

INSTRUCTIONS

DIVORCE WHERE PARTIES CONSENT TO THE DIVORCE AND NO PROPERTY NEEDS TO BE DIVIDED

*IT IS STRONGLY RECOMMENDED THAT
YOU CONSULT AN ATTORNEY*

DISCLAIMER

THE SELF HELP CENTER STAFF AND THE STAFF IN ANY COURT OFFICE ARE UNABLE TO GIVE YOU LEGAL ADVICE OR HELP YOU FILL OUT/COMPLETE THE FORMS. THE INFORMATION IN THE PACKETS IS NOT A SUBSTITUTE FOR PROFESSIONAL LEGAL ADVICE. THE COURT ASSUMES NO RESPONSIBILITY AND ACCEPTS NO LIABILITY FOR ACTIONS TAKEN BY USERS OF THESE DOCUMENTS, INCLUDING RELIANCE ON THEIR CONTENTS. IF YOU WANT TO OBTAIN THE SERVICES OF AN ATTORNEY BUT DO NOT KNOW WHOM TO CONTACT, YOU MAY CALL THE DAUPHIN COUNTY LAWYER REFERRAL SERVICE AT (717) 232-7536.

DAUPHIN COUNTY

PRO SE DIVORCE – NO FAULT/CONSENSUAL

This packet of forms, information and instructions was developed so that you will not need a lawyer to file for a No-Fault Consensual Divorce. You are permitted to file legal papers and represent yourself in court (pro se). **However, it is strongly recommended that you seek the advice of an attorney.**

ANYONE THINKING ABOUT USING THESE FORMS IS ADVISED TO READ ALL INFORMATION SHEETS, DEFINITION SHEETS, AND INSTRUCTION SHEETS COMPLETELY.

DEFINITIONS OF TERMS USED IN DIVORCE

PLAINTIFF -- the person who starts a lawsuit.

DEFENDANT -- the person who is being sued.

PARTY -- a person named in a Complaint (the Plaintiff or Defendant).

NO-FAULT DIVORCE -- a divorce in which one spouse does not have to prove that the other spouse did something wrong.

NO-FAULT CONSENT DIVORCE -- a divorce where both parties agree to a divorce.

IRRETRIEVABLY BROKEN -- the term that means that the marriage has little or no chance of reconciliation.

SPOUSAL SUPPORT -- support received by a spouse prior to the filing of a divorce.

ALIMONY PENDENTE LITE -- support that either party can ask the court to order after the divorce is filed but before it is granted. Alimony pendente lite ends when the divorce decree is entered.

ALIMONY -- support that either party can ask the court to order which is paid after a divorce decree is entered. The court may order alimony if the party seeking alimony cannot support himself or herself, or if that party does not have enough money or property to provide for his/her reasonable needs.

MARITAL PROPERTY -- generally, all property that is acquired during the marriage no matter whose name it is in.

COUNSELING -- a court can order sessions with a marriage counselor if either party requests it.

ATTORNEY'S FEES -- charges by an attorney for handling a case.

DOCKET NUMBER -- the number assigned to the Divorce Complaint by the Prothonotary's Office. This number must be used on any subsequent document either party files with the court which relates to the divorce.

FILE -- presenting your Complaint and other necessary forms to the Prothonotary's Office to be date-stamped. The Prothonotary's Office will keep the original of all forms and return the extra copies to you.

EXPLANATION OF FORMS USED IN DIVORCE ACTIONS

DIVORCE COMPLAINT -- a legal document that sets out specific information about the Plaintiff, the Defendant and the marriage. It also asks the court to grant a divorce. Your Complaint will be assigned a docket number by the Prothonotary's Office. This number must be used on any document either party files with the court which relates to the divorce.

NOTICE TO DEFEND AND CLAIM RIGHTS -- a cover page that is attached to the front of the Divorce Complaint which tells the Defendant that s/he is being sued for divorce and may lose rights if s/he does not respond to the Complaint. It also advises the Defendant of the right to request counseling.

AFFIDAVIT OF SERVICE -- a form that must be filed with the Prothonotary's Office indicating that the Plaintiff has delivered the Complaint and Notice to Defend and Claim Rights to the Defendant in a proper manner.

DAUPHIN COUNTY DIVORCE INFORMATION SHEET -- a document required by Dauphin County that lists both parties' social security numbers and indicates the length of the marriage.

AFFIDAVIT OF CONSENT -- a document that must be signed and filed with the Prothonotary's Office no earlier than 90 days after a Complaint is SERVED. The affidavit states that the marriage is irretrievably broken and the party signing the affidavit wants a divorce. **BOTH PARTIES MUST SIGN AND FILE AN AFFIDAVIT OF CONSENT.**

WAIVER OF NOTICE OF INTENTION TO REQUEST ENTRY OF DIVORCE DECREE -- forms SIGNED BY EACH PARTY waiving notice of a request for entry of the divorce decree. This form must be filed with the Prothonotary's Office.

PRAECIPE TO TRANSMIT -- a form that asks the Prothonotary's Office to send all the proper papers to the Court Administrator's Office for assignment to a judge for review and entry of a Divorce Decree.

DECREE -- an Order from the court granting the divorce.

NOTE: If you **OR** your spouse, **OR** both you and your spouse are under the age of 18, there are forms other than those included in this packet which **must** be used.

GENERAL INFORMATION REGARDING DIVORCE

In 1980, the Pennsylvania divorce law changed to allow a married couple to get a divorce with little trouble or expense. The law also allows for alimony and a fair division of marital property.

The law provides for No-Fault Divorces. Couples can now get a divorce without having to prove that their spouse did something wrong. You need only show that the marriage is "irretrievably broken" -- which means that there are problems in the marriage and it is not likely that the couple will get back together. In some cases, both parties must sign a written consent to the divorce.

THE TYPES OF DIVORCES IN PENNSYLVANIA ARE AS FOLLOWS:

1. **No-Fault Consent Divorce** -- A divorce that requires the consent of both husband and wife.
2. **Irretrievable breakdown** -- You can get a divorce without your spouse consenting if you have lived separate and apart for two (2) years or more.
3. **Fault** -- With this type of divorce, you need to prove that your spouse did something wrong. Grounds for a fault divorce are: desertion for a year or more; bigamy; adultery; imprisonment for 2 years or more upon conviction of any crime; indignities (continuing conduct by the Defendant that makes Plaintiff's life unbearable); and, endangering the life or health of the Plaintiff.
4. **Institutionalization** -- You can get this type of divorce if your spouse is insane or has a serious mental disorder and has been confined to a mental institution for at least 18 months before you filed for this type of divorce and is expected to remain in the institution for at least 18 months after you file for divorce.

NOT INCLUDED WITH THESE FORMS ARE THE DOCUMENTS NECESSARY TO FILE FOR CUSTODY, ALIMONY PENDENTE LITE, ALIMONY AND/OR

EQUITABLE DISTRIBUTION OF MARITAL PROPERTY. If you wish to file for custody, alimony pendente lite, alimony, and/or equitable distribution of marital property, you will be unable to do so using these forms. The following paragraphs discuss Alimony and Equitable Distribution.

A No-Fault Consent Divorce allows a spouse to ask for alimony if the spouse cannot support himself or herself or does not have enough money or property to provide for his or her reasonable needs. Alimony is usually ordered for a limited time -- long enough for the person asking for alimony to get a suitable job or develop a suitable job skill. Alimony can be ordered for a longer period of time if a person cannot work or develop a skill because of age, disability, or the need to care for children. A person asking for alimony must request it as part of a divorce action before the court grants the divorce. **IF YOU DO NOT, YOU CAN NEVER COME BACK AGAIN AND ASK THE COURT TO ORDER ALIMONY.**

A No-Fault Consent Divorce also allows either spouse to ask the court for an equitable distribution of marital property (see the Definition of Terms page in these instructions). The court will consider the length of the marriage, the ages, health, needs and sources of income of each party, and several other factors when deciding how to distribute marital property. A person asking for the marital property to be distributed must request it as part of a divorce action before the court grants the divorce. **IF YOU DO NOT, YOU CAN NEVER COME BACK AGAIN AND ASK THE COURT TO ORDER AN EQUITABLE DISTRIBUTION OF MARITAL PROPERTY.** If neither party asks the court to distribute marital property, both parties will be able to use or dispose of their separate property, even if it was obtained during the marriage, once a divorce decree is entered.

Either party in a divorce has a right to request marriage counseling. The Prothonotary's Office will provide a list of marriage counselors upon request. Counseling will not generally delay or prevent the divorce. Also, counseling is not free.

Either party in a divorce action has the right to request that a child custody order be entered concerning children born to the parties. **These forms will not help you file for custody. If you want to file for custody or the modification of an existing custody order you may file a custody complaint or a petition to modify custody (see Self Help Center Custody forms).**

AGAIN, THIS INFORMATION IS PROVIDED ONLY FOR A NO-FAULT CONSENT DIVORCE WHEN NEITHER PARTY WISHES TO REQUEST CUSTODY, ALIMONY PENDENTE LITE, ALIMONY, OR THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY. THE INFORMATION AND FORMS ARE NOT FOR YOU IF ANY OF THE FOLLOWING PERTAIN TO YOU:

1. If you have not been a resident of Pennsylvania for at least six (6) months.

2. If you want to request any kind of alimony.
3. If you have marital property that needs to be divided because you and your spouse cannot agree on how to split it up.
4. If you wish to request attorney's fees or court costs.
5. If your spouse is in the military service.
6. If you wish to pursue custody as part of the divorce. (However, a separate action for custody or visitation can be filed before or after a divorce case.)

TIMETABLE AND LIST OF FORMS

1. The Complaint with the attached Notice to Defend and Claim Rights should be taken to the Prothonotary's Office for filing (this will start the divorce action). The Prothonotary's Office is located on the first floor of the Dauphin County Courthouse. The Prothonotary's Office charges a filing fee in the amount of \$227.00 which must be paid at the time of filing of the complaint by cash, certified check, or money order. If you think that you cannot afford to pay the filing fee, you may file a Petition to Proceed In Forma Pauperis (IFP) (see Self Help Center In Forma Pauperis forms and instructions).
2. Affidavit of Service: to be filed with the Prothonotary's Office when service has been made.
3. Forms to be filed with the Prothonotary's Office together, **ninety** (90) days from date of service:
 - a. Dauphin County Divorce Information Sheet.
 - b. Praecipe to Transmit.
 - c. Decree.
 - d. Affidavit of Consent: -- each spouse must sign an Affidavit of Consent **no earlier than 90 days** after the Complaint is SERVED on the Defendant. Both Affidavits must be filed **within 30 days** after they are signed by the spouses.
 - e. Waivers of Notice of Intention to Request Divorce Decree: each spouse must sign a Waiver **no earlier than 90 days** after the Divorce Complaint is served.

It is recommended that you file all the forms as indicated above, keeping in mind the time limitations for the Affidavits of Consent, as a way to insure that all the necessary forms are filed. **However, if for some reason you are unable to file all of the above documents together, be sure you file the Affidavits of Consent within the time limitations noted above.**

INSTRUCTIONS

INSTRUCTIONS FOR COMPLETING A DIVORCE COMPLAINT AND A NOTICE TO DEFEND AND CLAIM RIGHTS

A. Filling out the Caption

The caption is the top part of page one (1) of the Complaint and on each legal document you will need to file in the divorce. The names of the parties, the docket number, the type of Complaint, and the court's name are found here.

The Plaintiff is you since you are filing this action. Print your full, legal name, including middle initial, above the word "Plaintiff" in the caption of the Complaint and the Notice to Defend and Claim Rights.

The Defendant is your spouse (husband or wife). Fill in the Defendant's full, legal name, including middle initial, above the word "Defendant" in the Complaint and Notice to Defend and Claim Rights.

YOU MUST COMPLETE THE CAPTION ON EVERY FORM YOU FILE. THE DOCKET NUMBER WILL BE PROVIDED TO YOU BY THE PROTHONOTARY'S OFFICE WHEN YOU FILE THE COMPLAINT AND MUST BE INCLUDED IN EVERY CAPTION.

B. The following instructions correspond to each numbered paragraph in the Divorce Complaint.

1. Fill in your full, legal name including the middle initial, your full mailing address (street, number, route, box number, town, county, state and zip code), and the month and year you began living at this address.
2. Fill in the Defendant's full, legal name including the middle initial, the Defendant's full mailing address (street, number, route, box number, town, county, state and zip code), and the month and year your spouse began living at this address.

3. There is nothing to complete in this paragraph. It is a statement claiming that you have resided in Pennsylvania for at least six months before filing the divorce Complaint. This statement, like all others on these forms, **MUST BE TRUE**.
4. Fill in the complete date of your marriage (month, date and year) and the city, county, and state in which you were married.
5. If there has never been another divorce filed during this marriage, write the word "none." If there was an action filed in the past, write the docket number, the county in which the divorce Complaint was filed, who filed the action, and what happened with the action (withdrawn, dismissed, etc.).
6. Indicate if defendant is or is not in military service.
7. There is nothing to complete in this paragraph.
8. There is nothing to complete in this paragraph. It simply states that counseling is available.
9. There is nothing to complete in this paragraph. It simply requests a decree of divorce.
10. Sign the Complaint using your full, legal name and enter the date.

INSTRUCTIONS FOR FILING THE COMPLAINT

You will need to file the Divorce Complaint with the Notice to Defend and Claim Rights attached to the front of the Divorce Complaint with the Dauphin County Prothonotary's Office. You can file for your divorce in Dauphin County if one of the following applies:

1. you live in Dauphin County;
2. your spouse lives in Dauphin County; or
3. you and your spouse agree in writing to file for Divorce in Dauphin County. (You need to attach a statement to the complaint which reads: "The Plaintiff, your name, and the Defendant, your spouse's name, agree that this Divorce action should be filed in Dauphin County." Both you and your spouse must sign and date the statement.)

NOTE: If the county you are filing for divorce is not Dauphin, you will not be able to use these forms.

Once you complete the Complaint with the Notice to Defend and Claim Rights, you will have to make two (2) copies of the completed Notice to Defend and Claim Rights and two (2) copies of the Complaint. You must attach a Notice to Defend and Claim Rights to the front of each Complaint you have just completed. Be sure the caption on all copies of each form is completed.

You will then be ready to file your papers. Take all copies of the Complaint and Notice to Defend and Claim Rights (a total of three (3)) to the Dauphin County Prothonotary's office which is located on the first floor of the Dauphin County Courthouse, Front and Market Streets, Harrisburg, PA. The Prothonotary's Office will put a docket number on each Notice to Defend and Claim Rights and Complaint and will keep the original for filing. The Prothonotary's Office will date-stamp all the documents and will return two (2) copies of the Complaint and Notice to Defend and Claim Rights to you. Be sure the docket number is on each copy of the Notice to Defend and Claim Rights and the Complaint.

You must serve one (1) copy of the Notice to Defend and Claim Rights and the Complaint on the Defendant (see Instructions for Service). The other copy is for your records.

INSTRUCTIONS FOR SERVING THE DIVORCE COMPLAINT

"Service" means that the Defendant received the Notice to Defend and Claim Rights and the Divorce Complaint. Service must be made within 30 days of the filing of the Complaint. Service can be made in a number of ways. We recommend either of the following methods:

1. **Personal service** -- this is accomplished by an adult, other than you, by personally handing the Notice to Defend and Claim Rights and the Complaint to the Defendant. The person who handed the papers to the Defendant must sign an Affidavit of Service which is included in the forms.
2. **Service by Certified Mail** -- this is accomplished by sending a copy of the Notice to Defend and Claim Rights and the Complaint to the Defendant by certified mail, return receipt requested, restricted delivery. After filing your Divorce Complaint and the Notice to Defend, prepare an envelope with your spouse's name and address, using your own address as the return address. Print the words "Restricted Delivery" on the lower left hand corner of the envelope. It is best to do this with red ink. Take the envelope to the Post Office and tell them you want to send it "certified mail, return receipt requested, restricted delivery." Someone at the post

office will help you complete the cards properly but here are the instructions: fill in the Defendant's name and address on the back side of the green card. There are boxes on this side for you to check the type of delivery you want. Check the box that indicates you want a return receipt and the one that indicates that the item should be delivered only to the person named on the envelope. Fill in your name and address on the reverse side so the green card will be returned to you after your spouse has signed for the envelope. There will also be a green and white paper slip that is numbered which you need to complete. Fill in your spouse's name and address. There is a list of blanks indicating fees for the mailing. Someone at the post office will help you complete this part if you are not sure which costs apply. The reverse side of the green part of this slip will have adhesive on it. Wet it and attach it to the top of the envelope allowing room for the postage. The number from this slip of paper will be filled in on the green card where indicated. **MAKE SURE YOU KEEP THE RECEIPT FROM THIS SLIP.** The cost of certified mail, return receipt, restricted delivery is approximately \$8.00.

WHEN YOUR GREEN CARD IS RETURNED TO YOU, YOU MUST ATTACH BOTH THE GREEN CARD AND THE WHITE SLIP TO A PIECE OF PAPER. THEN ATTACH THE PIECE OF PAPER TO THE COMPLETED AFFIDAVIT OF SERVICE AND FILE IT WITH THE PROTHONOTARY'S OFFICE (see the instructions on completing the Affidavit of Service).

If the green card is not returned to you within one month, contact the post office where you mailed the envelope. If your spouse does not sign for the envelope you should proceed with personal service as described above.

INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT OF SERVICE

After serving the Notice to Defend and Claim Rights and the Complaint according to the instructions, you will need to complete and file the Affidavit of Service.

1. **First Blank** – If your spouse was served by certified mail, print your name. If your spouse was served personally, print the name of the person who handed the Notice to Defend and Claim Rights and the Complaint to your spouse.
2. **Second Blank** -- Fill in the date on which service was made (either the date your spouse signed the green card or was handed the Notice to Defend and Claim Rights and the Complaint).

If you served your spouse by certified mail, check the first paragraph and fill in the date your spouse signed the green card. Then sign and date the Affidavit of Service. Be sure to put the "docket number" on the caption and write the same year that is on the Complaint. Staple the green card and receipt to a piece of plain paper and attach it to the Affidavit of Service. Take the Affidavit with attached paper to the Prothonotary's Office for filing.

If your spouse was personally served, check the second paragraph and fill in the location where your spouse was served, and the date and time of service. The person who made personal service must sign, and date the Affidavit of Service. Take the Affidavit to the Prothonotary's Office for filing.

INSTRUCTIONS FOR COMPLETING THE AFFIDAVIT OF CONSENT

There are two (2) Affidavits of Consent included in this packet, one for you and one for your spouse. **THE AFFIDAVITS OF CONSENT CANNOT BE SIGNED UNTIL 90 DAYS HAVE PASSED FROM THE DAY YOU SERVED THE COMPLAINT.**

- a. Make sure you complete the caption of each Affidavit of Consent.
- b. Paragraph 1 -- print the date on which the Complaint was filed on both Affidavits (the date the Prothonotary's Office stamped on your copy of the Complaint).
- c. Date and sign the form for Plaintiff with your full, legal name, including middle initial.
- d. The second Affidavit of Consent must be dated and signed by your spouse. Mail your spouse a copy of the Affidavit or contact him or her personally.
- e. YOU AND YOUR SPOUSE MUST FILE YOUR AFFIDAVITS OF CONSENT WITHIN 30 DAYS AFTER THEY HAVE BEEN SIGNED. For example, you cannot sign your form one day and file it 45 days later.

File both Affidavits of Consent with the Prothonotary's Office within 30 days after they are signed and dated. Remember, when you file both Affidavits of Consent, you should also file both Waivers of Notice of Intention to Request Entry of a Divorce Decree, the Dauphin County Divorce Information Sheet, the Praecipe to Transmit and the Decree.

INSTRUCTIONS FOR COMPLETING THE WAIVER OF NOTICE OF INTENTION TO REQUEST ENTRY OF A DIVORCE DECREE

When you file your Affidavit of Consent forms, you must also file both copies of the "Waiver of Notice of Intention to Request Entry of a Divorce Decree." One must be signed by you, and the other must be signed by your spouse.

- a. Make sure you complete the caption on each "Waiver."
- b. Date and sign the form for Plaintiff with your full, legal name, including middle initial.
- c. The second "Waiver" must be dated and signed by your spouse. Mail your spouse a copy of the "Waiver" or contact him or her personally.

You should file both copies of the Waiver of Notice of Intention to Request Entry of a Divorce Decree at the same time that you file the Affidavits of Consent, the Dauphin County Divorce Information Sheet, the Praecipe to Transmit, and the Decree.

INSTRUCTIONS FOR DAUPHIN COUNTY DIVORCE INFORMATION SHEET

The Rules of Court require that parties to a divorce provide social security numbers to the Prothonotary's Office before the divorce decree is entered. This information is kept in a confidential file.

- a. Fill in the date that you are completing this form.
- b. Write in the docket number.
- c. Write in the Plaintiff's name.
- d. Write in the Plaintiff's social security number.
- e. Write in the Defendant's name.
- f. Write in the Defendant's social security number.
- g. Check the line next to the correct years for length of marriage.

You should file the Dauphin County Divorce Information Sheet at the same time as you file both copies of the Waiver of Notice of Intention to Request

Entry of a Divorce Decree, Affidavits of Consent, the Praeceptum to Transmit and the Decree.

INSTRUCTIONS FOR COMPLETING THE PRAECEPTUM TO TRANSMIT

Again, make sure you complete the caption.

Paragraph 2 – If the complaint was served by certified mail, print “Service by Certified Mail, Restricted Delivery, Return Receipt Requested” then, insert the date your spouse signed the green card (this date will also be on the Affidavit of Service).

If the Complaint was served personally, fill in the date, the location of service, and the name of the person who served the Complaint.

Paragraph 3 – Print the date you signed the Affidavit of Consent in the first blank and the date your spouse signed the Affidavit of Consent in the second blank.

Paragraph 4 – Print the word “None.”

Paragraph 5 – Print the date on which you filed the Waiver of Notice of Intention for yourself. Print the date on which you filed the Waiver of Notice of Intention signed by your spouse.

Date and sign your full legal name.

After you complete the Praeceptum to Transmit, file it in the Prothonotary’s Office along with both Affidavits of Consent, both Waivers of Notice of Intention to Request Entry of Divorce Decree, the Dauphin County Divorce Information Sheet and the Decree.

INSTRUCTIONS FOR COMPLETING THE DIVORCE DECREE

Complete the caption as on all forms, including the docket number and year.

Do not fill in any dates in the first line.

Print or type your full, legal name in the blank on the second line and the full, legal name of your spouse in the blank on the third line.

Take the Divorce Decree to the Prothonotary's Office along with the Praeceptum to Transmit Record, both Affidavits of Consent, both Waivers of Notice

of Intention to Request Divorce Decree, and the Dauphin County Divorce Information Sheet.

The Prothonotary's Office will make sure all the necessary papers are in the file and will send all the information to the Court Administrator's Office for review and assignment to the Motion Judge for review and signature.

If everything is in order, you should receive your divorce decree within one (1) week.

At any time after the divorce complaint is filed, you may chose to resume your maiden name. To do this you must go to the Dauphin County Prothonotary's office and file a statement indicating that you intend to resume your maiden name. The cost is \$13.50 which has to be paid in cash, certified check, or money order. The Prothonotary's Office will provide you with the form.