintiff.
2. Even after a sincere and good faith effort by me, the current residence or workplace of the Defendant cannot be determined through correspondence or inquiry of former associates, friends or relatives.

3. Service can be made upon the Defendant only by publication.
4. This is an action for divorce against _____.
5. Plaintiff believes this affidavit is made pursuant to law.

Plaintiff, _____, is proceeding without having paid court costs, having filed a proper poverty affidavit, and requests publication by posting and mail.

Plaintiff

Sworn to before me and subscribed in my presence this ____ day of _____,
20____.

Notary Public

COURT OF COMMON PLEAS COURT
_____ COUNTY, OHIO

:

Case No. _____

SSN: _____

:

DOB: _____

Plaintiff,

:

v.

JUDGE _____

:

:

**NOTICE OF VOLUNTARY
DISMISSAL**

SSN: _____

:

DOB: _____

Defendant.

:

Now comes the Plaintiff, _____, and hereby voluntarily dismisses the divorce case against Defendant.

Respectfully submitted,

Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice was mailed regular U.S. Mail postage prepaid to the Defendant's last known address on this _____ day of _____, 20__.

Plaintiff