



PRO BONO PROGRAM

**PRO-SE PLUS DIVORCE CLINIC
VOLUNTEER TRAINING MANUAL**

NOVEMBER 2012

I. CLINIC OPERATION

A. GENERAL PRINCIPLES

This Clinic is designed to help people through the legal divorce process on their own, without lawyers. Participants will come to the Clinic in varying stages of the process, both legally and emotionally. Some may have reached an agreement with their spouses on all issues related to the divorce and just need to know how to navigate the paperwork necessary to file an uncontested complaint and answer together – in fact, sometimes both spouses will attend the Clinic together. Others may not have seen their spouses in many years and will have difficulty with service of process. Some may not be eligible for a divorce yet. Some may have dealt with any emotional aspect of the divorce long ago, while others may be sad, depressed or angry. Most participants will be prospective plaintiffs but some may be defendants in cases that have already been filed. Volunteer Clinic instructors must be sensitive to these issues, and be respectful of the fact that while some participants will be quite lighthearted, others will be grieving.

1. Clinic staffing. There will be someone from the D.C. Bar Pro Bono Program in attendance. There will also usually be an experienced volunteer acting as a team leader who will assist in coordinating the sessions. The team leader typically coordinates the presentation with the volunteers in advance (by email or telephone).

2. Introductions: As a volunteer, you should introduce yourself by your name and occupation (attorney, paralegal, law student, etc.). You can then invite the participants to introduce themselves by first name. Volunteer Clinic instructors should not provide any business affiliation other than as a volunteer for the D. C. Bar Pro Bono Program, nor should you distribute business cards or give out your telephone number.

This Clinic should not be used as a lawyer referral service, and in no case should a Volunteer Clinic Instructor accept representation on a for-fee basis of participants they assist through this Clinic. If a participant asks you for the names of practicing attorneys, turn to the *Resources* section of this manual and look under *Referrals*.

3. Confidentiality: Although no attorney-client relationship is formed between Clinic participants and volunteer Clinic instructors, participants may disclose very personal details of their intimate relationships for the purposes of obtaining information about the law. As a measure of respect for participants, and a measure of the professionalism of the Clinic and its volunteers, our policy is that participants' personal information is kept in confidence by volunteers. We also request all participants to respect the privacy of other participants by keeping matters discussed during the Clinic sessions confidential. This policy does not create an attorney-client privilege between the participants and the volunteers.

4. Legal information versus legal advice: This Clinic provides legal information to *pro se* litigants seeking divorces in the District of Columbia. We do not provide any legal advice. While this is a simple concept to recite, it is difficult to practice. The following are some guidelines for distinguishing between legal information and legal advice:

- Do not apply the law to the facts of a participant's case. You may instead describe the relevant general rules and explain available options in the abstract or in general.
- Do not suggest that one option is better than another in a participant's particular circumstances. You may instead describe the pros and cons of choosing each option.
- Do not suggest likely outcomes, no matter how simple a case may seem. The legal standards for many issues, such as custody ("best interests of the child") and property division ("equitable distribution"), are very fact-driven and we are unlikely to have all the facts that a judge may consider. You may instead discuss and describe possible outcomes, such as the possible rulings a judge could make ("sole custody to you, sole custody to your spouse, joint legal and sole physical, joint legal and joint physical," etc.) and the general legal standards and principles that play a role in the decision (e.g. what kinds of things the judge must consider or may consider in reaching a decision).

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- Do not make statements that begin with phrases such as “*if you were my client, I would...*,” “*in your case you should...*,” “*if I were you, I would...*,” “*I think you need to...*,” or “*based on what you just told me you probably...*”

Some participants will have complicated legal matters, often involving property issues such as taxes, pensions or real estate, or involving contested custody matters. It is a valuable service to identify that an issue may be complicated and let the participant know that you feel they may benefit from obtaining legal advice by consulting a private attorney or visiting a free legal advice clinic.

While we recognize that some participants really need legal advice, we are simply not equipped to perform conflicts checks for all volunteers, and then gather and analyze all the relevant facts of a particular case in the context of this Clinic. If you wish to refer a low-income participant to a resource for free or low-cost legal advice, turn to the *Resources* section of this manual and look under *Free or Low-Cost Legal Advice*.

5. Questions: Participants will frequently ask questions to which you do not know the answer. It is always better to say that you do not know than to provide potentially inaccurate information. Questions can always be referred to your Team Leader, the other Volunteer Clinic Instructors or the D.C. Bar Family Law Attorney, or you can tell the participant that you will research the question and get back to him or her (make sure to get the participant’s phone number rather than giving out your own). It is also appropriate to tell the participant that the question is simply outside of the scope of what we can cover in the Clinic.

6. Complaints: If a participant expresses dissatisfaction with the Clinic or a volunteer Clinic instructor, or has comments or suggestions, please ask them to write a note to:

Supervising Attorney, Family Law
DC Bar Pro Bono Program
1101 K Street, NW, Suite 200
Washington, DC 20005.

If you have any comments or suggestions, please send them to the same address.

7. Safety: There are beige “in-house” telephones located in the Juror’s Lounge, the hallways and most courtrooms. If a situation arises that requires the assistance of court security, medical personnel or other individuals, please pick up the phone and dial "0" for the Courthouse operator, or "9 - 911" for an ambulance or police assistance. If you do call for an ambulance or the police, you must also notify the Court's security officers. When the emergency has passed, if no staff from the Bar was present, please also notify the D.C. Bar Family Law Attorney or the Program Coordinator (Ronald Baynes) to let them know what occurred.

8. Scheduling Your Volunteer Sessions: The two-session Pro Se Plus Divorce Clinic takes place every month in **D.C. Superior Court, Room 3300, 500 Indiana Avenue, NW**. Sessions occur on two consecutive Saturdays mornings from 10:00 a.m. to 12:00 p.m. *or* on two consecutive Thursday evenings from 6:00 p.m. to 8:00 p.m. Within a few weeks of this training session, you will be contacted to schedule the dates and times you wish to volunteer. Of course, you are always welcome to contact us to schedule sessions as well!

On occasion, work or other obligations may interfere with your ability to fulfill your obligation to a clinic for which you signed up to volunteer. While this is understandable, it can be complicated to locate a last-minute replacement, so we appreciate as much advance notice as possible. In the event that you must re-arrange your scheduled sessions, please contact the Program Coordinator, Ronald Baynes, at the D.C. Bar Pro Bono Program at 202.737.4700 x292. If possible, please also contact your team leader.

B. SESSION ONE

During this session, participants will be introduced to the Clinic, sign the necessary Clinic forms, receive written materials and form pleadings, and learn about the divorce process and substantive legal issues. They should learn enough about the law to be able to determine whether they can file for a divorce in D.C. and what issues may arise as part of the divorce. They should also be able to assess whether their case is appropriate for proceeding *pro se* or whether they should seek legal advice.

1. Registration: Most participants are pre-registered for the clinic. At the clinic, there will be a sign-in sheet; we need all participants to sign and also review and complete a couple of clinic forms. If the participant has not already registered, s/he is welcome to attend, but you should let them know that we will only be addressing the issue of how to get a divorce without a lawyer in the District of Columbia, and that in order to be eligible to file for divorce in D.C. (1) they must be separated for at least six months or one year, depending on whether or not the spouse consents to the divorce, and (2) they or their spouse must reside in DC. They can decide whether they want to remain for the class or return at a later date.

2. Introduction to the Clinic and Completion of Clinic Forms: Your team leader will start the session by introducing you (the volunteer Clinic instructors), and describing how the Clinic operates and what participants can expect to learn.

You or your team leader will distribute three forms to all participants – a **Pro Se Divorce Clinic Agreement**, a **Participant Survey** and a **Follow-Up Survey** – and review them with the group.

- **Agreement:** Take a minute to be sure that everyone understands the main points of this agreement: you are not their lawyer; you will not give them legal advice; you will not go to court with them. Once the participants understand the terms, ask them to print AND sign their names on the agreements.
- **Participant Survey:** Please explain to participants that they should not put their name on this form, that we do not want to invade their privacy, and that the information is anonymous. Explain that we collect this information to have an understanding of the needs in the community so that the D.C. Bar can provide useful programs. This form is voluntary, but you should collect it from everyone if possible.
- **Follow-Up Survey:** Explain to the participants that we want to be sure we are providing them with useful information and assistance, so we are asking them to let us know how things turn out in their cases. The survey is anonymous, and we provide a stamped, self-addressed envelope for their convenience.

Participants will also be given flyers with contact information for three other programs that provide free assistance: **D.C. Bar Advice and Referral Clinic**, **D.C. Family Court Self-Help Center**, and the **D.C. Superior Court Multi-Door Dispute Resolution Center**.

3. **Pro Se Court Forms**: Ensure that each participant has a copy of the following forms for an uncontested (consent) divorce:

- **Sample Pro Se Divorce Complaint.**
- **Consent Answer**
- **Uncontested Praecipe**
- **Family Court Cross-Reference form** (if available)

We will also have available other pro se form pleadings, including:

- **Sample “Request for Waiver of Fee” forms**: if the participant is on public assistance, unemployed, or believes he or she is unable to pay the \$80 filing fee (or the costs of service by publication if that is necessary).
- **Sample Motion to Serve by Publication or Posting**: if the participant does not know where his or her spouse is and is unlikely to succeed in locating him or her.

4. **Training Agenda - Learning about the Divorce Process**: A detailed knowledge of the substantive legal issues involved is not necessary to teach Clinic participants what they need to know for divorce. Also remember that this Clinic is not designed to provide participants with legal advice or to assist them with complex or contested matters. In addition, your team leader will have expertise in domestic relations law.

The following subjects should be covered in the training:

- **Requirements for divorce**: You will explain to participants that there are several requirements that must be met before qualifying to file for and obtain a divorce in D.C. (marriage, residency, grounds).
- **Substantive legal issues**: In order to assist participants in determining whether their divorce is or is not likely to be truly uncontested, you will provide overviews of the D.C. laws governing child custody, child support, marital property and spousal support in divorce cases.

Often, by providing participants with sufficient information about the laws governing divorce in D.C., we are able to provide a “reality check” and, once participants have some understanding of the law in these areas, contested issues may become uncontested.

▪ **Procedure:** You will explain how the judicial process works for uncontested (consent) and contested (non-consent) divorces. This involves basic civil procedure and due process principles that you will be familiar with.

Although each team leader may structure the clinic differently, the typical training agenda for session one is:

- ***Is D.C. the right place to file?***
Jurisdiction/residency
- ***Are you eligible for a divorce?***
Marriage; grounds for divorce
- ***Other issues the court can be asked to decide as part of a divorce case.***
Basic concepts of property division, alimony, custody of children, child support
- ***“Fast track” uncontested divorce (consent)***
Procedure for uncontested divorces
Complaint and related forms
Filing fee/fee waiver
Consent answer; uncontested praecipe
- ***Divorce procedure if you can’t use the “fast track” process (non- consent/contested)***
Complaint, summons, and related forms
Filing fee/fee waiver
Service of process (including constructive service by publication/posting)
Obtaining and filing proof of service
Answer, or default
If custody is an issue, PAC program
Initial hearings and subsequent court proceedings
Settlement and uncontested hearing, or trial

Briefly, If the divorce is by consent at the time of filing (both parties file the necessary court papers indicating that they consent to the divorce and are not asking the court to decide any other issues), service of process is not required, and the court will schedule a final divorce hearing.

In a non-consent divorce, one party (the plaintiff) files a complaint asking the court to grant the divorce (and any related relief being requested); the plaintiff notifies the other party (the defendant) about the request (service of process/constructive service in the case of an absent defendant); the defendant then has a chance to respond (file an answer). The court will schedule an initial hearing and status hearings and, ultimately, a divorce hearing at which the plaintiff will have to prove (through testimony) that the court should grant the request. The court will then issue an order (findings of fact, conclusions of law and judgment). Both parties have a certain amount of time to appeal the judgment if they don't agree with the court's decision. If the parties both agree that they do not want to appeal, they can file a waiver of appeal.

6. Mock Uncontested Divorce Hearing: If there is time, volunteer Clinic instructors can conduct a brief mock uncontested divorce hearing. The mock hearing prepares participants for what will happen on their hearing day in an uncontested divorce. The experience can be intimidating – having to sit in the witness box or at counsel table, in front of a courtroom full of strangers, answering the judge's questions. Although our general policy is to guard participants' privacy, during this mock hearing we encourage them to answer the questions with their real information, because they will have to do so in court, and we can help them prepare by rehearsing. An alternative is to have one of the trainers play the role of the plaintiff/witness.

7. Conclusion of Session One: Tell the participants that at the next week's session, we will review the divorce process and work with them individually or in small groups to answer questions and to help fill out or review the divorce paperwork. If participants have completed their forms ahead of time, a volunteer can review the forms and verify that the proper information was included, if the participant wishes. Some participants may have trouble filling out their forms in advance, so we will also help participants fill out their forms.

DC Bar Legal Information HelpLine:

Clinic participants may call this automated voicemail service to learn more about family law issues, to obtain additional information about free legal service providers, or to leave a voicemail message if they have further questions.

202.626.3499

C. SESSION TWO

During this session, participants will have an opportunity to fill out their divorce forms if they have not yet done so, to discuss any questions they may have about the process, and to interact with individual Volunteer Clinic Instructors for more personalized attention. Participants who do not feel the need for one-on-one review or assistance, or who are attempting to resolve contested issues, may not return for session two. In addition, session two may also have participants from the Custody Clinic. Your team leader will assign a volunteer to assist these participants.

New Participants: You may notice some new faces at session two. Although we encourage new participants to attend the first session of the next full clinic - the “class” session - new participants may come in at the second session. When this happens, you should make sure that they sign the sign-in sheet, understand and sign an Agreement, complete the Survey, receive the Follow-Up Survey and envelope, and that they receive a copy of the materials and form pleadings. You may want to conduct a short review of the first session for the benefit of the new participants, and then encourage them to return the following month for the first session of this two-part clinic.

Repeat Participants: Some “new” participants have attended session one in a prior month. Some attend session one, then spend several months deciding whether they wish to proceed, trying to achieve service, or trying to resolve contested issues. Others may reconcile with their spouses. We invite all participants to return to the Clinic as often as they wish.

1. Filling Out Pro Se Divorce Forms: Participants should already have the appropriate forms. If not, there will be a supply of extra forms on hand. Some participants will have filled them out after the first session and will want you to look them over and answer a question or two. Some participants may need more individualized explanations of various sections; others may not read or write well, or at all, and may need you to read the forms to them and act as a scribe.

Some forms may not be handed out but there will be samples available so that participants can see what they look like. These forms usually call for basic information and can be obtained and filled out at court at the time of filing.

2. **Q & A:** There may be a number of questions from individual participants during the second session. Many of them may be about basic divorce procedure and the steps that must be taken in order to obtain a divorce, but Volunteer Clinic Instructors may find it helpful to review the section on “Legal Information versus Legal Advice” prior to the session.

Teaching tip: Some participants may have trouble reading or understanding what they read. You may need to read the forms out loud or ask the specific questions necessary in order to fill out the forms, and then read out loud what you wrote to ensure that it is correct.

II. REQUIREMENTS FOR FILING FOR AND OBTAINING A DIVORCE IN D.C.

There are three requirements that must be met in order to be able to file for and obtain a divorce in D.C.: jurisdiction (residency), marriage, and grounds for divorce.

1. Jurisdiction

D.C. has jurisdiction if *either* spouse has been a continuous resident of D.C. for six months next preceding (immediately preceding) the filing of the action. D.C. Code § 16-902. In other words, only one spouse needs to be a resident of D.C. for the prescribed time period. The relevant time period is as of the date of filing: if one or both parties move out of D.C. after the complaint is filed, D.C. still has jurisdiction to grant the divorce.

The “Civil Marriage Dissolution Equality Act of 2012” amended the divorce statute to allow individuals who do not meet this residency requirement to file for divorce in D.C. if the marriage was performed in D.C. and neither party to the marriage resides in a jurisdiction that will maintain an action for divorce (and there is a rebuttable presumption that if the jurisdiction does not recognize the marriage, it will not maintain an action for divorce). This law essentially allows same-sex spouses who were married in D.C. to obtain a divorce in D.C. if they are unable to get a divorce in the jurisdiction(s) in which they reside. D.C. Code § 16-902(b).

Oral testimony by the party whose residency is the basis for the action is usually sufficient to prove residency, if residency is not being challenged by the other party. If residency is challenged, other evidence can be introduced to show bona fide D.C. residency: e.g., a lease or deed, current driver's license, D.C. tax statements, D.C. voter registration card, utility bills or other correspondence mailed to the D.C. residence, the testimony of individuals with first-hand knowledge of the party's home.

FAQ: *I was married in another state/country. Does that matter?*
No. Where you can file for divorce has nothing to do with where you were married.

FAQ: ***How do I prove residency?***
If jurisdiction is not being disputed, oral testimony by the plaintiff is usually sufficient to prove residency.

Teaching tip: Some participants have spouses who live in other states and so may have a choice as to which state to file in.

Teaching tip: Jurisdiction for divorce is different from jurisdiction for custody or child support. You probably do not need to address this unless you identify participants who have children and are considering seeking custody and child support as part of the divorce, in which case you can discuss the issue with them individually.

2. Marriage

Parties must be married to one another in order to get a divorce, and they must show proof of their marriage.

a. Ceremonial Marriage: Most marriages are ceremonial and there will be a marriage license/certificate. Although the law does not specifically require it, judges almost always require that the plaintiff submit a certified copy (one with a raised or stamped/signed seal) of their marriage certificate in order to prove the marriage. The plaintiff can file the marriage certificate together with the complaint, or s/he can bring it to the final divorce hearing. It may take time to order a certified copy so it may be advisable to order it as soon as possible. It is also possible to submit the original marriage certificate, but the party should be aware that the court may keep it as part of the record in the case (although most judges will make a copy and give the original back to the party). Judges will usually not accept a photocopy of the marriage certificate.

Obtaining a Certified Copy the Marriage Certificate: If the parties married in D.C. either spouse can get a certified copy of the marriage certificate from D.C.'s Marriage Bureau, located in Room 4485 of the courthouse, 500 Indiana Avenue, NW. They will need to give the clerk the spouses' full names, the wife's maiden name, the year they were married, and a \$10.00 fee (cash or money order made out to the "Clerk of Superior Court"). The request for a certified copy can be made in person or by mail.

If the marriage took place in another state, the individual will need to check with the vital statistics/vital records office in that state to find out how to order a certified copy of the marriage certificate in person, by mail or on-line. This information can usually be obtained by telephone or on-line.

b. Common Law Marriage: You may occasionally see a participant who is married by common law. There is no marriage certificate in a common law marriage because there was never a formal ceremony by someone authorized to conduct one. But if someone is common law married, he or she must obtain a divorce before s/he can remarry.

Teaching tip: You can ask "Does everyone here have a marriage certificate? Was anyone here not married by clergy, a clerk of the court, a judge, or a captain at sea?" If all participants had ceremonial marriages, then you can skip the discussion of common law marriage.

Elements of Common Law Marriage: Common law marriages do not happen accidentally and are not a result simply of living together for a certain period of time. For a common law marriage in D.C., the parties must have:

- (1) been free to marry (i.e., neither is already legally married);
- (2) intended to be married to one another;
- (3) held themselves out as married (told other people such as family, friends, neighbors, banks, creditors, health, life or car insurance carriers, the IRS) that they were married; and

(4) had sexual relations together and lived together in D.C. or another jurisdiction that recognizes common law marriage (for example, Pennsylvania recognizes common law marriage, but Virginia and Maryland do not).

Teaching tip: If there are participants who say that they are married under common law, you may want to talk with them separately and ask additional questions to see if they seem likely to meet the above requirements and whether their spouse will or will not contest the existence of the marriage. As a practical matter, if one spouse denies the marriage and there is little evidence that they met the requirements, it may be difficult to prove a common law marriage.

3. Grounds for divorce

D.C. is a “no-fault divorce” jurisdiction. This means that a spouse does not have to prove that the other spouse is at fault (e.g., cruelty, desertion, adultery) in order to get a divorce. There are only two grounds for divorce in D.C. Under D.C. Code § 16-904(a), a person can file for divorce based on either:

- a. **Six Months Mutual and Voluntary Separation:** The petitioner and his or her spouse agreed "mutually and voluntarily" to separate and have been living separate and apart (without cohabitation) for more than six months immediately preceding filing; **OR**
- b. **One Year Separation:** The petitioner and his or her spouse have been living separate and apart (without cohabitation) for at least one year immediately preceding filing, whether or not they agreed to separate. For this second ground, the separation does not have to be voluntary.

Separation Defined: Separation means living separate and apart. No court-ordered or legal separation is required. For both grounds (six months voluntary or one year), the separation must be without sexual relations with each other during the time of separation. You may want to be clear that what the law requires is no sexual relations with the other spouse during this period; whether someone has sexual relations with someone else is irrelevant to eligibility for a divorce in D.C. In general, if the fact of

separation is uncontested by the other spouse, the plaintiff's testimony is typically sufficient to prove the separation.

Living Together While Separated: A married couple can be deemed to have lived "separate and apart" even if they reside under the same roof. D.C. Code § 16-904 (c). The party must show that the spouses shared "neither bed nor board" and "pursued separate lives" from one another. As evidence, the party can testify that they do not cook or clean for each other, they don't eat or go out together, they don't have friends over and entertain together, they no longer sleep together, they share no bank accounts, etc. They must live as though they were simply roommates in a boarding house. As a practical matter, if either spouse contests the nature of this separation, it may be difficult to prove that there is a separation.

III. DIVORCE PROCEDURE

A. GENERAL INFORMATION

Divorce cases are heard in the Domestic Relations Branch of D.C. Family Court, which is a part of D.C. Superior Court, located at 500 Indiana Avenue, N.W., Washington, D.C. 20001.

The person who files the case is the *plaintiff*; the other spouse is the *defendant*.

Teaching tip: It can be helpful to let participants know that it almost never matters who files first (who is the plaintiff and who is the defendant).

Every case is assigned a case number (docket number) at the time of filing: e.g., **2012 DRB 1234**. That is the case identification number and should be put on all subsequent court papers.

All court papers (pleadings) are filed at the **Family Court Central Intake Center (CIC)**, Room JM-520. It is also often possible to obtain copies of documents in the court file at CIC, because many pleadings and orders are scanned into the court's database. The hard-copy court file is available in the Family Court Clerk's office, Room JM-300.

The court is instituting e-filing in 2012 but pro se litigants will not be required to efile.

Copies: You can suggest that participants bring at least two copies of any document that is filed with the court. The original will be filed, one copy may need to be served on the other spouse, and one copy is to keep for her or his own records. However, the Family Court Central Intake Center typically will make at least one copy at the time of filing. CIC will also date-stamp copies to show when they were filed.

B. UNCONTESTED DIVORCE – “FAST TRACK”

It is possible to get a divorce much more quickly, and with a minimum of paperwork and court hearings, if both parties are in agreement at the time of filing. If the required court papers are all filed together at the same time (with the filing fee of \$80 in cash or money order or credit card,

or having obtained a fee waiver), a hearing date for the divorce will be scheduled, to take place typically within 45 to 75 days. The parties will be mailed notice of the date, time, and courtroom for the final divorce hearing.

In order for a divorce to be uncontested – to be by consent – at the time of filing, the following pleadings and forms must be filed:

Complaint	Signed by plaintiff
Consent Answer	Signed by defendant
Uncontested Praecipe	Signed by plaintiff and defendant
Family Court cross-reference form	No signature required
\$80 filing fee <u>or</u> fee waiver request	Fee waiver request signed by plaintiff

Teaching tip: The court papers do not have to be notarized.

Teaching tip: It can be helpful to emphasize that for a fast-track uncontested divorce, the spouse's consent must be in writing and in the form of a response (consent answer) to the complaint. It will not be enough for the plaintiff to tell the judge that the defendant consents.

It can also be helpful to emphasize that you can get divorced without the spouse's consent if you meet the one-year separation requirement. This is true even if you cannot locate your spouse. It is usually just a faster and easier process if your spouse consents in writing.

Teaching tip: After explaining both the uncontested and the contested divorce process, it can be helpful to remind participants that if the divorce is by consent from the beginning – if the complaint and the consent answer are filed together – the other spouse does not have to be served with the divorce papers. But if a consent answer is not filed, the other spouse will have to be served in order for the divorce case to go forward.

FAQ: **How do I get the papers to my spouse, for her/his signature?**
You can get the papers to your spouse in any way that works for the two of you. You can meet with your spouse, or you can mail the papers to your spouse.

FAQ: **Do we have to sign all the papers at the same time?**
No. You and your spouse can sign the papers at separate times. But you should file them all at the same time with the court in order for the process to go as quickly as possible.

FAQ: **Who files the papers with the court?**
Anyone can file any of the papers. You can file all the papers, including the ones signed by your spouse.

(a) Complaint

See *Preparing a Complaint*, in Section C, below. The same complaint form is used for both fast track and regular (non-consent/contested) divorces.

(b) Consent Answer

This is the pleading that the spouse signs that states that s/he agrees with all the statements in the complaint and agrees to the divorce and any other requests being made by the plaintiff.

(c) Uncontested Praecipe

This document states that the case is uncontested and should be scheduled for a divorce hearing. Both parties sign this document. They do not have to sign it at the same time.

(d) Family Court Cross-reference form

See Section C, below.

(e) Fee waivers

See Section C, below.

C. REGULAR DIVORCE PROCESS

This is the process that will be used if the parties have not resolved all the issues, if one party refuses to talk to the other party, if the plaintiff doesn't know yet if the other party will consent but wants to proceed anyway, or if the plaintiff cannot find the other party.

a. Preparing a Complaint

The form complaint states the basis for jurisdiction, the grounds for divorce, and whether any other requests are being made in addition to the divorce (custody, support, property). This is a "notice pleading" and thus, as the form complaint reflects, it does not have to be very detailed. However, parties are free to add additional information if they wish.

(i) ***Under oath***: Although SCR-Dom.Rel. 7 (a)(1) requires that a complaint be signed under oath by the plaintiff (and that an answer be signed under oath by the defendant), Rule 2 no longer requires the pleadings to be sworn before a notary or court clerk. Specifically, Rule 2 (b)(5) provides that the person may either sign before a notary or sign with the following language in the pleading: *I solemnly swear or affirm under criminal penalties for the making of a false statement that I have read the foregoing paper and that the factual statements made in it are true to the best of my personal knowledge, information and belief.*

(ii) ***Substitute address (domestic violence)***: There is a specific provision in the rules for the protection of persons who have a reasonable basis to fear harassment or harm from disclosure of their home address. If a party has such a fear, he or she is not required to state his or her address in the pleading provided a substitute name and address is provided. A paper which has a substituted address must be clearly marked to indicate that such a substitution has been made. SCR-Dom.Rel. 10 (b)(7). The substitute address may be the party's attorney or a third person. The party using the substitute address should be aware that this is the address that will be used by the court and the other party when mailing court papers.

(iii) ***Defendant's address***: Sometimes the plaintiff will not know or be certain about the defendant's address. The clerk's office will require that an address be provided on the complaint. The most common solution is for the plaintiff to use the defendant's last known address (even if it is very old or the last place they lived together) and write *last known address* next to it.

b. Other Filing Requirements

- (i) **Filing fees:** The filing fee for a divorce complaint is \$80.00 (cash, money order or credit card). If a litigant asks the court to waive the fees, they must first file an In Forma Pauperis (IFP) application, also known as a fee waiver application.
- (ii) **Cross-reference form:** This form must be filed with the complaint, to assist the court in identifying whether there are other Family Court cases involving any family member. The plaintiff should fill it out to the best of his/ability but does not have to supply all the information requested if the information is not known to the plaintiff.
- (iii) **Summons:** The summons is a court form that is used, together with the complaint, to notify the defendant of the divorce case. When a plaintiff files a complaint, the clerk will accept the original for filing, provide a summons for the plaintiff to fill out, and return a copy of the summons and the complaint to the plaintiff for service of process on the defendant.
- (iv) **Notice of Initial Hearing:** CIC will schedule the initial hearing in the case at the time of filing. A written notice will be provided to the plaintiff, and the plaintiff should include this notice with the other documents that are served on the defendant. The court will also mail the notice to the defendant at the address provided by the plaintiff.
- (v) **Notice of PAC seminar and mediation intake:** If custody is an issue and the case is not uncontested, CIC will schedule the PAC seminar and mediation intake at the time of filing (see section on custody, below). A written notice will be provided to the plaintiff, and the plaintiff should include this notice with the other documents that are served on the defendant. The court will also mail the notice to the defendant at the address provided by the plaintiff.

c. Proceeding In Forma Pauperis (fee waiver): Volunteers should explain to participants that if they believe they are eligible to proceed in forma pauperis (IFP), they can file a request with the court known as an “IFP” or “fee waiver.” If the party is receiving public assistance (e.g., TANF or SSI), judge should and almost always will approve the fee waiver. Otherwise, the judge will decide whether to grant the request. There are no hard and fast rules concerning eligibility. The form IFP application is a brief description of the party’s finances. If the party believes that additional information would be helpful, it can be added.

The party must submit the IFP application/motion together with the complaint directly to the Judge in Chambers (Room 4220). This may involve a short wait. The IFP is generally ruled upon the same day or, at the latest, the following day. The plaintiff will almost never have to speak with the judge; the judge will make a decision based on the written request. If granted, payment of filing fees is waived. If the IFP is granted, the plaintiff must then go down to the Central Intake Center to file the underlying complaint. Even though the complaint must accompany the IFP request, the complaint is *not* automatically filed simply because the judge approves the IFP.

A defendant may also request a fee waiver.

d. Service of Process

The plaintiff must have the spouse served with the summons and complaint, unless the spouse agrees to the divorce and signs an uncontested answer, or unless the spouse files a contested answer without having been served. Serving the defendant is a very important step and can be one of the hardest for most people to accomplish. If service is not done correctly, the case will not go forward. Litigants often mistakenly think that the court is going to take care of service; or they think that if the defendant “knows about” what’s going on, that is enough. While the court may mail some notices to the defendant at the address provided by the plaintiff in the pleadings, this is not proper service. It also does not matter if the defendant actually knows about the case or the court hearing. It is the plaintiff’s obligation to get the papers served and the rules for service must be followed.

The defendant must be served with a copy of the *summons* and *complaint*.

(i) *Personal Service*: The plaintiff can have the papers hand-delivered personally to the defendant by anyone who is over the age of 18, other than the plaintiff. Any adult other than plaintiff can serve: a friend, a relative, or someone the plaintiff hires. You can find professional process servers listed in the Yellow Pages or on-line. The National Association of Process Servers has a list of professional process servers in the D.C. area at www.napps.com. The defendant can be served wherever s/he can be found (at home, at work, on the street, etc.). If the

defendant will not actually take the papers, service can still be valid; the best course of action is probably to hold the papers or envelop out to the person and, if s/he won't take them, drop the papers at the person's feet.

Alternatively, plaintiff can have the papers left at the spouse's home with someone of "suitable age or discretion" who resides there. If the papers are left where the defendant lives, however, they must be left with someone who actually lives with the defendant. They cannot be left with someone who happens to open the door or simply be left on the door step. The plaintiff will have to be able to convince the judge that the defendant resides with the person to whom the papers were given.

(ii) *Certified or Registered Mail, Return Receipt*: The plaintiff can mail the summons and complaint to the defendant. They must be mailed as a certified letter, return receipt requested. The return receipt is a green postcard attached to the letter which must be signed by the defendant at the time of delivery and which will then be mailed back to the sender by the Post Office. Service is also proper if a person of suitable age and discretion who resides with the defendant signs the green card. If someone other than the defendant signs the green card, the plaintiff will have to be able to convince the judge that the defendant resides with the person who signed the green card.

Note: There are pros and cons to either method of service. Both can be tried simultaneously, or a plaintiff can try one and if unsuccessful, the other.

(iii) *Constructive (Alternative) Service – Publication or Posting*: If a plaintiff does not know where his or her spouse is, the court can still grant the divorce. The plaintiff must first make good faith, diligent efforts to locate his or her spouse. There is not a set checklist of what constitutes "reasonable efforts." That determination is case-specific. The efforts that will satisfy the court are generally things that the plaintiff can do him/herself. Typically, the judges look for (1) "generic" efforts to locate the defendant (e.g., checking phone directories, the internet, the military locator website, D.C. court records, D.C. Jail, the U.S. Bureau of Prisons website), together with (2) any defendant-specific efforts the plaintiff can reasonably make (e.g. checking

defendant's last known address, last known employer, any known family members). The summons and complaint should also be mailed to the defendant's last known address. If the defendant is no longer living there, the mail will be returned and marked "Addressee unknown" or something similar. These efforts must be made even if the plaintiff knows that they will be futile. The plaintiff should keep track of these efforts, including the date and the outcome, as well as any paperwork associated with the efforts. (The plaintiff may also want to explain the situation further in the motion if that would be helpful – e.g., the parties have been separated for 10 years, the defendant has a substance abuse problem, the last known address was the last place the parties lived together and there has been no contact since then.)

Creating a Paper Trail: Record-keeping is the key to a successful motion to publish/post, so it is important to remind litigants to keep a detailed record of the steps they take to find their missing spouses. They can use the "absent spouse locator worksheets" available at the Clinic, which will serve as a guide for steps they can take to locate their spouses, as well as a record-keeping document. They will have to recite all steps taken to locate the defendant in their motions to serve by publication or by posting and it is easier to accurately record those steps during the search process than to recall them later when drafting the motion. Also, the chances of success of a motion to publish or post are greater if the plaintiff can document his or her attempts to locate the defendant.

Motion to Post/Publish: If the plaintiff cannot locate the absent spouse after making efforts to locate him/her, the plaintiff can file a motion asking the court for permission to constructively serve the defendant by an alternate method: either publication in two newspapers or posting in the courthouse. There is a form motion to publish/post.

Service by Publication: If publication is authorized, the plaintiff must publish the notice once a week for three weeks in at least one legal newspaper or periodical of daily circulation (usually the judges require the *Daily Washington Law Reporter*) and any other newspaper or periodical (such as the *Washington Post*, *Washington Times*, or the *Afro-American*). Service by publication can be quite expensive – generally \$300 to \$400 –

because the newspapers charge for publishing notices. The newspapers may not provide the required affidavit of service until the publication bill has been paid.

Service by Posting: Posting can be authorized if the plaintiff cannot afford the cost of publication. If a fee waiver has already been granted, that can be referenced in the motion and will be a sufficient basis for the judge to authorize posting. Otherwise, the plaintiff will need to provide information in the motion as to why s/he cannot afford publication and the judge will decide whether to authorize posting. If posting is authorized, the clerk's office will take care of the entire process. The notice is literally posted on a bulletin board in the courthouse for 21 consecutive days (including weekends and holidays) at the Family Court Central Intake Center.

(iv) *Proof of Service:* Once the summons and complaint have been served, the plaintiff must file proof with the Court. Proof of service is also called a "return of service" or an "affidavit of service." It is a short statement indicating what was served, upon whom, and the date of service. The affidavit must be signed by the person who performed the service of process. The affidavit does not have to be notarized, but it must contain the same "declaration under penalty of perjury" language that is required for the complaint and the answer. The court has form affidavits of service that can be used. A written affidavit is required; it is not enough for the plaintiff to tell the court orally what was done. Although the affidavit must be signed by the correct person, the plaintiff can file it with the court.

- Personal Service: If the documents are hand-delivered, the person who delivered them must complete and sign the affidavit of service, which must then be filed with the court. The affidavit tells the court what was served, when, and upon whom.
- Certified/Registered Mail, Return Receipt: If the documents are served by certified or registered mail, return receipt, the person who mailed the documents (usually the plaintiff) must complete and sign the affidavit of service, which must then be filed with the court. The signed green return receipt card must accompany the affidavit and can be stapled to it. The affidavit of service tells the court what was served, the date the plaintiff

mailed the papers to the defendant, and the date the defendant received them (i.e., the date the green card was signed).

- **Publication:** If service is accomplished by publication, the newspapers will provide an affidavit of service stating the dates of publication together with a copy of the published notice.
- **Posting:** If service is accomplished by posting, the Domestic Relations Clerk's Office will take care of that process and certify in the court records that it has posted the notice as required.

Teaching tip: Make sure that participants understand that they are responsible for service, not the court, although the court will mail any hearing notices to the defendant at the address provided by the plaintiff.

Clarify that if this is an uncontested divorce and the complaint and answer are filed at the same time, the plaintiff does not have to go through this process of serving the defendant. Also, if the defendant files a contested answer before having been served, service is not necessary.

(v) **Time Limits:** The summons issued by the Clerk is “live” for 60 days, which means the plaintiff has 60 days in which to serve the defendant with the complaint. The plaintiff must also file proof of service within 60 days of filing the complaint. If the plaintiff needs more time, he or she may request additional time through the Family Court Central Intake Center (the clerk's office). This request must be made before the initial 60 day period expires. CIC will have the plaintiff fill out a written request (praecipe) and will give the plaintiff a new summons which is good for an additional 60 days. If the plaintiff misses the 60 day deadline or needs more than 120 days, he or she may have to file a motion to request additional time. The court is very liberal about allowing more time for service as long as the plaintiff is making some effort.

Note that if the initial hearing in the case is scheduled prior to the expiration of the 60 days, the court appearance will give the plaintiff the opportunity to request more time within which to serve, which will be given. Even if the initial hearing is scheduled after the initial 60 days, the case will usually not be dismissed and, at the initial hearing, the plaintiff can request more time to serve; however, it is safer to request the new summons from the clerk if the original one will expire before the initial hearing.

If the plaintiff fails to pursue service and fails to come to court to explain, the court will dismiss the case for want of prosecution. The dismissal will be without prejudice, which means that the plaintiff can re-file.

e. The Defendant's Answer

Once the defendant spouse has been served, s/he has 20 days to file an answer.

- If the defendant answers and disagrees with any of the plaintiff's requests (or agrees that the court needs to decide an issue such as custody or division of marital property), the divorce is considered contested. The court will determine, with the input of the parties, how to handle the case and on what timeline (e.g. status hearing(s), discovery (if any), further mediation, pre-trial hearing). If the case does not settle, a trial will ultimately be scheduled and held and the judge will make a decision about the disputed issues.
- If the defendant files an answer and does not contest any of the plaintiff's assertions or requests for relief, the divorce is considered uncontested, and the case should be able to proceed directly to a final divorce hearing.
- If the defendant fails to file an answer, the plaintiff must file a request that the clerk enter a default, after which the court can schedule the final divorce hearing.

Defaults: If no answer is filed by the 20th day after service (or the 21st day if service was by posting/publication), the plaintiff can request the entry of a default, as early as the next day. There are default forms available at the Central Intake Center, and those default forms will also be available at the Clinic. The form includes an Affidavit in Support of Default and an Affidavit of Compliance with the Servicemembers Civil Relief Act. The Servicemembers Civil Relief Act affidavit requires the plaintiff to attest whether, to plaintiff's knowledge, the spouse is or is not a member of the American military. After the papers are filed, the clerk will enter the default; the court then can proceed to have the final divorce hearing.

Until the plaintiff files for the entry of a default, the divorce cannot go forward. In due course, the case may eventually be dismissed if no answer is filed and no default has been requested.

f. Initial Hearing and Further Proceedings

In a contested (non-consent) divorce, an initial hearing (also known as an initial scheduling conference) will be scheduled as the first court hearing in the case. The Central Intake Center will provide a notice document to the plaintiff at the time of filing and will mail a notice to the defendant at the address provided on the complaint. The plaintiff should also include a copy of that notice with the documents served on the defendant.

PAC cases (children): Instead, the Central Intake Center will schedule a *PAC* seminar and a mediation intake (see section on custody, below). CIC will provide a notice document to the plaintiff (and the plaintiff should include a copy with the documents served on the defendant.)

The initial hearing is the first opportunity the court has to meet the parties, find out what the status of the case is (for example, has the defendant been served yet or not), and to start to familiarize her/himself with what the issues are in the case and to decide how to handle the case. Frequently, the judge will schedule a status hearing next, as opposed to a trial. Ultimately, if it becomes clear that the parties cannot settle the contested issues, the judge will schedule a trial, at which time both parties can testify and present other witnesses and evidence relevant to the disputed issues, and the judge will make a decision.

Settlement: Parties may reach an agreement – settle the case – at any time after the case is filed. If so, they can inform the court at the next scheduled hearing. At that point, if the parties are ready, the judge will often go ahead and hold the final divorce hearing at that time.

<p>Teaching tip: Remember that Clinic is not equipped to provide detailed information about how to handle a contested case. If a participant anticipates a contested case, you can talk with that person individually to help him/her understand the process, but be careful not to give legal advice.</p>

g. Uncontested Divorce Hearing:

Even if the divorce is uncontested, there must be evidence on the record that provides a basis for the court to grant the divorce (i.e. evidence of jurisdiction, the marriage, and the grounds for divorce) so there will always be a divorce hearing. As a result, there will always be a court hearing, even if the divorce is by consent.

(i) *What to Bring:* The plaintiff must present a certified copy (or the original) of the marriage certificate if it has not previously been filed it.

- A certified copy has a raised or stamped seal. Certified copies must be obtained from the jurisdiction in which the marriage took place. Information about obtaining a certified copy of a marriage certificate can usually be obtained by phone or on-line, and the copy can usually be ordered by mail or on-line. See the section on *Marriage*, above, for information on how to obtain a certified copy of a D.C. marriage certificate.

(ii) *Who Should Come to the Hearing:* Only the plaintiff needs to appear. The court will mail a notice of the hearing to the defendant at the address that is on record in the case file; the defendant is free to come but is not required to. If jurisdiction is based on the defendant's residency, however, remember that the plaintiff will have to demonstrate to the court that the defendant meets the residency requirement. In that situation, depending on the circumstances, the plaintiff's testimony may be enough but, under certain circumstances, the court might require additional evidence (documents, witnesses – or, of course, the defendant her/himself could appear and testify).

<p><i>Teaching tip:</i> Be sure that participants understand that the court can grant the divorce even if the defendant is not there. This can be a source of confusion or concern.</p>
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The only evidence of the parties' separation that is typically required is the plaintiff's testimony. There does not need to be a corroborating witness.

(iii) *The Hearing*: If possible, it is helpful to arrive early for the hearing and check in with the courtroom clerk; otherwise, the participant(s) should just have a seat in the courtroom. There may be other people and lawyers in the courtroom also waiting for their cases to be heard; many kinds of Family Court cases, included divorces, are open hearings.

When the courtroom clerk calls the participant's case, the participant should go to the table at the front of the courtroom, remain standing, and wait until the judge begins to ask questions. The judge will ask the party/parties to state their names and the party/parties will be put under oath. If everything is in order in the court file, the judge will proceed to ask the plaintiff a series of questions in order to establish on the record that the plaintiff is eligible for a divorce. In essence, the judge will be asking for the same information that is in the complaint. If the defendant is there, the judge may ask the defendant if s/he agrees with what the plaintiff has said. In a consent divorce, the party/parties typically stand at counsel table while testifying.

The following are typical questions for an uncontested divorce hearing:

- **Please state your name, address, and telephone number for the record.**
If you are frightened for your safety, or fear harassment or harm from someone, you can tell the judge that; the judge might ask for a "substitute address" which might be a post office box, or the address of a friend or relative.
- **How long have you lived in the District of Columbia?**
- **Are you married? To whom?**
- **Please state your spouse's full name, address and telephone number for the record.**
If you don't know the address or phone number, tell the judge that.
- **When did you and your spouse marry? Where did you and your spouse marry?**
- **Did you bring your marriage certificate? Is this a copy of your marriage certificate?**
Give your marriage certificate to the judge's clerk, who will hand it to the judge.
- **Did there come a time when you and your spouse separated? When was that?**
- **Have you lived continuously separate and apart since that time? Without**

cohabitation/sexual relations?

If less than one year, the judge might ask:

- Have you and your spouse mutually and voluntarily lived separate and apart from each other without cohabitation for more than six months?

- **Do you have any children together by birth or adoption?**

If the answer is “yes” the judge may also ask some of these questions:

- Are you asking the court to determine custody or child support?
- **Are there any personal or real property rights that need to be decided here today?**
- **Are you asking for your former name to be restored?**

If the answer is “yes” the judge may also ask you:

- Is your request made for any illegal or fraudulent purposes?
- *If there is a written settlement agreement, the judge may ask* **Is this your settlement agreement?**
- **Are you asking for a divorce?**

g. When is the Divorce Final?

The judge will complete and sign a written divorce order (also called “Findings of Fact, Conclusions of Law, and Judgment of Divorce”). The judge may do it right after the hearing, and provide a copy to you, or the judge may do it later in which case copies will be mailed to both parties.

Both parties have the right to appeal the judgment for 30 days following the date of entry (the date stamped on the order). On the 31st day, if neither party has filed a notice of appeal, the divorce is final. The finality relates back to the date of entry of the written order, so that the date of the divorce is the date that the order was entered. If both parties sign a “Waiver of Right to Appeal” and submit it to the court when filing or at the hearing, the divorce will be final as of the date of entry, with no right to appeal.

<p>Teaching tip: If an additional or certified copy of the divorce decree is ever needed, it can be obtained from the Family Court Central Intake Center.</p>
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Teaching tip: Remember that the Clinic is designed primarily for uncontested divorces and that we cannot give legal advice. While we want to give participants an overview of issues that may arise in a divorce, be as helpful as possible, and answer individual questions about the process, be mindful of the limits of the Clinic's capacity and of time constraints.

IV. SUBSTANTIVE LEGAL ISSUES

A. PROPERTY

Determining property rights is a two-step process: (1) property must be classified as either marital or separate, then (2) any property classified as “marital” is subject to being distributed by the court (divided between the spouses).

1. What is Property: Property includes *real estate* (such as land and houses), *personal property* (such as cars, furniture, tools, and household goods), *cash assets* (such as bank accounts, stocks or other investments), *intangible assets* (such as the good-will value of a business), *debts* (such as student loans, credit card balances, tax deficiencies, personal or bank loans), and *pensions* or retirement plans.

2. Classification of Property: Before dividing marital property, the parties must determine which property is marital; that is, which property can be divided. In D.C., **separate property** is (1) any property a spouse acquired prior to the marriage that has been kept separate during the marriage, or (2) any property acquired during the marriage by one spouse alone through gift or inheritance, including any increases to the value of the sole property. **Marital property** is all other property that either party, or both parties together, accumulated during the marriage, regardless of how it is titled (whose name it is in) and regardless of who paid for it.

Each party has the legal right to obtain full information about the other party’s income and property through discovery. For example, one spouse might provide the other with the account number and amount in each bank account, the name and value of each pension or retirement plan, and a description and the fair market value of real estate owned. Having this information is important because it helps the other spouse know what assets are marital property subject to division at divorce.

If a spouse does not ask the court to divide all marital property at the time of divorce, the court probably cannot or will not allow that spouse, after the divorce becomes final, to claim a share of what might have been marital property or an “overlooked” asset, except in some very limited circumstances.

3. Division of Marital Property: The District of Columbia is what is known as an “equitable distribution” state. District of Columbia law provides for distribution of marital property upon divorce “in a manner that is equitable, just and reasonable,” after considering all relevant factors. Relevant factors may include the duration of the marriage, the amount and sources of income, and each party’s contribution, including non-financial contributions, to the marital estate.

Equitable distribution does not necessarily mean “equal” distribution; D.C. is not a “community property” jurisdiction. The court can allocate property (or its value) based on what the court thinks is fair. That could be 100 percent/0, 50/50, 35/65, etc.

It does not matter in whose name the property is titled. The court can divide marital property without regard to title (i.e., even if it is in the name of only one spouse) after considering the relevant factors. The fact that one spouse paid for the property also does not prevent the court from distributing the property to the other spouse or dividing the property.

Dividing/distributing property may mean assigning ownership, or it may mean entitling a spouse to a certain sum of money representing her/his share.

Teaching tip: The court usually does not automatically allocate marital property. The court will usually only do so if a party requests it to. During the property discussion, participants can become confused or worried so it may be important to clarify this point. If the parties don’t ask the court to divide up their property, the court will usually not get involved. Also, if the parties have an agreement as to how they want to divide their property, the court will also not get involved.

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- *Transfer of Ownership:* The Court has the power to transfer ownership in property upon divorce. This is different from most other jurisdictions, where the Court can only divide the value of the property upon divorce as opposed to transferring actual ownership.

If there is any jointly-titled real property being transferred from one spouse to the other, and the property is encumbered by a mortgage, the parties may need to notify the mortgage company and make arrangements made for the spouse acquiring the property to either assume the existing mortgage or arrange a refinancing to remove the other person's name from the mortgage note. If this does not happen, one spouse will no longer have an ownership interest in the property but will remain obligated to the lender pay the mortgage.

3. Pensions: Pension benefits accumulated during marriage can be marital property. Division of these assets must be addressed as part of the divorce or else, as with most other marital property, the court loses the authority to divide it. A court order with very specific language, known as a “qualified domestic relations order” or “Quadro,” is needed to assign pension benefits, and the party seeking an assignment must prepare an appropriate order and submit it to the court. The court will not prepare these orders.

- *Social Security:* These principles of division of marital property and pensions do not apply to Social Security. An ex-spouse's eligibility for Social Security based on the wage-earner spouse is regulated differently. Information on eligibility can be obtained at http://www.ssa.gov/OP_Home/handbook/handbook.03/handbook-0311.html (the Social Security website). There are several requirements, including that the parties must have been married for 10 years before the divorce is final.

a. Types of pensions

There are many different types of pensions (private plans, plans sponsored by federal and local government, military pensions, railroad plans, foreign service plans), and each type has a different mechanism for distribution, with fairly rigid rules. For the most part, pensions and retirement benefits cannot be handled pro se and, if at all possible, the participant should be encouraged to seek the assistance of an attorney. Some attorneys, instead of representing a

client for the entire divorce matter, may be willing to consult with a client on the pension issue alone (a concept called “unbundled legal services”) for a more affordable fee.

If a party is seeking a share of the other party’s pension, there may be special steps that must be taken before the divorce is final. There is no guarantee that a divorced spouse will receive a share of his or her ex-spouse’s pension unless the court enters an order before the divorce is final. It is the party’s responsibility to ask for a share and see that the necessary legal steps for receiving it are taken at the time of divorce (even though actually collecting the pension may not occur until later, after the ex-spouse retires or dies).

4. Debt: The court can also divide and assign responsibility for joint debt. Credit card and other debt accumulated during the marriage may sometimes be difficult to resolve but, particularly if both parties’ names are on a credit card, a spouse should consider addressing this because many creditors will pursue both parties regardless of the divorce.

<p>Teaching tip: More detailed knowledge about property is not necessary to teach Clinic participants what they need to know for divorce. Remember that this Clinic is not designed to provide legal advice or to assist with complex or contested matters.</p>
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B. ALIMONY

Alimony is a payment from one ex-spouse for the support of the ex-other spouse. The parties can agree between themselves to any arrangement they wish (no alimony, alimony, the amount, the duration). However, if one party is requesting alimony and the other party is disputing the request, the court will first determine whether to award alimony at all and then the amount and duration. The court will consider factors including (i) the duration of the marriage; (ii) the parties’ ages and health; and (iii) the parties’ respective financial positions. If the court decides to award alimony, then the court must decide the appropriate amount to be awarded based on the need of the party seeking alimony and the other party’s ability to pay.

1. Rehabilitative Alimony vs. Permanent Alimony: Rehabilitative alimony is alimony ordered for a definite period of time. Permanent alimony continues until one party dies, the payee remarries, or the court determines that alimony is no longer necessary. Until a few years ago, D.C. courts did not have the authority to award rehabilitative alimony. That meant that judges could only award permanent alimony or none at all. As a practical matter, judges in D.C. generally chose the latter. Alimony, especially permanent alimony, is becoming increasingly less common. Participants occasionally think that the mere fact that the other spouse earns more money will be a basis for alimony, but that is generally not the case. Similarly, because these kinds of decisions are usually very fact-specific, it is difficult to predict whether a judge will order rehabilitative or permanent alimony; but a litigant is free to request it.

2. Factors: In deciding whether to award alimony, the Court will consider the parties' ability to work or be self-supporting, the length of time required to become self-supporting, the standard of living of the parties during the marriage, the expense of maintaining two households, the length of marriage (the longer the marriage, the more likely the alimony), the circumstances which contributed to the estrangement (i.e., any fault on the part of one or both parties), the age, health, and education of the parties, each party's contribution to the marriage and family (financial and non-financial), the level of the asking spouse's need, and the other spouse's ability to pay.

3. Tax consequences: Alimony is taxable as income to the recipient, and is tax deductible for the payor.

4. Modifiable Alimony vs. Non-Modifiable Alimony: Alimony awarded by a court is always subject to modification based upon a change in circumstances. By written agreement, the parties can agree to make the amount non-modifiable.

Teaching tip: More detailed knowledge about alimony is not necessary to teach Clinic participants what they need to know for divorce. Remember that this Clinic is not designed to provide legal advice or to assist with complex or contested matters.

C. CHILD CUSTODY AND VISITATION

The court can enter an order regarding custody of the parties' children (who are under age 18) as part of the relief in a divorce case. Custody of children of one party with another parent who have not been adopted by the non-parent spouse is not an issue that would typically be addressed in the divorce. (The non-parent spouse has no inherent custody rights; s/he could, however, try to seek custody or visitation rights as a non-parent third-party, which is sometimes permissible).

The court will only make a custody determination if requested to do so by one of the parties. Even if custody is not addressed in the divorce order, either parent can file for custody or visitation at a later time. If the parties reach an agreement about custody and want it in the court order, the judge must do so unless the agreement is found by clear and convincing evidence not to be in the best interests of the child.

PAC Program: If the case is not uncontested at the time of filing and the parties have children, the parties will usually be directed to participate in the Parent Agreement for Cooperation Program (PAC). At the time of filing, a date will be scheduled for a PAC seminar and for a mediation intake. The plaintiff will be given a copy of that notice at the time of filing, which should be included in the papers served on the defendant, and the court will also mail a copy of it to the defendant. The seminar is a one-time large group session, the goal of which is to educate parents about the impact of custody disputes on the children, the importance of insulating children from the process, help parties develop conflict-free ways of communicating, help the children cope with the emotional stress and practical consequences of a separated family, and foster healthy co-parenting relationships (a session for children ages 6 to 15 is conducted at the same time).

The mediation is handled by the court's Multi-Door Dispute Resolution Center. Mediation is confidential and the judge is not informed about what is said in mediation.

If there is domestic violence, a party can request to opt out of mediation, and can request that the parties attend separate PAC seminars.

1. Age of Majority: In D.C., a child of the spouses is a person who is either born or adopted to them, is under 18 years old, and has not yet married or become self-supporting (emancipated). In other words, the court can only award custody of a child under the age of 18. (Note, however, that in D.C., child support obligations continue until the child has reached the age of 21).

2. Types of Custody and Definitions

Until a court issues an order addressing custody, both biological parents share have equal rights to make decisions (legal custody) and equal rights to access (physical custody).

a. Legal Custody: Legal custody refers to the authority and duty to make long-range decisions concerning a child’s life, including education, discipline, medical care and other matters of major significance to a child’s life.

b. Physical Custody: Physical custody refers to physical control over the child (and those decisions incident to such immediate control).

c. Joint Custody: Joint legal custody is usually considered to be equal or shared decision-making authority. Joint physical custody is much less clear but usually means roughly equivalent time spent with each parent.

3. Court-ordered Custody: The court can award sole legal or physical custody, joint legal or physical custody, or any custody arrangement that is in the best interests of the child. Sole physical custody is sometimes referred to as “primary physical custody” or “residential custody.”

A court order can use the terms “joint” or “sole” without further clarification. On the other hand, much more detailed, explicit arrangements for either legal or physical custody or both can be set forth in the order.

4. Best Interests of the Child: The standard the court will use to make a custody determination is the “best interest of the child.” There are 17 non-exclusive statutory factors that a court must consider, in addition to any other relevant information or issues. These factors include (1) the degree of each parent’s involvement with the child and the quality of each parent’s relationship with the child, (2) the quality of the parenting, (3) the needs of the child, (4) which parent will foster the child’s continued relationship with the other parent and extended family, and (5) the child’s wishes.

5. Presumption of Joint Custody: The law in D.C. governing child custody provides that there is a rebuttable presumption that joint custody is in the best interest of the child. Although the law is not clear, the presumption is more typically applied in connection with legal custody, not physical custody.

6. Presumption Against Joint Custody: Conversely, the law also provides a presumption against joint custody in cases in which the court finds or has found by a preponderance of the evidence that there has been abuse and neglect, domestic violence or parental kidnapping as defined by law.

7. Visitation: If one parent gets sole physical custody (sometimes called primary physical custody or residential custody), the court determines the other parent’s visitation rights (sometimes called access). Visitation rights can be very broadly defined (reasonable rights of visitation) or very specifically defined (schedules, conditions).

8. Special Jurisdiction Issue in Divorce/Custody Cases: Unlike a divorce where one spouse's six-month residency in D.C. establishes subject matter jurisdiction, the jurisdictional requirements for custody are different. Custody jurisdiction is governed by the Uniform Child Custody Jurisdiction and Enforcement Act. If there has never been a prior custody order, a request for custody must usually be brought in the child's "home state." "Home state" is the state in which the child has lived with a parent or a person acting as a parent for at least six consecutive months immediately preceding the filing of the case. If there has been a prior custody proceeding, the analysis is different and, in general, the state in which that order was

issued retains jurisdiction unless no party/child resides there or unless that court issues an order declining jurisdiction.

If you have participants who are custodial parents living in Maryland or Virginia and whose spouses live in D.C., or participants who live in D.C. but whose children live outside of D.C. with the spouse, you will want to let them know that although they can file for divorce in D.C., they will have to ascertain whether they can resolve a dispute for custody in D.C., particularly if it is not clear whether D.C. is the home state if this is an initial determination, or if there has been a previous custody order, and thus may need to seek additional information.

Teaching tips: More detailed knowledge on custody is not necessary to teach Clinic participants what they need to know for divorce. Remember that this Clinic is not designed to provide with legal advice or to assist with complex or contested matters.

D. CHILD SUPPORT

Child support for the parties' children can be requested as part of a divorce case. (A non-parent (step-parent) has no duty to support the other spouse's biological children.) If the parties do not request child support, the court will not order it. Even if the divorce order does not address child support, a party can file for child support at a later time. A parent's duty to support the child lasts until the child is 21 (although the parties can agree to a child support arrangement that lasts longer). Retroactive support can only be ordered for two years back from the date of filing except under special circumstances.

Jurisdiction: Jurisdiction over child support is governed by the Uniform Interstate Family Support Act. As with custody, it is possible in theory that child support cannot be ordered by the same state that can grant the divorce. Typically, however, if D.C. has jurisdiction over the divorce, it will also have jurisdiction over child support.

Amount: The D.C. Child Support Guideline is codified at D.C. Code § 16-916.01. The Guideline is essentially a mathematical formula. The guideline is presumptively applicable in all child support cases, unless it would be unjust or inappropriate in the circumstances of a particular case. Any departure from the guideline must be set forth and explained in writing. The guideline includes a list of factors the court may consider in departing from the guideline.

The Guideline uses what is known as an income-shares model. A “Basic Child Support Obligation” (set by a schedule within the Act based on the parties’ combined gross incomes and the number of children), as well as health insurance premiums, extraordinary medical expenses and child care expenses, if any, are divided by parents in proportion to their adjusted gross incomes.

To calculate the guideline amount under the new Child Support Guideline, the following information is used: (1) the gross income of both parties from all sources; (2) the amount of any court-ordered child support that is being paid by either party; (3) the cost of the child’s health insurance premiums, extraordinary medical expenses and childcare expenses, as well as how much each party is paying for each; (4) the number of children between the parties; (5) the number of other biological children living in each party’s home; and (6) the amount of time the child spends with each party. With this information, the Child Support Guideline calculates the Basic Support Obligation, which the parties share in proportion to their incomes. The cost of any child’s health insurance premiums, extraordinary medical expenses and childcare expenses are then added to the Basic Support Obligation, again in proportion to the parties’ income.

There is a computer program available on-line called the Child Support Guideline Calculator that will allow you to input the data and calculate the amount of support. The website is at <http://csed.dc.gov/csed/site/default.asp>.

E. TAXES

A couple may file joint federal and local tax returns as long as no final judgment of divorce has been signed by December 31 of any tax year. Parties can also file “married filing separately”

which may be a good idea if one spouse is not reporting all income or is taking questionable deductions.

a. Claiming Exemptions

(i) *Head of Household*: Only the custodial parent can qualify for the head of household exemption. To qualify, the taxpayer must be unmarried or must live separate from his or her spouse for at least the last six months of the year. Further, the taxpayer must not be a surviving spouse (that is, a qualifying widow or widower with dependent children so as to be eligible to file a joint return the two tax years following the death of the spouse), the taxpayer must furnish more than half the cost of maintaining his or her home, and the home must constitute the dependent child's principal place of abode for more than half the year.

(ii) *Dependency Exemption*: The general rule is that the custodial parent is entitled to the dependency exemption for his or her child if the child is in the custody of one or both parents for more than one-half of the year, the child receives over half of his or her support during the year from the parents, and the parents are divorced, legally separated, separated under a written separation agreement or lived apart at all times during the last six months of the calendar year. Even if the non-custodial parent furnishes over half the child support, the custodial parent is still entitled to the deduction. The key to the custodial parent receiving the dependency exemption is not the amount of support such parent expends on the child, but rather who has custody.

Unlike the head of household exemption, which cannot be taken by the non-custodial parent, the parties can agree who shall take the dependency exemption, and a non-custodial parent can thus take it upon agreement of the parties (for example, parents can agree to alternate years). If the parents so decide, however, the custodial parent will need to sign IRS form #8322 releasing his/her claim to exemption.

(iii) *Child Tax Credit*: The new Taxpayer Relief Act of 1997 introduced a tax credit to accompany the dependency exemption. This tax credit, called the *child tax credit*, is based on the number of the taxpayer's dependent children, beginning in 1998 and permits a taxpayer to claim a credit against income tax for each "qualifying child" in the amount of \$400 per child for

1998 and \$500 beginning in 1999. A “qualifying child” is any individual under the age of 17 for which the taxpayer is entitled to a dependency exemption (as discussed above). If the taxpayer has three or more qualifying children, the amount of credit can be greater.

(iv) *Child Support*: Child support is an obligation owed to the child and as such is not taxed to the custodial parent who receives it for the children. It is also not deductible by the parent who pays it.

(v) *Alimony*: Alimony (spousal support) must be reported as income by the person who receives it under an agreement or court order. The person who pays it can claim it as a deduction.

(vi) *Marital Home or Other Property*: Anyone who has questions about taking any deductions for mortgage and other payments or reporting any income from sale or other circumstance should be told to seek legal counsel.

F. RESTORATION OF FORMER NAME

Either party can request restoration of her/his birth given or former name if the party changed her/his name upon marriage. The divorce order will state that the party’s name is being changed and will state the new name. A spouse does not have to take back her/his birth-given name upon divorce. One spouse cannot make the other spouse change her/his name.

V. TEACHING POINTS

Remember your audience. Representing oneself in a divorce action can be difficult for even the most educated and informed individual. The participants of the Clinic have varied occupations, educations, and knowledge. While many people in the District of Columbia are highly educated, many read below the 6th grade reading level. And even individuals with more formal education generally do not understand how the legal system works.

Remember to explain any legal terms you use as simply and concisely as possible. Be patient. Not everyone knows that "continuance" does not mean "let's keep talking" but rather "go away and come back another day."

You may accept questions throughout your presentation or ask for questions to be held to the end. Make sure to leave time for questions. Listen carefully to questions. If they take up too much time to answer completely or are not related to the topic you are currently addressing, suggest to the participant that you would like her/him to hold the question until you reach the topic at issue or after the session.

1. **Don't be nervous.**
 - you have a team leader and D.C. Bar staff to help you out
 - reading from this manual makes it harder for participants to understand
2. **Remember your audience.**
 - we can only help with D.C. cases
 - this can be an emotional time for some of the participants
 - skip unnecessary sections (e.g., if all participants were married by ceremony, skip common-law marriage)
 - sometimes parents cannot avoid bringing children; tailor your language accordingly
3. **Remember why you are here.**
 - don't be afraid to answer questions, or to say you don't know the answer to a question
 - remember the difference between legal information and legal advice; you can tell a participant that her/his question is something that goes beyond what the clinic can do
 - empower your participants to feel confident in handling their cases pro se; remind them about the Family Court Self-Help Center
4. **Remember there are two sessions: a class and a workshop.**
 - participants can come back to the follow-up workshop
 - for help with questions or filling out legal documents
 - participants with custody issues can also attend the Pro Se Plus Custody Clinic
5. **Remember to wrap up with your team leader.**
 - it is helpful for the volunteers to debrief together before leaving the clinic
 - *please* fill out your volunteer evaluation – it helps us make this a better clinic
 - call or email us with any questions, comments, concerns or compliments

VI. FREQUENTLY ASKED QUESTIONS AND SUGGESTED RESPONSES

- **Frequently Asked Questions and Suggested Answers in Divorce Cases**
- **Frequently Asked Questions and Suggested Answers about Custody**
- **Frequently Asked Questions and Suggested Answers about Child Support**

A. FREQUENTLY ASKED QUESTIONS AND SUGGESTED ANSWERS IN DIVORCE CASES

- 1. Question: Can I change the locks on the house?**
Answer: This is a tough question to answer without consulting an attorney. You should suggest that the person seek legal advice if this is truly an issue.

Generally, if the property is titled in both of your names, and possibly if it is marital property regardless of how titled, you both have a right to be there; therefore, you could change the locks, but your spouse can just as easily call a locksmith and have a new set of keys made.

Also, if there comes a point where you are threatened with physical abuse, then you may be able to file for a Civil Protection Order to try to get your spouse out of the house.
- 2. Question: What is a legal separation?**
Answer: A “legal separation” can only be granted by an order of the court.

However, you do not have to get a court order to be able to separate from your spouse. You can separate or move out without having to get permission from the court.
- 3. Question: Do I need to get a legal separation before I can get a divorce in D.C.?**
Answer: No.
- 4. Question: I haven’t been separated from my spouse long enough to get a divorce. Can I file now anyway?**
Answer: No. You have to wait until the six month or one year separation period has gone by, and then you can file for your divorce.

If you want a court order about custody or child support, you can file a separate case about that at any time – you don’t have to wait until you file for divorce.
- 5. Question: I am still living in the same house as my spouse and I can’t afford to leave. Can I get a divorce?**
Answer: You might be able to get a divorce if you and your spouse have not had sexual relations and have lived completely separate lives. Because this is a more complicated situation, you may want to consult a lawyer.
- 6. Question: What is a “separation agreement?” Should an agreement between me and my spouse be in writing?**
Answer: You and your spouse may reach an agreement about issues such as division of marital property, custody, etc. It is often a good idea to put

agreements in writing because if they are not in writing, your spouse may be able to change his/her mind. If the agreement is in writing, your spouse may be bound by it (or at least have to go to court in order to try to get a change). You and your spouse may also agree to have your agreement made part of the divorce order. Depending on how complicated your situation is, you may want to seek legal advice about whether to have a written agreement and how it should be worded.

7. **Question:** **If I got married in another state/country, can I file for a divorce in D.C.?**
Answer: *Yes, if you or your spouse meet the six-month D.C. residency requirement and have a six- month voluntary or one year separation. It does not matter where you were married.*
8. **Question:** **Can I count the time we have been separated if it occurred outside D.C.?**
Answer: *Yes.*
9. **Question:** **If my spouse abandoned or abused me and my children, can I get a divorce based on the abandonment or abuse (grounds for divorce)?**
Answer: *Not in D.C. There are only two grounds for divorce in D.C. and they are both no-fault. The only two grounds are: (1) six month separation if the separation is mutual and voluntary without sexual relations with your spouse, or (2) one year separation without sexual relations with your spouse if one of you does not want to be separated.*
10. **Question:** **If I sleep with my spouse or she or he spends the night, can we still be divorced if we are living separately?**
Answer: *No. Under either ground for divorce, you cannot engage in sexual relations (cohabitation) during the entire time of separation until your hearing date. If you do engage in sexual relations, you need to wait another six months or a year before you can start the divorce process.*
11. **Question:** **Can I get a divorce if my spouse doesn't agree to it or ignores the whole thing?**
Answer: *Yes, as long as the requirements for the divorce are met (one spouse's D.C. residency for six months immediately preceding filing, and six months voluntary or one year separation).*
12. **Question:** **Does it make a difference whether I am the plaintiff (which means I filed first) or the defendant in a divorce case?**
Answer: *Except in rare situations, it does not make any difference who files first.*
13. **Question:** **If I live in D.C. but my spouse does not, can I file for divorce in D.C.?**
Answer: *Yes. In order to file for divorce in D.C., only one of you has to have been a D.C. resident for six months just before you file.*

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- 14. Question: Can I file for divorce in D.C. if I don't live in D.C.?**
Answer: If your spouse has lived in D.C. for six months just before you file, you can file in D.C.
- 15. Question: What happens if I move out of D.C. after I file for divorce?**
Answer: Usually nothing, if your complaint was filed in D.C. and it was served properly. If your residence is the basis of the divorce, you only need to have lived in D.C. for six months prior to your filing and you must make sure you tell the judge that you met this requirement at the time you filed.
- 16. Question: If my spouse's residence in D.C. is the basis of the divorce, and I don't live in D.C. and my spouse moves, can I still get a divorce in D.C.?**
Answer: Yes. You can still get the divorce as long as you can prove to the judge that your spouse was a resident of D.C. six months just before the divorce was filed. If your spouse will come to the divorce hearing and say that she or he lived in D.C. for six months just before filing, this is usually good enough. If your spouse won't be at the hearing, then you will have to present proof that your spouse was a D.C. resident. Your testimony may be good enough, and you can also bring other witnesses or documentation.
- 17. Question: I just went to the courthouse and filled out papers for divorce. What do I do next?**
Answer: You must have a copy of the Complaint and the Summons served on your spouse. You may have your spouse personally served with your Complaint and Summons or have the papers served on a person of suitable age and discretion who lives with your spouse. You may also serve the papers by certified mail, return receipt.
- If you are unable to locate your spouse, you may be allowed to have your spouse served by publication or posting if you file a motion with the court and the motion is granted.*
- 19. Question: Can I serve my spouse on her or his job?**
Answer: Yes. You can have your spouse personally served anywhere you can find her or him.
- 20. Question: Can I serve the divorce papers on my spouse myself?**
Answer: Not if it is personal service (hand-delivery). Anyone over the age of 18 can serve the papers, but not you. You can ask a friend or co-worker to serve the divorce papers on your spouse or you may hire a process server to serve the papers. If you serve the papers by certified mail-return receipt, however, you can do the mailing.

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- 21. Question: I can't locate my spouse. Can I still get a divorce?**
Answer: Yes, you can. You have to make reasonable efforts to try to find your spouse. Then you have to file papers with the court listing what you have done to find your spouse, and asking the judge to let you publish a notice of the divorce in the newspaper or post a notice in the courthouse if you cannot afford to publish.
- The Family Court Self-Help Center, or the Family Court Central Intake Center can give you the forms you need to file to make these requests, and the SHC can assist you with additional information.*
- 22. Question: I was just served with a complaint for divorce. What do I do?**
Answer: You have to file an answer within 20 days of the date you were served telling the court whether you agree or disagree with what your spouse is asking for in her or his Complaint. If you don't file an answer, the court can enter a default against you and your spouse may be able to go forward with the divorce case without your participation. If you have missed the filing deadline, you can request permission to late-file.
- 23. Question: I served my spouse with the divorce papers and she or he hasn't filed anything. Now what do I do?**
Answer: In order to go ahead with your divorce, you have to file "default papers" with the court. The Family Court Self-Help Center and the Family Court Central Intake Center both have this form and the SHC can assist you in filling it out. After the default papers are filed, the judge can usually go ahead and have the final divorce hearing.
- 24. Question: What happens at the initial hearing?**
Answer: This is the first hearing in the case. The judge will want to find out if your spouse has been served. If not, the judge will usually give you more time. If your spouse has been served and comes to the hearing, the judge will start to find out something about the situation and what is in dispute in order to decide how to handle the case. If your spouse has been served and does not come to the hearing, the judge will ask you to file default papers and then the judge will be able to hold your divorce hearing.
- 25. Question: If I have filed my complaint and served it properly, and my spouse has not filed an answer, is it true that I might be responsible for hiring an attorney for him even though I don't have one myself?**
Answer: This used to be true but now it is very rare. It might happen if you are asking the court to divide marital property. If the judge determines it is appropriate, then counsel will have to be appointed for your spouse before the case will be scheduled for a final hearing. You will only have to pay a set amount, which is \$200.00. But, again, this does not happen often.

26. Question: My spouse has filed [or I have filed] an answer disagreeing with some of what I've asked for. Now what happens?

Answer: At the initial hearing, the judge will start to become familiar with what the issues are in your case, and decide how to proceed. Usually the court will schedule a status hearing next. If it eventually becomes clear that you and your spouse cannot reach an agreement, the judge will schedule a trial at which you and your spouse will both have the opportunity to present relevant information, and the judge will decide the disputed issues.

27. Question: My spouse and I are both agreeing to the divorce. How does that work?

Answer: If your spouse will sign and file an answer and an "uncontested praecipe" that states that she or he agrees with everything you are asking for, your divorce is "uncontested" and your divorce hearing can be scheduled right away.

28. Question: Can I get alimony (spousal support)?

Answer: If you request alimony, the court will decide whether or not to order it. The court will consider a number of factors when deciding whether to give you alimony, including how long you were married, the income and earning potential of each of you, your and your spouse's health. The court will consider a person's ability to pay and the other person's need in determining if alimony is appropriate. The court may order one party to pay alimony to the other spouse, on a short-term or long-term basis, if the court finds that is "seems just and proper."

29. Question: What is the difference between a "contested" and "uncontested" divorce?

Answer: An "uncontested divorce" is when you and your spouse have agreed about all the issues that a court normally considers in a divorce (i.e. eligibility for a divorce, custody, visitation, child support, property, and alimony). In an uncontested divorce, the judge does not have to decide any disputed issues between you and your spouse and just has to grant you the divorce. If the divorce is "uncontested" you will get a divorce much faster. For a divorce to be uncontested, your spouse must file a written answer stating that s/he agrees with what you want.

If you and your spouse disagree about any of these things, then the divorce will be "contested" and will take longer to be resolved.

If your spouse cannot be located or refuses to participate, your divorce is handled like a "contested" divorce.

30. Question: If we don't reach an agreement about how our property will be divided, how will the judge decide how to divide it?

Answer: If you don't reach an agreement, the court will have to determine what property constitutes "marital property" and then divide it in a manner that seems fair and reasonable.

Whether your spouse will get any share of the marital property and, if so, how much, depends on the specifics of your case. Your spouse does not automatically get a share (or vice versa) – the court will take a number of factors into consideration in deciding what is fair.

If you have valuable property or property that is important to you, you may want to consult an attorney.

31. Question: If I don't know what our assets are, or how much the other person makes, how can I find this information?

Answer: You are entitled to ask your spouse for information. This is called "discovery." For example, you can send written questions for your spouse to answer (Interrogatories) and you can ask your spouse to give you any records that she or he has (Requests for Production of Documents). You may also ask your spouse to submit to a deposition or respond to Requests for Admissions. You may ask the Court for assistance in compelling or requiring your spouse to respond to your discovery requests.

You may be able subpoena records from third parties (such as your spouse's employer) or other entities that may have information about your spouse's assets. If you believe your spouse may have assets that you do not have information about or if you need assistance with discovery, you may want to speak with an attorney.

32. Question: My wife and I have been separated for many years. We haven't spoken since the 1980's. Since that time, using my work income, I have bought a house and a car, which are titled in my name only. If I file for divorce now, can she claim that this property is hers and will the court give her part of it?

Answer: You may need to consult a lawyer about a question like this. Technically, property acquired by either one of you after you were married could possibly be divided up by the court. The judge has to decide whether you spouse should get a share at all and, if so, how much. However, the court must make that decision based on what's fair and reasonable – your spouse does not automatically get a share. What's fair will depend on the specifics of each case.

Note: Though you may get this type of question quite often, this is a difficult one to answer. D.C. Code sec. 16-910, which governs the distribution of marital property, requires that a trial

court arrive at an equitable distribution of the property that a couple acquires “during the marriage.” In general, if the parties have been separated and have acquired property during the separation period, and if there are no special circumstances, it is unlikely that a judge would award a share of that property to the other spouse.

The house and car in this question appear to be marital property because marital property is defined as property acquired during the marriage regardless of how it is titled, unless it is separate property as defined by D.C. Code sec. 16-910(a) (generally separate property is separately titled property acquired (1) before the marriage; (2) during marriage by gift from someone other than the spouse; (3) during marriage by inheritance; (4) in exchange for other separate property; or (5) specifically excluded from the marital estate by agreement).

Obviously, this type of question is highly fact-specific, and it is doubtful that the person asking it will have given you all of the relevant facts necessary to answer it properly. The Clinic is not equipped to address complicated property questions such as this. Thus, you should suggest that the person obtain legal counsel if this is truly an issue.

33. Question: How will the court consider our debts?

Answer: If you or your spouse asks the court to do so, the court will identify the debts accumulated during the marriage, whom they were incurred by, and for what purpose. Then the judge will decide, based on what is fair, who is responsible for paying back which debt.

34. Question: My spouse and I have been separated for over a year, but I’m afraid that over the course of the past year, she has been accumulating a lot of debt on her credit card. Am I going to be responsible for that?

Answer: You should speak to a lawyer about this issue. You can always explain this situation to the judge at the hearing and ask the judge to decide whether you share responsibility for this debt.

Note: The answer to this question also depends on the facts and you should suggest the person obtain legal counsel if this is truly an issue. To address it briefly: first, “marital debt” may be distributed the same way that marital property is. So the court could be asked to rule on who is responsible for the debt. Second, it may also depend on whether the wife’s credit card is in her name or in both parties’ name. If both parties’ names are on the card, then the creditor may continue to hold both parties responsible regardless of the divorce. In theory, a court order making the other spouse responsible should protect you but, in practice, the credit card company may say that you are still responsible and that it’s up to you to get reimbursed by the other spouse.

34. Question: I have been accumulating a pension over the course of my employment. Does my husband have a claim to part or all of that pension?

Answer: Retirement and pension plans – at least the portion that have been acquired since you were married – are included in the definition of

“marital property” that the court can divide. However, like any marital property, the court must divide it in a way that is fair. Your spouse does not automatically get a part of your pension (or vice versa). If you think this is going to be an issue in your case, you may need to consult a lawyer.

Note: The mechanics of division of retirement plans are governed by federal law, and differ according to the type of plan and whether the employee is in pay status. The valuation of the plan also depends upon the type of plan, and the determination of what portion, if any, was earned during the marriage can involve the use of complicated formulas. Unfortunately, this question does not lend itself to a simple answer. Participants may be best served by being referred to the Pension Rights Center (202-296-3776), a nonprofit public interest group in D.C. organized to educate the public about pension issues.

35. Question: How does dividing a pension work?

Answer: Typically, this requires the entry of a court order called a Qualified Domestic Relations Order. You must provide the court with a proposed order. These orders can be complicated to draft, and you may need to hire an attorney to do this. Alternatively, you can try contacting the pension provider and request a form order, if they have one.

36. Question: What happens at the divorce hearing? Do I have to bring anything?

Answer: If the only thing the judge has to decide is whether to grant the divorce, the judge will just ask you questions to establish that you are eligible for divorce. You will have to bring a certified copy or the original of your marriage certificate.

37. Question: Do both of us have to be at the divorce hearing?

Answer: Your spouse does not have to be at the divorce hearing in order for the divorce to be granted.

38. Question: What should I be prepared to tell the court about during my divorce case?

Answer: The court will ask you questions to make sure that you meet the requirements for a divorce.

If your case is contested and there are other issues the court has to decide, the court will want you to present information that will help the court make a decision. You may bring other witnesses and documentation that support your position.

39. Question: My spouse has been abusive to me. Will the court consider the abuse when deciding issues about the children, property or alimony?

Answer: The court can at least consider the behavior, including abusive behavior, of either person when deciding child custody, property division, alimony. So the abuse can be important to show to the court.

40. Question: Can I make my wife take her maiden name back and keep her from using my name in the future?

Answer: No. That is her choice to make.

41. Question: Can I get remarried right after I get my divorce?

Answer: No. You have to wait until the divorce is final, which is usually 30 days after the date the court stamped on the divorce order (which is usually a couple of days after your final divorce hearing), unless both of you have signed a Waiver of Appeal form.

Note: As noted above, many of the questions you may be asked concern potentially contested issues, such as custody or property. You can refer these participants to the Multi-Door Dispute Resolution Center, if the parties seem amenable to settlement discussion. An important fact is that participants need not file or have an active case to go to Multi-Door. You can also inform the participants that they may need to retain an attorney (The Bar Association of D.C. also offers a D.C. Lawyer Referral Service that participants may want to try 202.296.7845).

Another potential resource, however, is low-cost assistance provided through fee-based consultation with a private lawyer on a discrete aspect of the matter -- not total representation.

For example, an individual can approach a private attorney to see if that attorney would be willing – for a fee – to aid the pro se litigant with specific substantive information, advice or assistance with the particular issue that remains contested (such as custody, pension allocation, tax consequences of property settlements), without taking on full traditional representation. Whether administered as an “advice-only” law practice or whether partial representation is made available as part of traditional practice, such partial representation (which does not create a lawyer-client relationship that encompasses the entire matter) can be very helpful to the pro se litigant.

B. FREQUENTLY ASKED QUESTIONS AND SUGGESTED ANSWERS ABOUT CUSTODY

- 1. Question: What is joint custody?**
Answer: Joint custody can refer to joint legal custody, when the parties have equal decision-making authority for major decisions involving the child.

Joint custody can also refer to joint physical custody. Joint physical custody does not have a clear definition but it probably means that the child spends equal time with both parents.
- 2. Question: What is the difference between physical and legal custody?**
Answer: Physical custody refers to where the child is and when.

Legal custody refers to who has authority to make important decisions regarding the child and who has access to information regarding the child.
- 3. Question: My spouse has been abusive to me and/or my children. Will the court consider the abuse when deciding custody?**
Answer: Yes. In D.C., there is a rebuttable presumption that joint custody to both parents is in the best interest of the child. But if the court finds that domestic violence, child abuse or neglect, or parental kidnapping occurred, there is a presumption against joint custody. So it is important to prove to the court that the abuse happened to you and/or your children.
- 4. Question: What if I am afraid of my spouse visiting with my children alone?**
Answer: If you are afraid because your spouse has abused you or your children, then you can ask the court only to allow visitation with a supervisor present. That supervisor can be someone you know and trust, or you can ask to use the D.C. Superior Court Supervised Visitation Center, which is located near the courthouse. It is difficult to get the court to cut off visitation entirely unless the other parent is a danger to the child and supervision of the visits will not control that risk.
- 5. Question: What if I file for divorce in D.C., but the children live in Maryland with my spouse?**
Answer: Generally, if there has not been a previous custody order and the children have lived outside of D.C. for 6 months or more, the court in D.C. probably cannot decide custody of the children, unless both of you agree that that the D.C. court should make the decision. Either you or your spouse would have to file a case in the state where the children live if you want a court order about custody. The courts in the state where the children live will decide who will have custody. This is sometimes a complicated question, so you may want to talk to an attorney.

6. Question: What is pendente lite custody?

Answer: Pendente lite court orders are temporary orders while the case is pending and until the court makes a final decision. To obtain this, you usually have to ask for it. You may request pendente lite support in writing by filing a motion, or sometimes a judge will allow you to make the request orally at a hearing.

C. FREQUENTLY ASKED QUESTIONS AND SUGGESTED ANSWERS ABOUT CHILD SUPPORT

- 1. Question: How much child support will I get?**
Answer: Child support will be calculated based on the D.C. Child Support Guideline, which can be calculated using a mathematical that will determine how much child support you will get. To calculate the amount of child support you will get, the calculation requires each parent's gross income, work-related daycare costs paid by the custodial parent, and health insurance costs for the child paid by the non-custodial parent. The calculation also takes into account any other court-ordered child support paid for by the non-custodial parent and any other biological/adopted children living with the non-custodial parent. The number and age of the child or children for whom child support is sought also affects the amount of your child support award.

There is a computer program that does the calculation (available at court and on-line) and the judges usually just input the relevant data to determine the amount of child support. The court may consider certain factors in order to award a child support order that is different from the computer-generated guideline amount.

The non-custodial parent can also be ordered to pay for health insurance on behalf of the child if she or he can obtain health insurance for a reasonable price.
- 2. Question: Can I get child support even if my spouse and I share custody?**
Answer: Possibly. Depending on whether or not you have the child more or less than approximately 60% of the time, the Guideline formula changes.
- 3. Question: What is pendente lite support?**
Answer: Pendente lite court orders are temporary orders while the case is pending and until the court makes a final decision. To obtain this, you usually have to ask for it. You may request pendente lite support in writing by filing a motion, or sometimes a judge will allow you to make the request orally at a hearing.
- 4. Question: My child's mother has requested for child support. Can I get a paternity test? Who pays for it?**
Answer: In most cases, the judge will allow you to have a paternity test.

The judge will decide who pays for the test. If the mother is receiving TANF, the government may be able to pay for the test. Otherwise, the judge will decide whether you pay, the mother pays, or whether you split the cost. Payment has to be made before the test is done.

10. Question: I don't know much about my spouse's job or what she or he earns?

Answer: You can ask the judge to require your spouse to bring records to court concerning her or his income: for example, pay stubs, employment records, W-2 forms, and tax returns, proof of other child support orders paid, proof of day care expenses, or proof of health insurance expenses.

VII. RESOURCES

Resources Available for Your Use at the Clinic:

Booklets

- “Where to Write for Vital Records”
- “DC-Area Professional Process Servers”
- “Directory of Free Legal Service Providers”

Laminated Copies to Show Participants:

- Summons
- Financial Statement
- Requirements for Obtaining an Annulment in D.C.

Pro Se Pleadings

There are nearly 50 pleadings designed to assist pro se litigants in proceeding in D.C. Family Court.

Fliers and Brochures

- D.C. Bar Pro Bono Program Advice and Referral Clinic
- D.C. Family Court Self-Help Center
- D.C. Superior Court Multi-Door Dispute Resolution Center
- Bar Association of DC Lawyer Referral Service

DC Bar Legal Information HelpLine (202.626.3499):

The DC Bar Legal Information HelpLine is a touch-tone telephone automated information service. Clinic participants who have questions after the Clinic sessions can call this number and select the categories that interest them. They can also get a listing of free legal service providers, or leave a message with their question. Participants should speak clearly and leave their name, phone number, and question. Their call will be returned within a few days. Be sure to tell participants “If you do not leave your phone number, we will not be able to return your call.”

Referrals to Legal Services Organizations:

D.C. Directory of Legal Assistance Providers: This resource guide, produced by the DC Bar Pro Bono Program, provides specific income guideline and intake information for the city’s free legal services organizations. A copy will be available for your use at the Clinic. It can also be found at www.dcbbar.org/probono.

Referrals to Private Attorneys:

D.C. Lawyer Referral Service: Participants can contact the Lawyer Referral Service, a service of the Bar Association of the District of Columbia, at 202.296.7845. They will get a referral to an attorney who will consult with them for 30 minutes for a fee of \$40.00, and they may consider hiring that attorney to represent them if they wish.

Free Legal Information or Advice:

The Family Court Self-Help Center: Unrepresented individuals with family law issues may come to this free walk-in center located in D.C. Family Court near the Central Intake Center, in room JM-570. Hours are 8:30 a.m. – 4:30 p.m. The Self-Help Center does not provide legal advice, but will provide legal information through one-on-one conversations with customers and assistance in filling out forms and explaining court procedures.

The D.C. Bar Advice and Referral Clinic: The DC Bar Pro Bono Program conducts a Legal Advice and Referral Clinic on the second Saturday of every month at two locations in the city from 10:00 a.m. to 12:00 p.m.

The Legal Aid Society of DC: LAS is open for walk-in intake. Call 202.628.1161 for hours. Low-income participants who need brief legal advice or wish to apply for legal representation can walk in at 1331 H Street, NW, # 350.

D.C. Superior Court Multi-Door Dispute Resolution Division (202.879.1549):

Multi-Door is a division of D.C. Superior Court that provides a variety of services designed to assist people in resolving disputes. Services are **free, regardless of income**, and can be used by people with on-going court cases as well as by those who have not yet filed for divorce. Multi-Door is located at 410 E Street, N.W. Office hours are 8:30 to 5:00; mediation hours are different and include some evenings and weekends.

Multi-Door will assist divorcing couples to come to agreement on issues related to the divorce. If spouses disagree on issues such as child custody and support or the division of property, they can meet with a neutral third party who will help them identify their desires and try to mediate an agreement between willing parties. Although it is most helpful if both parties attend, if one party refuses, the other can still meet with a mediator and learn valuable information. Multi-Door will run child support guidelines for individuals who bring all financial information for both parties.

Multi-Door also has a Community and Family Information and Referral Program, which helps individuals find services, legal and otherwise, to help them with their problems. This Program is also free and individuals may call Multi-Door for an appointment or simply walk in to obtain assistance.

→ Multi-Door is not recommended for couples in which one party has a history of abusing the other because the power imbalance makes it unlikely the abused person will be able to successfully protect his or her rights. Multi-Door mediators will not protect the spouse

who is a survivor of domestic violence from giving away all his or her rights. If Multi-Door becomes aware that there may be domestic violence, they may decline the case.

Domestic Violence:

If you believe a participant is divorcing an abusive partner, or if a participant discloses that information to you, you can direct them to programs who are equipped to address their special circumstances and needs. For a general hotline regarding shelters and services, participants may call 202.399.7093. For a more comprehensive list of emergency resources, consult the Bar staff member at the Clinic.

Protection Orders: Individuals who need to obtain a civil protection order should call or visit the Court's Domestic Violence Intake Center (DVIC). The DVIC is located in Room 4550 of the D.C. Superior Courthouse, and the telephone number is 202.879.0154.

Legal Services: You should also refer to the Legal Sourcebook, as there are a number of specialized domestic violence legal services providers.

Shelter and Advocacy: If the participant needs other assistance, the following organizations provide advocacy, support or temporary shelter for battered women (some shelters do not allow children):

- House of Ruth: 202.347.2777; emergency shelter 202.547.2600
- House of Imagene: 202.387.4960
- Luther Place: 202.667.1377
- Calvary Women's Shelter: 202.783.6651
- Her Space: 202.347.2777 (Support group for battered and formerly battered women)
- Hannah House for Women: 202.289.4840
- Rachel's Women's Day Center 202.682.1005
- My Sister's Place: 202.529.5991
- D.C. Coalition Against Domestic Violence: 202-299-1186

Pension Information:

D.C. Pension Assistance Initiative: helps people with pension questions and problems. The Initiative is a cooperative effort between the U.S. Department of Labor's Pension and Welfare Benefit Administration (PWBA) and the Pension Rights Center. Its goal is to create a network of pension assistance resources for residents of the Greater Washington area. You can refer individuals with pension questions and problems to the PWBA District Office, telephone 202.254.7013, or suggest that they write to: Pension and Welfare Benefits Administration, Washington District Office, U.S. Department of Labor, 1730 K Street, N.W., Suite 556, Washington, D.C. 20006.

Your Pension Rights at Divorce: What Women Need to Know, a book written by Anne E. Moss published by the Pension Rights Center, is also a useful resource. This book, written to answer the pension questions women most often ask at divorce, provides general information about pension rights at divorce. It is available through the Pension Rights Center, 918 16th Street,

N.W., Suite 704, Washington, D.C. 20006, 202.296.3776 (*they don't take individual cases, but they try to help with problems over the phone or refer individual to the proper resource*).

The Women's Institute for a Secure Retirement (WISER): seeks to improve the opportunities for women to secure retirement income, also has several written products on divorce and pensions. Several of their products are reproduced in Appendix A, are available at the Clinic site, and are also available by contacting WISER directly at 202.393.5452.

The POWER Center Program on Women's Education for Retirement: is a joint project with WISER and the National Center on Women and Aging at Brandeis University. Participants can call 202.393.1990 or 800.929.5890 (automated voice mail system)

VIII. FORMS

A. FORMS FOR CLINIC PARTICIPANTS

- Sign-In Sheet
- Pro Se Divorce Clinic Agreement
- Participant Survey form
- Follow-Up Survey form

B. FORMS FOR VOLUNTEER CLINIC INSTRUCTORS

- List of Available Pro Se Pleadings
- Volunteer Survey form

C. USEFUL FORM PLEADINGS

- Complaint for Absolute Divorce
- Consent Answer
- Uncontested Praecipe
- Cross Reference Intake Form
- IFP (fee waiver)
- Affidavit of Service (personal; certified mail-return receipt)

DC Bar Pro Bono Program
Pro Se Plus DIVORCE Clinic

Date: _____

	Please PRINT Your Name	class	workshop	signed agreement?
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P R O B O N O P R O G R A M

Pro Se Plus Custody Clinic or Pro Se Plus Divorce Clinic
Participant Agreement

Welcome to the Pro Se Plus Clinic. The Divorce Clinic provides Participants with information about obtaining a divorce in the District of Columbia. The Custody Clinic provides information about filing for custody in the District of Columbia.

Clinic information may include educational materials and presentations by volunteer attorneys, paralegals, law students, and D.C. Bar Staff ("Clinic Volunteers"). Clinic volunteers may also provide assistance such as distributing court forms, assisting Participants in completing forms, and providing referrals to legal services and community agencies. Clinic volunteers cannot represent Participants or provide them any legal advice.

- I understand that no one from this Clinic is my attorney.
- I understand that no one from this Clinic will represent me in Court.
- I understand that no one from this Clinic can give me legal advice.
- I understand that this Clinic is free.
- I understand that I may have to pay court costs or expenses related to my case.
- I understand that I could be eligible for free services from a legal aid provider based on my income.
- I understand that other people involved in my case might attend this Clinic for help.
- I understand that some legal problems are too complex to be addressed by this Clinic.
- I understand that I have the right to hire an attorney to represent me.
- I understand that I am responsible for properly filing any pleadings or forms required by the Court.
- I agree that I will not repeat anything that is said by other Participants; I understand that the DC Bar Pro Bono Program, its volunteers, and its staff are not responsible if another Participant repeats information about me or my case.
- I have read this Agreement, or it has been read to me, and I understand its contents.

Please SIGN Your Name

Date

Please PRINT Your Name



Clinic Participant Survey – Divorce Clinic

Please help us make our Clinic better!
Tell us a little about yourself and let us know what you thought of the Clinic.

What is your gender? Male Female

How old are you? _____

How far did you go in school?

- | | |
|--|---|
| <input type="checkbox"/> Middle school/Junior high | <input type="checkbox"/> Some college |
| <input type="checkbox"/> Some high school | <input type="checkbox"/> Graduated college |
| <input type="checkbox"/> Graduated high school/GED | <input type="checkbox"/> Earned graduate/post-grad degree |

What language do you speak at home? _____

What is your household's total income from all sources?

\$ _____ per _____

How many people live in your household right now? _____

Have you already spoken to a lawyer about your divorce or custody questions?

- Yes No

How did you hear about this Clinic?

Were the teachers easy to understand?

- Yes Somewhat No

Was the presentation...?

- Just right Not enough information Too much information

Do you feel more prepared to handle your case after attending this Clinic?

- Yes Somewhat Not sure No

What could we do to make this Clinic more helpful?



P R O B O N O P R O G R A M

Clinic Participant Follow-Up Survey

Please help us make our Clinic better! Let us know how things turned out in your case.

Which Clinic did you attend?

Divorce Clinic

Custody Clinic

Date of Clinic you attended:

Was the information you learned at Session I (the Class) helpful?

Helpful

Somewhat helpful

Not helpful

Did you attend Session II (the Workshop)?

No, I decided not to go to the Workshop.

Yes, I went to the Workshop and the assistance I got there was...

Helpful

Somewhat helpful

Not helpful

Did you file a case in court?

No, I decided not to file a case in court because...

I changed my mind about (getting a divorce) or (getting custody)

We came to an agreement about our legal issues

It seemed too complicated

I did not have the money to pay the filing fees

other _____

No, the other side in my case filed a case in court and... (please explain what happened)

Yes, I filed a case in court and...

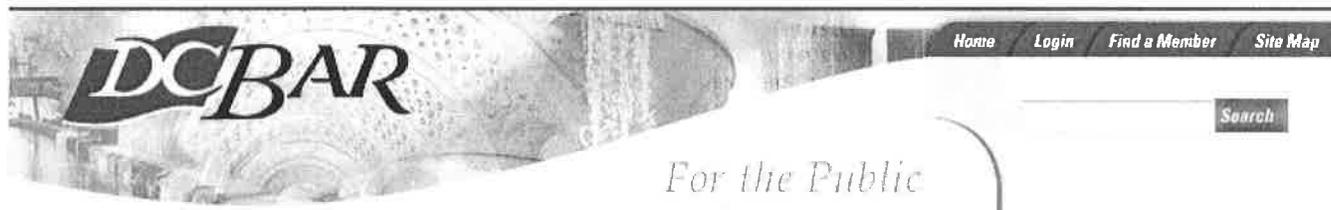
We came to an agreement without a trial

We had a trial and the judge decided our case

What could we do to make this Clinic more helpful?

Please return this survey to:
DC Bar Pro Bono Program
1101 K Street, NW Second Floor
Washington, DC 20005

B. FORMS FOR VOLUNTEER CLINIC INSTRUCTORS



Search

- ▶ For Lawyers
- ▶ For the Public
- ▶ Inside the Bar



Home > For the Public > Legal Information > Family > Family Court Forms

Pro Se Family Law Pleadings for Individuals Without Lawyers for Use in D.C. Family Court

These legal documents have been designed by the D.C. Bar Pro Bono Program's Family Law Representation Committee to help people without lawyers in D.C. Family Court. They can be used in court cases related to divorces, child custody, paternity, child support, or standby guardianships.

These free materials are intended for people who do not have lawyers. If you have a lawyer, your lawyer will draft the legal documents you need, tailored to your own specific case.

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To access these pleadings, you must have Adobe Reader. To download a free copy, go to www.adobe.com.

Annulment, Divorce, and Separation

- Divorce
 - **Complaint for Absolute Divorce**
7 page, 383.74 KB pdf file
 [Download and save now.](#)
 - **Consent Answer** (Absolute Divorce)
3 page, 168.21 KB pdf file
 [Download and save now.](#)
 - **Contested Answer and Counterclaim** (Absolute Divorce)
7 page, 283.63 KB pdf file
 [Download and save now.](#)
 - **Reply to Counterclaim** (Absolute Divorce)
5 page, 208.31 KB pdf file
 [Download and save now.](#)
 - **Joint Waiver of Appeal of Divorce Order/Judgment**
1 page, 122.10 KB pdf file
 [Download and save now.](#)
- Legal Separation
 - **Complaint for Legal Separation**
7 page, 279.08 KB pdf file
 [Download and save now.](#)
 - **Consent Answer** (Legal Separation)
3 page, 102.96 KB pdf file
 [Download and save now.](#)
 - **Contested Answer and Counterclaim** (Legal Separation)
8 page, 250.37 KB pdf file
 [Download and save now.](#)
- Annulment

Shopping cart

AIDS Walk
WASHINGTON

OCT. 27, 2012

WE'RE WALKING
to support justice and equality for our clients and the community!

Whitman-Walker Health
Legal Services Program

Register Today!

- **Complaint for Annulment of Marriage**
7 page, 117.82 KB pdf file
 **Download and save now.**
- **Consent Answer** (Annulment)
3 page, 165.40 KB pdf file
 **Download and save now.**
- **Contested Answer and Counterclaim**
(Annulment)
9 page, 282.10 KB pdf file
 **Download and save now.**
- Attachments for Divorce, Legal Separation, and Annulment Pleadings
 - **Attachment A** (Marital Property and Marital Debt)
1 page, 29.68 KB pdf file
 **Download and save now.**
 - **Attachment B** (Child Custody)
5 page, 85.61 KB pdf file
 **Download and save now.**
 - **Attachment C** (Child Support)
2 page, 49.33 KB pdf file
 **Download and save now.**
 - **Motion for Temporary Alimony**
7 page, 186.90 KB pdf file
 **Download and save now.**
 - **Cross Reference Intake Form**
1 page, 110.69 KB pdf document
 **Download and save now.**
- Motions
 - **Motion for Use in a Domestic Relations Case**
5 page, 204.02 KB pdf file
 **Download and save now.**
 - **Opposition to Motion** (Domestic Relations Case)
3 page, 141.22 KB pdf file
 **Download and save now.**

Custody

- **Complaint for Custody and/or Visitation**
7 page, 288.64 KB pdf file
 **Download and save now.**
- **Consent Answer** (Complaint for Custody and/or Access to Children)
3 page, 139.78 KB pdf file
 **Download and save now.**
- **Contested Answer** (Complaint for Custody and/or Visitation and Counterclaim)
7 page, 354.55 KB pdf file
 **Download and save now.**
- **Reply to Counterclaim** (Custody and/or Access to Children)
5 page, 471.54 KB pdf file
 **Download and save now.**
- **Motion to Modify Custody and/or Visitation**
6 page, 180.10 pdf file
 **Download and save now.**
- **Motion for Temporary Custody and/or Access to Children**
7 page, 170.45 KB pdf file
 **Download and save now.**
- **Sample Parenting Plan**
9 page, 428.25 pdf file
 **Download and save now.**

- **Motion for Use in a Domestic Relations Case**
5 page, 204.02 KB pdf file
 [Download and save now.](#)
- **Opposition to Motion** (Domestic Relations Case)
3 page, 141.22 KB pdf file
 [Download and save now.](#)

Paternity and Child Support

- **Petition to Establish Paternity and/or for Child Support**
4 page, 169.90 KB pdf file
 [Download and save now.](#)
- **Answer to Petition to Establish Paternity and/or for Child Support**
9 page, 885.64 KB pdf file
 [Download and save now.](#)
- **Motion to Intervene in Child Support Case**
9 page, 208.10 KB pdf file
 [Download and save now.](#)
- **Motion to Modify Child Support Order**
8 page, 231.74 KB pdf file
 [Download and save now.](#)
- **Motion for Contempt** (Child Support Order)
8 page, 217.61 KB pdf file
 [Download and save now.](#)
- **Motion for Use in a Paternity or Child Support Case**
6 page, 158.16 KB pdf file
 [Download and save now.](#)
- **Opposition to Motion** (Paternity or Child Support Case)
5 page, 149.06 KB pdf file
 [Download and save now.](#)

Affidavits

If the defendant in your case never answers your initial complaint, you can file for default:

- If you are serving papers by certified mail:
Affidavit of Return of Service Rule 4(c)(2)
2 page, 120.70 KB pdf file
 [Download and save now.](#)
- **Affidavit of Service** (by private process server)
1 page, 88.70 KB pdf file
 [Download and save now.](#)
- **Affidavit in Support of Default and Compliance With Servicemembers Civil Relief Act**
3 page, 83.69 KB pdf file
 [Download and save now.](#)

Motions

- **Motion for Contempt** (Domestic Relations Order)
7 page, 191.68 KB pdf file
 [Download and save now.](#)
- **Motion for Permission to Late File**
6 page, 183.88 pdf file
 [Download and save now.](#)
- **Motion for Review of Magistrate Judge's Order**
6 page, 164.46 KB pdf file
 [Download and save now.](#)
- **Opposition to Motion for Review of Magistrate Judge's Order**

5 page 465.12 KB pdf file

 [Download and save now.](#)

- **Motion for Services**

6 page, 168.48 KB pdf file

 [Download and save now.](#)

- **Motion to Consolidate Cases**

6 page, 183.67 KB pdf file

 [Download and save now.](#)

- **Request for Continuance**

6 page, 160.88 KB pdf file

 [Download and save now.](#)

Request to Have Court Fees Waived

- **Application to Proceed Without Pre-payment of Costs**

6 page, 102.18 KB pdf file

 [Download and save now.](#)

- How much it will cost to file papers in your case:

Table of Fees, Domestic Relations Branch, D.C. Superior Court

Standby Guardianship Package

- **Petition for Appointment of Standby Guardian (by Parent or Legal Custodian)**

9 page, 222.38 KB pdf file

 [Download and save now.](#)

- **Petition for Appointment of Standby Guardian (by Standby Guardian Designate)**

10 page, 430.94 KB pdf file

 [Download and save now.](#)

- **Standby Guardian Designation Form**

4 page, 69.82 KB pdf file

 [Download and save now.](#)

Service of Process

- If you cannot serve the papers because you cannot find the defendant:

- **Motion to Allow Service by Publication or Posting Including Absent Defendant Locator Worksheet**

13 page, 359.28 KB pdf file

 [Download and save now.](#)

- **Sample Letters to Locate Someone Who May Be in the Military**

7 page, 118.25 KB pdf file

 [Download and save now.](#)

Need CLE credit?

Look no further.

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P R O B O N O P R O G R A M

Volunteer Pro Se Clinic Instructor Survey

Please help us make our Clinic better! Let us know what you thought.

Which Clinic did you teach?

Divorce Clinic

Custody Clinic

Which substantive section did you teach? Did you enjoy the section you taught?

Do you feel the training prepared you to teach the Clinic?

Do you feel that your team leader provided you with adequate support?

Did any unexpected issues arise during the Clinic?

Would you like to teach this Clinic again?

What could we do to make teaching this Clinic more satisfying or enjoyable?

Please return this survey to:
DC Bar Pro Bono Program
Supervising Attorney, Family Law
1101 K Street, NW Second Floor
Washington, DC 20005

C. USEFUL COURT FORMS

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
Domestic Relations Branch**

PRINT YOUR NAME

STREET ADDRESS

CITY, STATE AND ZIP CODE

SUBSTITUTE ADDRESS: CHECK BOX IF YOU
HAVE WRITTEN SOMEONE ELSE'S ADDRESS BECAUSE
YOU FEAR HARASSMENT OR HARM.

DRB

RELATED CASES:

PLAINTIFF,

v.

PRINT YOUR SPOUSE'S NAME

STREET ADDRESS

CITY, STATE AND ZIP CODE

DEFENDANT.

**COMPLAINT FOR ABSOLUTE DIVORCE
Action Involving Child Support yes no**

I, _____, am the Plaintiff in this case and state that
PRINT YOUR NAME

**1. This Court is the proper place to decide my request for divorce and related issues
because:** [CHECK ALL THAT APPLY]

I have been a resident of the District of Columbia for more than six months
immediately before filing this Complaint.

My spouse has been a resident of the District of Columbia for more than six months
immediately before filing this Complaint.

My spouse and I are the same gender and were married in the District of Columbia. Neither my spouse nor I reside in the District of Columbia. Neither my spouse nor I reside in a jurisdiction that will allow us to maintain an action for divorce.

2. My spouse and I were married [CHECK ONE]

by ceremony on _____, in _____.

DATE

CITY AND STATE

by common law on or about _____, in _____.

DATE

CITY AND STATE

3. My spouse and I separated on or about _____.

DATE

4. I state the following about the separation: [CHECK ALL THAT APPLY]

The separation has been **mutual and voluntary**, and has continued without interruption or cohabitation for a period of more than **six months** immediately before filing this Complaint.

The separation has continued without interruption or cohabitation for a period of more than **one year** immediately before filing this Complaint.

5. I state the following with regard to my married name: [CHECK ONE]

I did not change my name when I married my spouse.

I changed my name when I married my spouse. I do not wish to return to a former name.

I changed my name when I married my spouse and I now wish to return to my birth name or another legal name I used before my marriage. I have no illegal or fraudulent reason for making this request. The former name I want restored is:

PRINT NAME YOU WOULD LIKE THE COURT TO RESTORE

Marital Property & Marital Debt

6. I state the following about property from my marriage: [CHECK ONE]

My spouse and I have no marital property.

My spouse and I have an agreement resolving all of our marital property issues and I am not asking the Court to divide or distribute any marital property.

My spouse and I have a written agreement resolving all of our marital property issues and I am not asking the Court to divide or distribute any marital property.

My spouse and I have marital property that I am asking the Court to divide or distribute, and I have completed and attached the additional information required on Attachment A, which I incorporate into this Complaint.

I am not sure if my spouse and I have marital property.

7. I state the following about debt from my marriage: [CHECK ONE]

My spouse and I have no marital debt.

My spouse and I have an agreement resolving all of our marital debt issues and I am not asking the Court to assign responsibility for it.

My spouse and I have a written agreement resolving all of our marital debt issues and I am not asking the Court to assign responsibility for it.

My spouse and I have marital debt that I am asking the Court to assign responsibility for, and I have completed and attached the additional information required on Attachment A, which I incorporate into this Complaint.

I am not sure if my spouse and I have marital debt.

Alimony

8. I state the following about my need for alimony from my spouse: [CHECK ONE]

I need permanent and/or temporary alimony from my spouse and I believe my spouse has the ability to pay alimony to me.

I do not want my spouse to pay alimony to me.

Custody

9. I state the following about our child(ren) who are under the age of 18: [CHECK ONE]

My spouse and I do not have any children together (through birth or adoption) who are under the age of 18.

My spouse and I do have children together (through birth or adoption) who are under the age of 18, but I am not asking the court to decide custody at this time.

My spouse and I do have children together (through birth or adoption) who are under the age of 18, and we have a written agreement about custody; I am not asking the court to decide custody at this time.

My spouse and I do have children together (through birth or adoption) who are under the age of 18, and I am asking the court to decide custody. I have completed and attached the additional information required on Attachment B, which I incorporate into this Complaint.

Child Support

10. I state the following about my request for child support: [CHECK ONE]

My spouse and I do not have any children together (through birth or adoption), or our children together are over the age of 21 years and are not adult disabled children.

My spouse and I do have children together (through birth or adoption) who are under the age of 21 or who are adult disabled children, but I am not asking the Court to award child support at this time.

My spouse and I do have children together (through birth or adoption) who are under the age of 21 or who are adult disabled children, and we have an agreement regarding child support; that agreement is consistent with the Child Support Guideline of the District of Columbia and/or it is fair and just.

My spouse and I do have children together (through birth or adoption) who are under the age of 21 or who are adult disabled children. I am asking the Court to award child support, *and* I have completed and attached the additional information required on Attachment C, which I incorporate into this Complaint.

Attachments

11. I have included the following attachment(s): [CHECK ALL THAT APPLY]

- No attachments
- Attachment A (Marital Property and/or Marital Debt)
- Attachment B (Child Custody)
- Attachment C (Child Support)

Request for Relief

I RESPECTFULLY REQUEST that the Court: [CHECK ALL THAT APPLY]

- Grant me an Absolute Divorce.
- Divide marital property and/or assign marital debts in a manner that is equitable, just and reasonable.
- Award alimony in a manner that is fair and just, including: [CHECK ALL THAT APPLY]
 - temporary alimony
 - permanent alimony
- Award custody in the best interests of the child(ren).
- Hold a hearing on my request for child support within 45 days of filing and issue a Notice of Hearing and Order Directing Appearance (“NOHODA”) to the other parent with the date and time of the hearing.
- Award child support according to the Child Support Guideline of the District of Columbia and other applicable laws, including: [CHECK ALL THAT APPLY]
 - current child support (support starting today and continuing into the future)
 - retroactive child support (support for time before today)
 - medical support
- Note that we have a written agreement. I request that the Court: [CHECK ONE]
 - include* our written agreement as a part of its order.
 - not include* our written agreement as a part of its order.
- Restore me to my former name.

I ALSO REQUEST that the Court award any other relief it considers fair and proper.

[CHECK ONE]

- I *do not* know of any proceedings in the District of Columbia or in any state or territory involving the same claim or subject matter as this case.
- I *do* know of proceedings in the District of Columbia or in any state or territory involving the same claim or subject matter as this case, as listed on the first page of this Complaint (“Related Cases”).

I solemnly swear or affirm under criminal penalties for the making of a false statement that I have read the foregoing Complaint for Absolute Divorce and that the factual statements made in it are true to the best of my personal knowledge, information and belief.

Respectfully Submitted,

SIGN YOUR NAME

DATE (mm/dd/yyyy)

STREET ADDRESS

CITY, STATE AND ZIP CODE

TELEPHONE NUMBER

SUBSTITUTE ADDRESS: CHECK BOX IF YOU HAVE WRITTEN SOMEONE ELSE'S ADDRESS BECAUSE YOU FEAR HARASSMENT OR HARM.

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
Domestic Relations Branch**

PRINT YOUR SPOUSE'S NAME

STREET ADDRESS

CITY, STATE AND ZIP CODE

PLAINTIFF,
v.

DR _____

Related Cases:

PRINT YOUR NAME

STREET ADDRESS

CITY, STATE AND ZIP CODE

SUBSTITUTE ADDRESS: CHECK BOX IF YOU
HAVE WRITTEN SOMEONE ELSE'S ADDRESS BECAUSE
YOU FEAR HARASSMENT OR HARM.

DEFENDANT.

CONSENT ANSWER TO COMPLAINT FOR ABSOLUTE DIVORCE

I, _____, am the Defendant in this case and state that
PRINT YOUR NAME

1. I AGREE WITH ALL OF THE STATEMENTS my spouse made in the Complaint for Absolute Divorce and any Attachments.
2. I also state that THERE ARE NO CONTESTED ISSUES for this Court to decide.
3. I am requesting that the Court set this matter for an uncontested divorce hearing.
4. I changed my name when I married my spouse and I now wish to return to my birth name or another legal name I used before my marriage. I have no illegal or fraudulent reason for making this request. The former name I want restored is

PRINT THE FORMER NAME YOU WOULD LIKE THE COURT TO RESTORE

Request for Relief

I RESPECTFULLY REQUEST that [CHECK ALL THAT APPLY]

- The Court grant Plaintiff's Complaint for Absolute Divorce.
- The Court restore me to my former name.

I ALSO REQUEST that the Court award any other relief it considers fair and proper.

[CHECK ONE]

- I *do not* know of any proceedings in the District of Columbia or in any state or territory involving the same claim or subject matter as this case.
- I *do* know of proceedings in the District of Columbia or in any state or territory involving the same claim or subject matter as this case, as listed on the first page of this Complaint ("Related Cases").

Respectfully Submitted,

SIGN YOUR NAME

STREET ADDRESS

CITY, STATE AND ZIP CODE

TELEPHONE NUMBER

SUBSTITUTE ADDRESS: CHECK BOX IF YOU HAVE WRITTEN SOMEONE ELSE'S ADDRESS BECAUSE YOU FEAR HARASSMENT OR HARM.

I, _____, solemnly swear or affirm under criminal penalties for the making of a false statement that I have read the foregoing Consent Answer to Complaint for Absolute Divorce and that the factual statements made in it are true to the best of my personal knowledge, information and belief.

_____, Defendant _____
SIGN YOUR NAME DATE

PRINT YOUR NAME

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT**

Plaintiff,	:	
v.	:	Case No. _____
Defendant	:	Judge _____
	:	
	:	
	:	
	:	
	:	

UNCONTESTED PRAECIPE

TO THE CLERK OF COURT:

Please note that this matter is uncontested as to all issues. Please schedule a hearing as soon as possible.

Thank you.

Plaintiff's Signature _____

Defendant's Signature _____

Name (PRINTED) _____

Name (PRINTED) _____

Street Address _____

Street Address _____

City, State and Zip Code _____

City, State and Zip Code _____

Phone _____

Phone _____



Superior Court of the District of Columbia Family Court

Cross Reference Intake Form

Party	Name	Address	DOB ¹	SSN ²	DLN ³
Plaintiff/Petitioner ⁴					
Co-Plaintiff/Co-Petitioner					
Defendant/Respondent ⁵					
Co-Defendant/Co-Respondent					
Child					
Child					
Child					
Household Members					
Household Members					

1. What type of case are you filing today? _____
2. Do you have any other court cases in this court? _____ If yes, please list the name, type and case number: _____
3. Do you have any other court cases in another court? _____ If yes, please list the name of the court, case, type and number: _____
4. Are you pro se (representing yourself)? _____ If yes, please visit the Family Court Self-Help Center in Room JM-570. _____

¹ Acronym for Date of Birth
² Acronym for Social Security Number
³ Acronym Driver License Number
⁴ The person that is filing the case is the plaintiff/petitioner
⁵ The person that the case is filed against is the defendant/respondent

Disclaimer: This form will not be kept in the official court jacket. After your information has been entered into the system, this form will be destroyed.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT and CIVIL DIVISION

Plaintiff/Petitioner

v.

Case no: _____

Defendant/Respondent

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS, FEES, OR SECURITY (*In Forma Pauperis*)**
Form 106A

I, _____ am the (check one)
 Plaintiff/Petitioner Defendant/Respondent

I need an interpreter for this case. I speak the following language:
_____ [Insert Language].

I respectfully ask permission to proceed in this case without pre-paying costs or fees and without giving security for them because I am not able to do so without substantial hardship to myself or to my family. In support of this request, I state the following:

Check and answer only those that apply.

INCOME

1. I receive the following public benefits, and the law presumes that I am eligible to proceed without prepayment of costs, fees, or security (see D.C. Code § 15-712):

- Temporary Assistance for Needy Families (TANF)
- General Assistance for Children (GAC)
- Program on Work, Employment and Responsibility (POWER)
- Supplemental Security Income (SSI)

2. Even though I do not receive the above public benefits, I receive the following similar benefits and, therefore, request that my Application be approved:

- Interim Disability Assistance (IDA) because my SSI application has not been approved/certified
- Medicaid
- DC Healthcare Alliance or the following similar health benefits (describe)_____.

If you checked any of the above boxes, you do not need to answer any more questions and may skip to the section called "Declaration." Otherwise, you must answer the rest of the questions on this form. If additional information is required, you will be notified.

3. My total income over the past 12 months from all sources (including, but not limited to, my job, other wages or business income, rental income, pensions, annuities or life insurance payments, worker's compensation, unemployment compensation or insurance, annual interest or dividends, gifts, alimony or spousal support, inheritance or trust income) is \$_____.

4. I am presently unemployed. The last date I worked was on

_____/_____/_____
Month Year

DEPENDENTS

5. How many people live in your household and depend on you for support: _____. Of these people, how many are minor children or elderly? _____.

ASSETS

6. I state the following about my property:

I have \$ _____ in cash, including money in savings or checking accounts.

I own the vehicles, personal home, other real estate, stock, bonds, or other valuable property, besides household furnishings and clothing, listed below:

List the Property

EXPENSES

7. This is my best estimate of the monthly expenses for myself and the people in my household who depend on me for support:

Housing (rent, mortgage, taxes, & insurance): \$ _____
Public Transportation and Gasoline: \$ _____
Automobile Loan, Insurance, Maintenance: \$ _____
Health (medical, dental, vision, prescriptions, insurance): \$ _____
Food and other Household Necessities: \$ _____
Utilities (including gas, electric, water, phone, internet): \$ _____
Clothing: \$ _____
Child Support: \$ _____
Childcare (including diapers, daycare): \$ _____
Other (explain in detail): \$ _____

Total Estimated Monthly Expenses: \$ _____

OTHER SPECIAL CIRCUMSTANCES

- 8. (Optional) Explain any other special circumstances that you want to have considered in support of your request, including any large monthly expenses, debts, wage or bank account garnishments, and/or judgments.

DECLARATION

REQUIRED: I solemnly swear or affirm under criminal penalties for the making of a false statement, which includes 180 days in jail or a \$1,000 fine or both, that I have read this Application and that the factual statements made in it are true to the best of my personal knowledge, information and belief.¹

Signature

Address

Phone Number

Date

**POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION TO
PROCEED WITHOUT PREPAYMENT OF COSTS, FEES, OR SECURITY**

1. D.C. Code § 15-712.
2. D.C. Code § 22-2405.
3. Civil Rule 54-II, Domestic Relations Proceedings Rule 54-II, and Family Rule R.
4. *Adkins v. E.I. Du Pont de Nemours & Co., Inc.*, 335 U.S. 331 (1948).
5. *Harris v. Harris*, 137 U.S. App. D.C. 318, 322, 424 F.2d 806 (1970), *cert. denied*, 400 U.S. 826 (1970) ("*in forma pauperis* relief not limited to those who are public charges or absolutely destitute").
6. *Green v. Green*, 562 A.2d 1214 (D.C. 1989) (statute "effectuates the fundamental principle that every litigant should be provided equal access to the courts without regard to financial ability").
7. *Herbin v. Hoeffel*, 727 A.2d 883, 887 (D.C. 1999) (court officers serve process in *in forma pauperis* cases).
8. *Cabillo v. Cabillo*, 317 A.2d 866, 866 (D.C. 1974) (per curiam) (reversing denial of *in forma pauperis* status and mandating granting of petition where litigant's income "only slightly above the welfare standard").

¹ When you come to court, you may be asked questions about this Application. If your responses are not truthful, you could face additional criminal penalties.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT and CIVIL DIVISION

Plaintiff/Petitioner

v.

Case No. _____

Defendant/Respondent

ORDER

Having considered Plaintiff/Petitioner's Defendant/Respondent's Application to Proceed without Prepayment of Costs, Fees, or Security, it is hereby ordered that the Application is:

- GRANTED** in this Family Court case and, pursuant to Domestic Relations Rule 54-II, witnesses will be subpoenaed without prepayment of witness fees;
- GRANTED** in this Civil Division case and, pursuant to Civil Rule 54-II, the officers of the Court will issue and serve all process; witnesses will be subpoenaed without prepayment of witness fees;
- DENIED**
 - For the following reasons: _____

 - For the reasons stated on the record in open court and in the presence of the applicant or his or her counsel;

Date

Judge

RULE 4
SERVICE

WHEN YOU FILE YOUR COMPLAINT, THE FAMILY COURT CENTRAL INTAKE CENTER WILL GIVE YOU A **SUMMONS** THAT YOU MUST SERVE (ALONG WITH THE COMPLAINT) ON THE OTHER PARTY WITH A COPY OF YOUR COMPLAINT.

YOU MUST SERVE THE OTHER PARTY BEFORE THE SUMMONS EXPIRES IN 60 DAYS.

IF YOU ARE UNABLE TO SERVE THE OTHER PARTY WITHIN THE 60 DAYS, YOU CAN ASK THE FAMILY COURT CENTRAL INTAKE CENTER TO GIVE YOU ANOTHER SUMMONS. THE SECOND SUMMONS IS CALLED AN "ALIAS SUMMONS." YOU **MUST** ASK FOR THE ALIAS SUMMONS **BEFORE** THE FIRST SUMMONS EXPIRES.

HERE ARE THE WAYS YOU CAN SERVE THE COMPLAINT AND SUMMONS:

- **by having someone else** (NOT you), who is over 18 years old and not a party to the case,
 - **hand it to the other party;** or
 - **leave a copy at the other party's home** with a person of suitable age and discretion who lives there

-AFTER THE OTHER PARTY IS SERVED, THE SERVER MUST COMPLETE AN AFFIDAVIT OF SERVICE AND FILE IT WITH THE FAMILY COURT CENTRAL INTAKE CENTER ("CIC"). AFFIDAVITS ARE AVAILABLE AT THE CIC.

OR

- **by mailing it to the other party** by certified mail, return receipt requested.

-AFTER THE RETURN RECEIPT ("GREEN CARD") COMES BACK TO YOU, FILE IT WITH THE CIC ALONG WITH A COMPLETED AFFIDAVIT OF SERVICE. THESE AFFIDAVITS ARE ALSO AVAILABLE AT THE CIC.

**COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
Domestic Relations Branch**

PRINT PLAINTIFF'S NAME

PLAINTIFF,

v.

DR _____

PRINT DEFENDANT'S NAME

DEFENDANT.

**RULE 4(c)(2)
AFFIDAVIT OF RETURN OF SERVICE BY CERTIFIED MAIL**

I, _____, am the PLAINTIFF in this case.
PRINT YOUR NAME DEFENDANT

1. On _____, I sent to the other party by certified mail, return-receipt requested, a copy of my

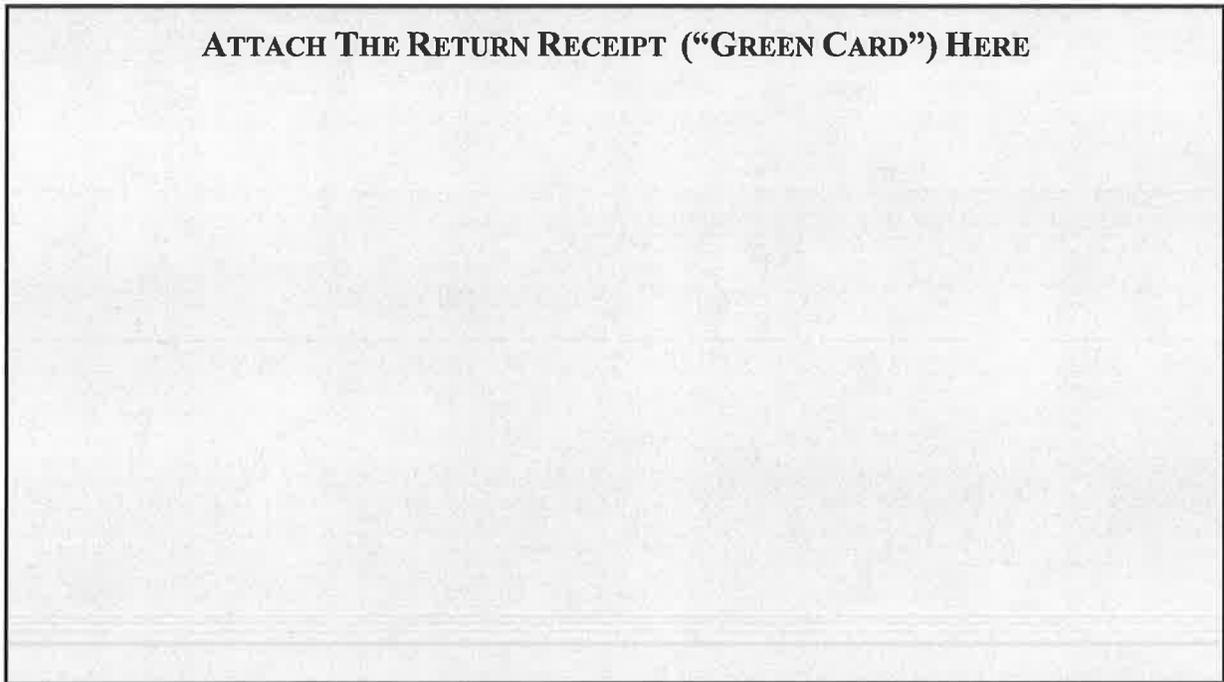
- Summons and Complaint for Absolute Divorce
- Summons and Complaint for Legal Separation
- Summons and Complaint for Annulment of Marriage
- Summons and Complaint for Custody and/or Visitation
- Notice of Motion and Motion to Modify Custody and/or Visitation
- Notice of Motion and Motion for Contempt

2. I received the return-receipt ("green card") from the U.S. Postal Service. It was signed

by _____ and dated _____.
NAME OF PERSON WHO SIGNED THE RECEIPT DATE SIGNED

3. I reviewed the return receipt (“green card”) and state that

- The other party signed the return receipt (“green card”).
- A person of suitable age and discretion who lives at the home of the other party signed the return receipt (“green card”).
- I do not know if the person who signed the signed the return receipt (“green card”) is a person of suitable age and discretion who lives at the home of the other party.
- I do not know who signed the return receipt (“green card”).



I, _____, solemnly swear or affirm under criminal penalties for the making of a false statement that I have read this Affidavit of Return of Service by Certified Mail and that the factual statements made in it are true to the best of my personal knowledge, information and belief.

SIGN YOUR NAME

DATE

PRINT YOUR NAME

**COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
Domestic Relations Branch**

PRINT PLAINTIFF'S NAME

PLAINTIFF,

DRB

v.

PRINT DEFENDANT'S NAME

DEFENDANT.

**AFFIDAVIT OF SERVICE
(by Private Process Server)**

I, _____, hereby certify that on _____, 20____, at _____ am/pm,
NAME OF SERVER DATE TIME

at the following address: _____,
ADDRESS WHERE SERVICE OCCURRED

I served the Summons or Summons/Notice of Motion and _____
TYPE OF PLEADING SERVED

on _____, who is: Plaintiff Defendant
NAME OF PERSON WHO RECEIVED THE PAPERS
 A person of suitable age and discretion who currently resides with Plaintiff/Defendant

I further certify that I am 18 years of age or older and I am not a party to this case.

I solemnly swear or affirm under criminal penalties for the making of a false statement that I have read the foregoing and that the factual statements made in it are true to the best of my personal knowledge, information and belief.

SIGN YOUR NAME

DATE

PRINT YOUR NAME

HOME ADDRESS

BUSINESS ADDRESS