

WHAT TO GIVE (CHILDREN INVOLVED)

1. Cover Letter
2. Instructions on How to File Answer With Children
3. Defendant's Answer (Sample and Plain)
4. Financial Affidavit
5. Uniform Child Custody Jurisdiction Affidavit
6. Poverty Affidavit
7. Law Facts
8. Grievance

NOTE: THIS PACKET CAN BE SENT ONLY AFTER CASEHANDLER AGREES
APPLICANT/CLIENT DOES NOT FIT CUSTODY PRIORITIES.

SOUTHEASTERN OHIO LEGAL SERVICES

**332 West High Avenue
New Philadelphia, OH 44663-2152**

(330) 339-3998

1-800-686-3670 (clients only)

Fax: (330) 339-6672

Dear Applicant:

We have reviewed your application for legal services for assistance in responding to a complaint in a divorce action filed by your spouse. The only service we will be able to provide to you in this matter is the enclosed information regarding filing an answer on your own. We will not be representing you in Court in this case. We encourage you to seek assistance from a private attorney, if possible. Whether or not you are able to hire an attorney, you may find the enclosed information helpful.

If you represent yourself in this divorce action, remember that most answers in divorce cases must be filed within 28 days from the date you got the complaint. Please check your packet for documents you may need to file. You may only have a short time to file some of these documents. **READ THE PACKET CAREFULLY.**

When you file your answer to the divorce complaint, you may want to consider filing a counterclaim in the answer. You should consult a private attorney if you want to file a counterclaim. If you do not file a counterclaim in your answer, the person who filed the divorce may be able to dismiss it and end the case. This means that you would have to start over again if you wanted to seek a divorce. Filing a counterclaim is not covered by this packet.

If you are going to prepare your own answer, you may find the enclosed packet useful. Read the directions carefully. After filing your answer, you will be notified of a court date. You should go to all court hearings.

Because this is the only service we will be able to provide to you, we have closed your application for services. If you disagree with any decision or other action of our office regarding your application, you may use the enclosed grievance form. We wish you the best of luck.

Very truly yours,

Managing Attorney

P:\71-OSLSA-SEOLS\Misc Forms\NPanswerltr.WPD
Enclosures

HOW TO FILE AN ANSWER TO A DIVORCE COMPLAINT WITHOUT AN ATTORNEY

As you know, from the attached letter, our office will not be able to represent you in Court in the divorce filed against you. You have indicated that you and your spouse have minor child(ren) born as issue of your marriage. (If you and your spouse do not have minor children born as issue to your marriage, call us before you use this packet.) Unfortunately, with our limited resources, we are not able to help everyone who applies for our services. It is best, if you can afford, to hire an attorney to help you. If you cannot afford an attorney, we can provide you with information on how to answer the Divorce Complaint filed against you so that you will have an opportunity to tell your side in Court. IT IS VERY IMPORTANT THAT YOU ANSWER THE COMPLAINT AND THAT YOU ATTEND EVERY HEARING. It is your responsibility to keep the Court and your spouse's attorney aware of your current address. We will not be representing you in court.

YOU MUST ANSWER THE COMPLAINT WITHIN 28 DAYS
OF THE DATE YOU WERE SERVED

The SUMMONS is often the first page of the papers you received from the Court. It demands that you Answer the Complaint within 28 days after you are served with the Summons. YOU MUST FILE YOUR ANSWER WITHIN 28 DAYS AFTER YOU HAVE RECEIVED THE SUMMONS AND COMPLAINT.

Go through the Complaint paragraph by paragraph to see if the Complaint says anything you believe is wrong. For example, if the Complaint has the wrong marriage date or the children's names or birth dates are wrong, you should state in your Answer the correct information. Or if the Complaint says there are no debts of the marriage and you do not believe this is true, you should type or write in the blank lines of your Answer that there are debts of the marriage and list them.

The names and dates of births of the minor children born from the marriage should be in the Complaint. If this information is not in the complaint or it is incorrect, you should state the children's names and their dates of birth in your Answer.

Finally, you should also write or type in your Answer what you would like the judge to do for you. Below are some things you may ask the judge to do for you:

- custody and visitation of any child of issue of the marriage and order your spouse to provide child support and health insurance
- spousal support for yourself
- division of your marital property (including debts)
- order your spouse to pay some or all of the debts of the marriage
- division of any pensions or retirement benefits

You can also ask the judge to consider the following:

- tax dependency exemptions
- mediation of certain disputes

photocopies to the attorney who signed the Divorce Complaint. Although you do not have to mail the answer by certified mail, you may want to ask the post office to provide you with a Certificate of Mailing, which proves you mailed the copy of your Answer and other documents on the date it was mailed, to the person to whom it was addressed.

Within 3 days of mailing one copy of all documents to the attorney (or the other person who filed the complaint against you), take the original of your Answer and your remaining photocopies to the clerk of the common pleas court that served the divorce papers on you. Be sure that you go to the Common Pleas Court where the Divorce Complaint was filed. Take the complaint with you to the clerk's office and show it to the clerk to confirm that you are in the right place. Then give the clerk both your original Answer (and all other documents) and your photocopy. Ask the clerk to file-stamp the originals and the copies and to give you your copies back.

The clerk will then keep the originals, which will go into the Judge's file so that the Judge can read them. The file-stamped photocopies will be returned to you. Keep your file-stamped copies in a safe place because it is your proof that you filed your Answer in the place and on the date showed in the file stamp. It is like a receipt. IF THE CLERK REFUSES TO TAKE YOUR ANSWER, PLEASE CONTACT US IMMEDIATELY.

contested and what is not. The Judge will also decide how long the final hearing will take and what the issues will need to be decided.

Eventually, the Court will schedule your case for a final divorce hearing. At that hearing you will have the opportunity to present witnesses (including yourself) and other evidence against the statements in the Complaint and what you want from the divorce. After hearing evidence from both sides and deciding what evidence is properly admissible and what is not, the Judge will render a decision. Sometimes, the Judge gives his or her decision "from the bench" immediately after the hearing, or he or she gives the decision later, after having an opportunity to think about the case.

If, after you have followed all these steps, you learn that a decision has been rendered against you and you were not notified of the hearing and did not attend, please contact us immediately. If for some reason the Court or the person who filed against you acted improperly, give us a call right away. If the Court or the person who filed against you acted improperly and you were significantly hurt by their actions, we might be able to do something about that.

Good luck!

HOW TO FILL IN THE BLANKS

You need to fill in the numbered blanks.

1. Blank 1 Put County divorce papers filed in.
2. Blank 2a Put your spouse's name.
Blank 2b Your spouse's address.
3. Blank 3 Put Case No. (get from Complaint)
4. Blank 4 Put Judge's name. (Get from Complaint.)
5. Blank 5a Put your name.
Blank 5b Put your correct address.
6. Blank 6 Put why your disagree with divorce or any problems you have.
7. Blank 7 Put what you want the Court to do.
8. Blank 8a Sign your name.
Blank 8b/c Put your address.
Blank 8d Put your phone number.
9. Blank 9 Put address of your spouse's lawyer.
10. Blank 10 Put date mailed.
11. Blank 11 Sign your name.

-2a-
Plaintiff's Name

CASE NO. -3-

 -2b-
Plaintiff's address

JUDGE -4-

Plaintiff,
vs.

DEFENDANT'S ANSWER

 -5a-
Defendant's Name

 -5b-
Defendant's address

Defendant.

I, the Defendant, answers the Complaint as follows:

 -6-

I ask the Court to:

-7-

I swear that the information contained in the foregoing Answer is true and correct to the best of my information and belief.

-8a-

(Sign your name)

Pro se

-8b-

(Address)

-8c-

(City and State)

-8d-

(Telephone Number)

CERTIFICATE OF SERVICE

A copy of this document was served upon Plaintiff or Plaintiff's attorney at the following address: _____ -9-

_____ by ordinary U.S. Mail, postage pre-paid, this

-10- day of -10- _____, _____.

-11-

(Your signature)

SAMPLE

IN THE COURT OF COMMON PLEAS, YOUR TOWN COUNTY, OHIO

JANE SMITH

Plaintiff's Name

23 E. LINCOLN

Plaintiff's address

YOUR TOWN OH

Plaintiff,

vs.

CASE NO. 99-DR-XX

JUDGE YOUR JUDGE

DEFENDANT'S ANSWER

JOHN SMITH

Defendant's Name

1 E. 3RD ST

Defendant's address

YOUR TOWN OH

Defendant.

I, the Defendant, answers the Complaint as follows:

I agree I cannot live with my
spouse. I do not agree I was
cruel.

SAMPLE

SAMPLE

I ask the Court to:

I want to see my kids. I want our bills divided. I want my hunting equipment. I cannot pay alimony.

I swear that the information contained in the foregoing Answer is true and correct to the best of my information and belief.

John Smith

(Name)

1 E. 3rd St.

(Address)

Your Town OH

(City and State)

XXX - XXX - XXXX

(Telephone Number)

CERTIFICATE OF SERVICE

A copy of this document was served upon Plaintiff or upon Plaintiff's attorney at the following address: 301 St. Clair Bldg, Our Town OH by ordinary

U.S. Mail, postage pre-paid, this 3rd day of May, 1999

John Smith (Your signature)

SAMPLE

Plaintiff's Name

CASE NO. _____

Plaintiff's address

JUDGE _____

Plaintiff,
vs.

DEFENDANT'S ANSWER

Defendant's Name

Defendant's address

Defendant.

I, the Defendant, answers the Complaint as follows:

I ask the Court to:

I swear that the information contained in the foregoing Answer is true and correct to the best of my information and belief.

Pro se

(Address)

(City and State)

(Telephone Number)

CERTIFICATE OF SERVICE

A copy of this document was served upon Plaintiff or upon Plaintiff's attorney at the following address: _____

_____ by ordinary

U.S. Mail, postage pre-paid, this ___ day of _____, _____.

(Your signature)

WHAT TO FILE (CHILDREN INVOLVED)

TAKE ENOUGH COPIES

MAKE SURE YOU SERVE YOUR SPOUSE OR SPOUSE'S ATTORNEY

Defendant's Answer

Financial Affidavit

Uniform Child Custody Jurisdiction Affidavit

Poverty Affidavit (if required)

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

Case No. _____

Plaintiff/First Petitioner

Address

SSN: _____ DOB: _____

vs./and

Defendant/Second Petitioner

Address

SSN: _____ DOB: _____

AFFIDAVIT OF INCOME,
EXPENSES AND FINANCIAL
DISCLOSURE AND PERSONAL
BACKGROUND

Date _____

STATE OF OHIO, SS:

Now comes _____, Affiant herein, and having been duly cautioned and sworn, states that he/she has been advised that this affidavit may be used for any or all of the following purposes: (1) to make complete disclosure of Affiant's income, assets, liabilities, and expenses; (2) to assist in determining order of support or alimony when applicable or any changes thereto; and (3) to provide for the issuance of the appropriate withholding order for support.

PLAINTIFF/FIRST
PETITIONER

DEFENDANT/SECOND
PETITIONER

\$ _____

Annual Employment Income

\$ _____

Employer

Payroll Address

City, State, Zip

IF AVAILABLE AT DATE OF FILING, ATTACH: (1) PAY STUB WITH YEAR-TO-DATE EARNINGS AND (2) COPY OF THE MOST RECENT TAX RETURN, OR (3) A COPY OF MOST RECENT W-2.

SECTION A: GROSS INCOME (see definition Page 5)

Circle One: Weekly Bi-Weekly Semi-Monthly Monthly

PLAINTIFF/FIRST
PETITIONER

DEFENDANT/SECOND
PETITIONER

\$ _____	Gross Income Per Pay Period	\$ _____
\$ _____	Federal Withholding	\$ _____
\$ _____	State Withholding	\$ _____
\$ _____	Local Withholding	\$ _____
\$ _____	FICA	\$ _____
\$ _____	Union Dues	\$ _____
\$ _____	Health Insurance	\$ _____
\$ _____	Other	\$ _____
\$ _____	Net Income	\$ _____

PLAINTIFF/FIRST
PLAINTIFF

ADJUSTMENTS

DEFENDANT/SECOND
PLAINTIFF

\$ _____ per month	Court Ordered Support Paid for other child/ren	\$ _____ per month
\$ _____ per month	Court Ordered Alimony Paid to a Former Spouse	\$ _____ per month
\$ _____ per month	Adjusted Income	\$ _____ per month

SECTION B: HEALTH INSURANCE COVERAGE FOR DEFENDANT CHILDREN/COBRA

1. Health Insurance Coverage for Defendant Child(ren) is available through employment of another group plan? Yes _____ No _____
2. If YES, complete the following:
 - A. Insurance Company Name _____
Address _____
Policy Name/Number _____
 - B. This policy is available at \$ _____ per _____ cost to Affiant
(indicate "0" if available at no cost).
 - C. The deductible is \$ _____ per person/ _____ per family.

- D. The co-payment required is \$ _____
- E. The cost to purchase COBRA coverage will be \$ _____ per month.

3. If NO, please describe the nature, if any of Affiant's health insurance coverage _____

SECTION C: AFFIANT'S MONTHLY EXPENSES

List expenses below for your present household. There are _____ adults and _____ children in my household.

Are you residing in the marital residence? Yes _____ No _____

I. MONTHLY

- A. Housing
 - 1. Rent or Mortgage (including taxes and insurance) \$ _____
 - 2. Utilities:
 - a) Gas and Electric \$ _____
 - b) Water and Sewer \$ _____
 - c) Telephone (excluding long distance) \$ _____
 - d) Trash Collection \$ _____
 - 3. Other: _____
 _____ \$ _____

- B. Other
 - 1. Car Repairs \$ _____
 - 2. Medical (not covered by insurance) \$ _____
 - 3. Clothing \$ _____
 - 4. Grocery Items (to include food, laundry, cleaning products, toiletries, et.) \$ _____
 - 5. Child Care (employment related only) \$ _____
 - 6. Gasoline and Oil \$ _____
 - 7. Other: _____
 _____ \$ _____

MONTHLY TOTAL (Sum of A and B) (I) \$ _____

MONTHLY INSTALLMENT PAYMENTS
(Do not list expenses previously listed on page 3)

<u>To Whom Paid</u>	<u>Purpose</u>	<u>Balance Due</u>	<u>Monthly Payment</u>
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
TOTAL MONTHLY INSTALLMENT PAYMENTS. . . . (II)			\$ _____
TOTAL MONTHLY EXPENSES (Sum of I and II)			\$ _____

SECTION D: FINANCIAL DISCLOSURE/REAL PROPERTY ASSETS

- List all funds on deposit in any and accounts in any bank, savings and loan, credit union, regulated investment company, mutual fund, or other financial institution. Account includes any of the following: checking, certificate of deposit ("D"), investment, savings, individual retirement ("IRA"), stock option, etc. Attach additional pages if needed.

<u>Name and Address of Financial Institution</u>	<u>Account No./Source</u>	<u>Name(s) on Account</u>	<u>Balance on Date of this Affidavit</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

2. <u>Location/Purchase Price and Date of Real Estate</u> <u>Other Title Holders</u>	<u>Present value of Real Estate</u>	<u>Balance Due on Mortgage as of</u>
_____	\$ _____	\$ _____

_____ \$ _____ \$ _____
_____ \$ _____ \$ _____

3. Any other income sources listed in Section A (i.e., disability income, interests, or dividend income, rentals, annuities, etc., not listed in Section D-1) should be listed and attached to this Affidavit by source, address, and account number.

SECTION E: RETIREMENT BENEFITS

List any pension retirement plan, profit sharing plan in which you have any interest, and the employer or location of this account.

Value \$ _____

SECTION F: OTHER ASSETS

Describe assets of more than \$1,000.00 in value not otherwise listed in this Affidavit. Attach additional pages if needed.

Value \$ _____

SECTION G: LUMP SUM INCOME

List any lump sum (bonus, gifts, inheritance, etc.) In excess of \$500.00 expected to be received within the next six months, not otherwise listed in this Affidavit. Attach additional pages if needed.

Source _____

Address _____

Value \$ _____

SECTION H: PERSONAL BACKGROUND

Military Service? Yes _____ No _____

Where? _____ When? _____

Type of Discharge _____

Job skills gained in military service _____
GI educational benefits available? Yes _____ No _____

Describe educational level (check those which apply):

Through grade _____; high school graduate _____; some college _____;
Where? _____; Major _____; College
graduate? _____ Where? _____; Major _____;
Graduate or professional degree? _____ Where? _____;
Field _____; Other _____

Previous employment experience: _____

Affiant states that the information contained herein is complete and accurate to the best of his/her information, knowledge, or belief under penalty of law.

Affiant () Plaintiff/First Petitioner
() Defendant/Second Petitioner

SWORN to and subscribed in my presence this _____ day of _____, 1999.

Notary Public

Attorney () Plaintiff/First Defendant
() Defendant/Second Petitioner

DEFINITION OF INCOME

To determine gross monthly income, take annual income from each source, before taxes and other deductions, and divide by 12. Included is income from salaries, wage, overtime, commissions, royalties, tips, bonuses, rents, dividends, severance pay, pensions, interest, trust, annuities, capital gains, social security, disability, spousal support, etc. Excluded is income from OWF, SSE, food stamps, general relief, any other means tested assistances, etc.

If self-employed, income is the gross receipts of the business minus any ordinary and necessary business expenses excluding any depreciation or investment tax credits.

I/We hereby certify that the child support worksheet has been filed contemporaneously herewith.

Attorney for Plaintiff/First Petitioner

Attorney for Defendant/Second Petitioner

IN THE COURT OF COMMON PLEAS
 _____ COUNTY, OHIO

DECLARATION UNDER UNIFORM CHILD CUSTODY

Case No. _____

JURISDICTION AND ENFORCEMENT ACT (UCCJEA)

Division: Domestic Relations/Juvenile

I, (full legal name) _____, being sworn according to law, certify that these proceedings involve the custody of a child, or children and the following statements are true:

1. [] I am requesting the court to not disclose my address or that of the child(ren). My address is confidential pursuant to ORC 3127.23(D) and should be placed under seal in that the health, safety, or liberty of myself and/or the child(ren) would be jeopardized by the disclosure of the identifying information.

2. (Number): _____ **Minor Child(ren) are subject to this proceeding as follows:**
 (Insert the information requested below. The residence information must be given for the last FIVE years.)

a. Child's name		Place of birth	
Date of birth		Sex	
Period of residence To Present	Address <input type="checkbox"/> Confidential	Person child lived with (name & address)	Relationship
to			
to			
to			
to			

a. Child's name		Place of birth	
Date of birth		Sex	
Period of residence To Present	Address <input type="checkbox"/> Confidential	Person child lived with (name & address)	Relationship
to			
to			
to			
to			

(See next page)

a. Name and address of person _____
() has physical custody () claims custody rights () claims visitation rights
Name of each child _____

b. Name and address of person _____
() has physical custody () claims custody rights () claims visitation rights
Name of each child _____

c. Name and address of person _____
() has physical custody () claims custody rights () claims visitation rights
Name of each child _____

6. Knowledge of prior child support proceedings: (✓ only one)

_____ The child(ren) described in this affidavit are **NOT** subject to existing child support order(s) in this or any state or territory.

_____ The child(ren) described in this affidavit **ARE** subject to the following existing child support order(s):

- a. Name of each child _____
- b. Type of proceeding _____
- c. Court and address _____
- d. Date of court order or judgment (if any): _____
- e. Amount of child support paid and by whom: _____

7. I acknowledge that I have a continuing duty to advise this Court of any custody, visitation, child support, or guardianship proceeding (including dissolution of marriage, child neglect, or dependency) concerning the child(ren) in this state or any other state about which information is obtained during this proceeding.

I certify that a copy of this document was (✓ only one) () mailed () faxed and mailed () hand delivered to the person(s) listed below on (date) _____

Other party or his/her attorney:

Name: _____ Address: _____
City, State, Zip: _____ Fax Number: _____

I understand that I am swearing or affirming under oath to the truthfulness of the statements made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Party _____
Printed name: _____ Address: _____
City, State, Zip: _____ Phone: _____ Fax: _____

STATE OF OHIO
COUNTY OF _____

Sworn to or affirmed and signed before me on this _____ day of _____

Notary Public

My commission expires _____

a. Child's name		Place of birth	
Date of birth		Sex	
Period of residence To Present	Address <input type="checkbox"/> Confidential	Person child lived with (name & address)	Relationship
to			
to			
to			
to			

Additional children are listed on Attachment 2e. (Provide requested information for additional children on an attachment.)

3. Participation in custody proceeding(s): (✓ only one)

_____ I **HAVE NOT** participated as a party, witness, or in any capacity in any other litigation, in this or another state, concerning the custody of or visitation (parenting time) with any child subject to this proceeding.

_____ I **HAVE** participated as a party, witness, or in any capacity in any other litigation, in this or any other state, concerning the custody of or visitation (parenting time) with any child subject to this proceeding.

Explain:

- a. Name of each child _____
- b. Type of proceeding _____
- c. Court and state _____
- d. Date of court order or judgment (if any): _____

4. Information about custody proceeding(s): (✓ only one)

_____ I **HAVE NO INFORMATION** of any proceedings that could affect the current proceeding, including any proceedings relating to custody, domestic violence or protection orders, dependency, neglect or abuse allegations or adoptions concerning any child subject to this proceeding .

_____ I **HAVE THE FOLLOWING INFORMATION** concerning proceedings that could affect the current proceeding, including any proceedings relating to custody, domestic violence or protection orders, dependency, neglect or abuse allegations or adoptions concerning any child subject to this proceeding, other than set out in item 3. Explain:

- a. Name of each child _____
- b. Type of proceeding _____
- c. Court and state _____
- d. Date of court order or judgment (if any): _____

5. Persons not a party to this proceeding: (✓ only one)

_____ I **DO NOT KNOW OF ANY PERSON** not a party to this proceeding who has physical custody or claims to have custody or visitation rights with respect to any child subject to this proceeding.

_____ I **KNOW THAT THE FOLLOWING NAMED PERSON(S)** not a party to this proceeding has/have physical custody or claim(s) to have custody or visitation rights with respect to any child subject to this proceeding:

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO
(#1 - Your county name here)

Plaintiff

vs.

Defendant

Case No. _____

AFFIDAVIT OF INABILITY TO
PREPAY OR GIVE SECURITY
FOR COSTS

(Sec. 2323.31 Revised Code)

STATE OF OHIO

_____ COUNTY, SS:

I, the undersigned, a party in the above captioned case, being first duly sworn, represent to the Court that I am unable either to prepay or give security for costs in this action and request the Clerk to accept the attached pleading herein without prepaying or giving security for costs as provided by Sec. 2323.31 of the Revised Code.

In support of this request, I submit answers to the following questions:

1. What is your age? _____ years old.
2. Do you have any children? _____, If so, give names and ages:

3. What is your occupation or business? _____
4. Are you employed? _____. If so, give name and address of your employer:

5. What did you earn during the past year? \$ _____
6. What are your parents' names and ages? _____

7. Do you own any real estate? _____. If so, give its value \$ _____

Is it mortgaged? _____. If so, give the amount of mortgage \$_____

8. Do you own an automobile? _____. If so, what is the value \$_____

9. What other items of personal property do you own? _____

What debts are against it? _____

10. Have you made an advance payment to your attorney for his services in this case? _____.
If so, how much \$_____ Who paid it? _____

11. Do you have any securities or bank accounts? _____. If so, give its value: \$_____

12. Are you receiving public assistance? _____. If so, what kind? _____

How much \$_____

(Your signature - SIGN IN FRONT OF NOTARY)

STATE OF OHIO

_____ COUNTY, SS:

Before me, a notary public, in and for said county and state, personally appeared _____
_____ who being first duly cautioned and sworn, says that the facts in the foregoing affidavit
are true.

NOTARY PUBLIC

OHIO STATE BAR ASSOCIATION

Divorce, Dissolution & Separation

document last updated 11/13/03

Ohio law provides three ways for a husband and wife to end or alter their marital relationship: legal separation, divorce and dissolution of marriage. To obtain a dissolution or divorce, you must live in Ohio for at least six months before filing. There is no residency requirement for persons seeking a legal separation. The terms visitation and companionship, once used to describe parental rights, now describe the rights of non-parents. Parent time allocation and parenting time now refer to the time parents spend with their children.

What is a legal separation?

This is a civil lawsuit that does not legally end a marriage, but allows the court to issue orders concerning property division, spousal support, allocation of parental rights and responsibilities, child support and parent time allocation for any minor children. The parties remain married, but live separately. When a court grants a legal separation, each party must follow the court's specific orders.

What is a dissolution of marriage?

A dissolution of marriage is an action where the parties mutually agree to terminate their marriage. Neither party has to prove grounds to end a marriage by dissolution. This action is only started after the husband and wife have reached a separation agreement regarding all property, spousal support and any child issues. After jointly filing a Petition for Dissolution, the parties must wait at least 30 days before the court will hear their case. The case must be heard within 90 days of filing. At the hearing, the court will review the separation agreement, ask about the assets and liabilities and any parenting issues, and determine whether the parties understand and are satisfied with the settlement. If the court is satisfied that the agreement is fair, the parties agree and desire to end their marriage, the court will grant a dissolution and order the separation agreement into effect.

What is a divorce?

Divorce is a civil lawsuit to end a marriage. It arises when the husband and wife cannot resolve their problems, and are asking the court to make the final decision and issue orders concerning property, support and children.

A divorce is started by one spouse, the plaintiff, who files a complaint with the clerk of court. In this initial complaint, the plaintiff must select, and eventually prove, the appropriate statutory grounds. Discuss with your attorney why you believe your spouse's behavior justifies the filing of the lawsuit.

earning ability and health of the parties, the length of the marriage, and the standard of living during the marriage. The court also may consider any other relevant factors.

How are parental rights and responsibilities allocated?

Formerly, Ohio courts usually granted custody of the children to one party or the other. Now, the court allocates the parental rights and responsibilities between the parties based on the best interests of the children who are not yet age 18 or have not graduated from high school. Shared parenting is often preferred for allocating these rights and responsibilities. If a plan for the children's care is submitted by one or both parties, the court may adopt the plan and grant shared parenting. However, if the court finds the proposed plan is not in the best interest of the children, it can request amendment of the plan or deny shared parenting altogether. If no plan is submitted, the court cannot award shared parenting and will allocate the parental responsibilities to one of the parents, naming that parent as the child's residential parent and legal custodian.

At either or both of the parties' request, the court must talk with a child about his or her wishes concerning parenting arrangements. The court is not bound by the child's wishes and concerns in these matters; it is only one factor to be considered. Other factors taken into account include the child's mental, emotional and psychological development; the interaction of the child with other significant persons; and the adjustment to the school, community and home. The court also may consider factors concerning the ability of a party to be a custodial parent, such as whether support has been paid, parenting time has been allowed or any abuse has occurred. If one of the parents intends to leave the state permanently, the court also may consider this as a factor.

How are parenting time rights determined?

In every case involving children, the court orders a specific schedule for parenting time allocation to the parents. The primary consideration is the best interest of the children. Ohio statutes provide many factors to be considered in making the determination. Each Ohio county must have a standard parenting time order. These standard parenting time orders can be changed to meet individual children's needs. In appropriate cases, the court also may award companionship rights to persons other than the parents, but only if a parent is not suitable to have custody.

A more thorough discussion of parenting time rights can be found in an Ohio State Bar Association brochure entitled, "What You Should Know About . . . Sharing Parental Responsibilities After Separation."

What are temporary orders?

The court may issue temporary orders to be in effect while the case is pending and before the final decision. The person seeking temporary orders files a motion with the court for such things as the use of the marital residence, allocation of parental rights, support of minor children, spousal support and assignment of responsibility to pay marital debts (such as the house or rental payments, car payments, insurance, utilities, finance companies and charge accounts). These temporary orders are not necessarily what the court will award as a final order when the case is resolved.

What are my responsibilities as a party?

You have asked the court for certain help or relief, so you have responsibilities to the court as a party to a legal action. The court addresses and resolves your problems by issuing court orders. Even if you do not agree with the court's orders, you must comply or the court may penalize you. You will also put your case at a disadvantage and the final resolution may be delayed. If you believe certain orders are unfair, you can discuss with your attorney possible ways to have the court make modifications, but until orders are formally changed, you must follow the orders.

The checklist

Also discuss these topics with your attorney: tax implications; shared parenting; premarital agreements; mediation of disputes; short-term and long-term debts; guardian ad litem; pension and retirement plans; depositions; expert witnesses and costs; and attorney fees.

The information contained in this pamphlet is general and should not be applied to specific legal problems without first consulting your own attorney.



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