

INFORMATION REGARDING DIVORCE FORMS

DOMESTIC VIOLENCE: Domestic violence can be part of any marriage. Domestic violence includes **physical violence**, such as hitting, slapping, pushing or kicking, and **threats** of violence and/or **verbal abuse** directed against you and/or your children.

Court documents request your address and phone number. If you are a victim of domestic violence, and you **do not** want your address to be known to protect yourself or your children from further violence, you must file a Petition for an Order of Protection and ask that your address not be disclosed on court papers. With that Order, you do not need to put your address and phone number on your divorce papers just write "protected" in the space where the court asks you for this information. You must tell the Clerk of the Court your address and phone number as soon as possible.

INFORMATION ABOUT PAPERS YOU SHOULD HAVE RECEIVED FROM YOUR SPOUSE WITH THE PETITION FOR DISSOLUTION:

SUMMONS: You have been summoned to appear in court. The **"Summons"** tells you how many calendar days you have to file a Response, depending on how you were served with the court papers. Be sure to file a WRITTEN RESPONSE on time. If the time for you to file a WRITTEN RESPONSE has passed, your spouse must complete an **"Application and Affidavit for Entry of Default"** and send you a copy of that. You will have 10 more days from the date the application was filed with the Clerk of the Court in which to file your WRITTEN RESPONSE. If you do not file a WRITTEN RESPONSE **ON TIME**, a default judgment can be entered, which means you will not get to tell the judge your side of the story.

PRELIMINARY INJUNCTION: This is an order from the court to both spouses about what you **CAN** and **CANNOT** do with property and other issues while the divorce is pending. If you or your spouse violate this order, the party who violates it can be in serious trouble with the court. If your spouse violates the order, see a lawyer for help on what to do.

NOTICE OF RIGHT TO CONVERT HEALTH INSURANCE: This is an important document that explains what to do about health care coverage for yourself and/or your children. Read it carefully.

INFORMATION FOR CONCILIATION COURT: You may or may not have received a paper on this. Your spouse is not required to send you this document. In either case, the court has "Conciliation" and "Mediation" services available to couples to help them preserve their marriage. You can ask for an appointment to discuss your marriage with these professionals by filing a written Petition.

"PETITION FOR DISSOLUTION OF A NON-COVENANT MARRIAGE" This is the form your spouse completed to tell the court his/her side of the story about property, debt, spousal maintenance/support (alimony), children, pregnancy, and everything else about the marriage. **Read every word very carefully**, and decide what you want to do. Here are your choices:

1. **Do nothing.** This means your spouse can get a divorce and tell the judge his or her side of the story, without you telling your side at all. **This is called a default.** Even in these cases, the judge will try to decide what is best, but it is never a good idea to ignore the court proceeding and have a court order that you had no input on. You should see a lawyer for help before you decide to do nothing.

- 2. Consent.** Decide with your spouse how you want to handle everything: property, debt, spousal maintenance/support (alimony), and everything else about the marriage. Then you and your spouse file papers in the court stating your agreement on everything. This is called a **Consent or Stipulation**. This is often the best way to proceed, if you and your spouse believe the marriage is over, and you can talk about how you both want to handle the divorce. Mediators can help you with this.
- 3. Disagree.** File a Response stating your side of the story, and how you want to handle everything: property, debt, spousal maintenance/support (alimony), and everything else about the marriage. This will make your case a **contested matter**. But, even if you originally file a Response, you and your spouse can still decide to agree on something, or everything, and file court papers for a **Consent or Stipulation**. Mediators can help you with this, and the Self-Service Center has a list of mediators, and how much they charge to help you. If you file a Response and do not settle everything with your spouse, you must be sure to file the court papers you will need to set the case for trial.

No matter how you proceed, you can still get help from Conciliation Court, for either conciliation or mediation. You can ask for an appointment to discuss your marriage with these professionals, by filing a written Petition.

PROPERTY AND DEBTS: This information tells the court about your property and debts and how you think property and debts should be divided. Community property is generally any property you and your spouse purchased during your marriage or that was paid for during the marriage, no matter who uses the property or who actually paid the money. Unless property was a gift or inheritance, all property gotten during the marriage up until the day the Respondent is served with the Petition for Dissolution is community property, and both you and your spouse are entitled to a roughly equal share of this property. Community debts, are debts acquired during the marriage, and likewise, belong to both spouses, no matter who spent the money. If you have questions, or have a lot of community assets, you may want to consult an attorney regarding issues of community property and debts BEFORE filing your Response and/or any other papers.

SPOUSAL MAINTENANCE/SUPPORT (ALIMONY)

SPOUSAL MAINTENANCE/SUPPORT is the term used to describe money paid from one spouse to the other as part of a Divorce agreement or order. You may know the term as alimony. The money is designed as a safety net for a spouse who cannot provide for his/her needs or who meets other requirements listed. The idea behind spousal maintenance/support (alimony) is that accomplishments during your marriage, including increases in earning potential and living standards are shared and earned by BOTH parties to the marriage. **Spousal maintenance/ support is paid separate from child support and is NOT a substitute for child support.**

LEGAL DECISION MAKING

- 1. LEGAL DECISION MAKING JURISDICTION:**
If you have children under the age of 18 who are common to you and your spouse and you are now divorcing, generally, you should have lived in the State of Arizona with the children for at least 6 months, or Arizona must be the child(ren)'s primary place of residence before your spouse files for divorce. If you have questions regarding this requirement or for other reasons why the court may not have jurisdiction, see a lawyer for help.
- 2. JOINT LEGAL DECISION MAKING:**
If you are asking for joint legal decision making, you must file before your court hearing a "**Joint Legal Decision Making Agreement**" signed by both parents that the court must approve. (If domestic violence was in the marriage it affects a request for joint legal decision making.)

3. SOLE LEGAL DECISION MAKING OF CHILDREN AND PARENTING TIME:

Tell the court whether you want legal decision making of the child(ren) to go to your spouse (the Petitioner) or your (the Respondent).

4. PARENTING TIME:

You can ask that the non-custodial parent (the parent having physical legal decision making of the child(ren) less than 50% of the time) have one of the following types of parenting time.

- Reasonable parenting time suggests an amount of parenting time appropriate to the age of the child(ren). The court offers suggested amounts of parenting time, but the amount can vary by agreement of both parents.
- Supervised parenting time to the non-custodial parent should be requested if the non-custodial parent cannot adequately care for the child(ren) without another person present. You may request this if the person not having legal decision making abuses drugs or alcohol; is violent or abusive; or, does not have the parenting skills to care for the child(ren) without another adult present. Remember, supervised parenting time is not intended to punish the parent, but to protect the child(ren).
- No parenting time to the non-custodial parent can be used as a last resort to protect the child(ren).

CHILD SUPPORT

Tell the court who you think should pay child support. The person who has legal decision making of the child(ren), or who has physical care of the child(ren) more than 50% of the time, is the person who should receive the support. The other spouse, often called the "non-custodial" parent must pay the support. The income of the parties generally determines the amount of the support according to court guidelines.

INSURANCE AND HEALTH CARE EXPENSES FOR CHILDREN

Whichever parent has the most affordable insurance plan available through work, generally should pay for insurance. Adjustments can be made to child support to reflect the costs of insurance for the child(ren).

TAX EXEMPTION

Decide how you and your spouse will declare the tax dependency exemptions, for which child(ren) for which years. Federal Tax law also determines this for you. If you are not sure, see a lawyer or an accountant for help.