

DIVORCE PACKET

**ALL FORMS ARE TO BE COMPLETED
PRIOR TO SUBMITTING THEM TO
THE CIRCUIT CLERK'S OFFICE**

**ALL COPIES MUST BE SINGLE-SIDED AND MADE
PRIOR TO SUBMITTING THEM TO
THE CIRCUIT CLERK'S OFFICE.**

**THE REQUIRED NUMBER OF COPIES ARE LISTED
AT THE TOP RIGHT OF THE FIRST PAGE
OF EACH DOCUMENT.**

**(If you wish to retain a copy for yourself, you must make your own copies prior to
submitting the forms to our office)**

**ALL FEES MUST BE PAID WITH CASH, CERTIFIED
CHECK, OR MONEY ORDER.**

(We do not accept cards or personal checks.)

**PLEASE READ ALL OF THE INSTRUCTIONS
CAREFULLY. THIS OFFICE CANNOT ACT AS
YOUR ATTORNEY or ANSWER ANY LEGAL
QUESTIONS YOU MAY HAVE.**

**All Documents
MUST BE NOTARIZED
Prior to Filing**

WEST VIRGINIA PETITIONER'S DIVORCE PACKET INSTRUCTIONS

*** IMPORTANT INFORMATION ***

YOUR RIGHTS MAY BE BETTER PROTECTED WITH THE HELP OF AN ATTORNEY.

You can obtain a divorce without the assistance of an attorney, but if minor children will be involved in your divorce, if you and your spouse own a home or business, or if you or your spouse have a pension or retirement plan, your custody, property, and support rights may be better protected with the help of an attorney.

The staffs of the Circuit Clerk's Office and the Family Court are prohibited by law from providing legal advice.

TIME DEADLINES

In a divorce case, the parties must meet certain deadlines, such as filing papers and documents by a specific date. The failure to meet deadlines can result in the Court imposing penalties. If the other party meets the deadline and you do not meet the deadline, the Court can accept the information that was filed by the other party. **FAILURE TO COMPLY WITH DEADLINES CAN HURT YOUR CASE!** These Instructions contain information on deadlines. Read the instructions carefully, and pay attention to the deadlines.

If you require any special arrangements to fully participate in court proceedings; for example, a language interpreter, hearing or visual aids, or accommodations for physical access, please notify the Circuit Clerk's Office by checking the appropriate box on the Petitioner's Civil Case Information Statement.

INSTRUCTIONS FOR PETITIONER'S PACKET

The Petitioner's Divorce Packet contains forms and instructions you will need to represent yourself in your divorce case, without an attorney. As the person who starts the divorce case, you are the Petitioner. Your spouse is the Respondent. The meanings of these terms and others are explained in the "Definitions of Legal Terms" at the end of these instructions. You should take a few minutes to read these definitions before you continue with these instructions.

The first part of your Petitioner's Packet contains the instructions you are now reading. The forms follow the instructions. Please read these instructions carefully, and please write clearly when you fill in the forms. The forms are very important to your case. If required forms are not properly completed and filed on time, your case may be harmed, or delayed. You will file all of your forms and all other required documents in the Circuit Clerk's Office. Unless otherwise indicated, for every form and document you file, you will need an original that will be filed with the Circuit Clerk, a copy you will serve on the opposing party, and a copy for yourself. If the BCSE is a party, you will need a copy that will be served on that agency.

The forms in this packet require you to provide your name, address, and telephone number. **If you believe your safety, liberty, or health, or the safety, liberty, or health of your children would be put at risk by the disclosure of this information, you must check the box in the Important Notice section of the Petitioner's Civil Case Information Statement AND you must file an affidavit to have the information withheld from all persons except court employees who require the information to carry out their duties.** The affidavit you need to file is the Affidavit To Withhold Identifying Information. This affidavit is not included in the Petitioner's Divorce Packet. If you need this affidavit, you can obtain one at the Circuit Clerk's Office. You can file this affidavit in the Circuit Clerk's Office at the beginning of your case, or later, or you can ask the Court to enter an order allowing you to withhold the information. If your identifying information is withheld, the Respondent's court papers will be served through the Circuit Clerk or Family Court, and not directly on you.

TO BEGIN, you must make certain you can file your divorce in West Virginia. You can file your divorce in West Virginia **only if**:

1. You or your spouse have lived in West Virginia for at least one year before the divorce is filed.

OR

2. You now live in West Virginia, and you and your spouse were married in West Virginia.

If you can file your divorce in West Virginia, and you want to use the forms in the Petitioner's Divorce Packet to prepare your divorce, you need to begin by studying the following list of forms included in the packet. The list contains the names of the forms, and important information about the forms and how they will be used in your case. The forms on the list are divided into three groups; Forms Required in All Divorces, Forms Required in Divorces Involving Minor Children, and Other Forms You May Need. **Read the list of forms carefully to determine the forms you need to complete.**

FORMS REQUIRED IN: ALL DIVORCES.

1. PETITION FOR DIVORCE:

The Petitioner files this document to begin the divorce. The Petition for Divorce tells the Court the reasons a divorce should be granted, and it tells the Court how the Petitioner wants the Court to handle matters such as spousal support, allocation of custodial responsibility for the children, child support, and the division of property. You will file an original and one copy of your Petition in the Circuit Clerk's Office. You will also want to keep a copy for your records.

2. PETITIONER'S CIVIL CASE INFORMATION STATEMENT - DOMESTIC RELATIONS CASES:

This form gives the Court important information about the case and the parties. When you file your Petition in the Circuit Clerk's Office, you also must file three copies of a completed Petitioner's Civil Case Information Statement.

3. FINANCIAL STATEMENT:

You and the Respondent will use this form to list income, assets, and liabilities. Each of you will complete one of these forms. In cases involving minor children and/or spousal support, each of you must file the additional information discussed in Step 1. **You must file your completed Financial Statement with the Petition.** Any additional information required to supplement your financial disclosure, or any updates or changes to your financial statement, must be filed in the Circuit Clerk's Office as required by the scheduling order of the court. If you do not have a scheduling order, then the additional information must be filed no later than 5 days before the first hearing in your case. If one party files the financial information on time, and the other party does not, the Court can proceed with the financial information missing, can refuse to grant requested relief to the party who didn't file the information, and can base a decision solely on the information that was filed on time.

4. VITAL STATISTICS FORM:

This form is used to update the state's vital statistics records on births, deaths, marriages, and divorces. You must file this form with your Petition For Divorce.

**FORMS REQUIRED IN: DIVORCES INVOLVING MINOR CHILDREN
OR SPOUSAL SUPPORT.**

**1. APPLICATION FOR CHILD SUPPORT AND INCOME WITHHOLDING
SERVICES FROM THE BUREAU FOR CHILD SUPPORT ENFORCEMENT:**

If minor children are involved in the divorce, or spousal support is being requested by either party, you must complete this form, and file it in the Circuit Clerk's Office when you file your Petition. The Respondent also must complete this form, and file it in the Circuit Clerk's Office with the Answer to Divorce Petition.

2. PROPOSED PARENTING PLAN:

If minor children are involved in the divorce, you and the other parent must attempt to agree on a Joint Proposed Parenting Plan, unless your or your children's safety and well-being would be put at risk. A Joint Proposed Parenting Plan tells the Court in detail how the parents think the responsibilities for raising the children should be shared after the divorce. If you and the other parent cannot agree on a Joint Parenting Plan, each of you must file Individual Proposed Parenting Plans. **In either event, Joint or Individual Plans should be filed prior to the first hearing/conference in the case. If one party files an Individual Plan on time, and the other party does not, the Court can rely solely on the plan that was filed on time.** The Parenting Plan Instructions accompanying the Parenting Plan forms explain Parenting Plans in detail.

3. PARENT EDUCATION NOTICE:

This notice explains that each parent must pay a \$25 Parent Education Fee, unless fees have been waived, and must complete a Parent Education Class conducted by specially trained persons approved by the Courts.

OTHER FORMS YOU MAY NEED.

1. ACCEPTANCE OF SERVICE:

This form is used if the Respondent voluntarily accepts the divorce papers, or picks them up in the Circuit Clerk's Office.

2. AFFIDAVIT OF NON-RESIDENCY OR UNKNOWN RESIDENCY:

You will use this form if the Respondent cannot be served in West Virginia because the address is not known, or if the Respondent lives out of state. You must sign this form in front of a Notary Public or Deputy Circuit Clerk.

3. SERVICEMEMBERS CIVIL RELIEF ACT WAIVER:

The Servicemembers Civil Relief Act permits persons serving in the armed forces to delay court cases. A party serving in the armed forces who signs this form agrees to allow the divorce to proceed despite the Servicemembers Civil Relief Act.

4. DIVORCE ANSWER PACKET:

This packet contains the forms and instructions the Respondent needs to handle the divorce without an attorney.

Now that you've reviewed the list of forms, you next need to determine the correct forms for your case, and the deadlines for serving and filing those forms. These things are explained in Step 1.

STEP 1. WHAT ARE THE CORRECT FORMS FOR YOUR CASE? WHAT ARE THE DEADLINES FOR FILING THE FORMS?

A. EVERYONE who files a divorce case MUST complete and file the following forms:

Petition for Divorce - Deadline: There is no deadline for filing the Petition, but when the Petition is filed, the Court's clock starts.

Petitioner's Civil Case Information Statement - Deadline: Must be filed with the Petition.

Vital Statistics Form - Deadline: Must be filed with the Petition.

Financial Statement - Deadline: Must be filed with the Petition and served on the other party, or parties, and filed in the Circuit Clerk's Office. AND, in cases involving minor children, and/or spousal support, the Financial Statement must be accompanied by the additional information explained in items B and C immediately below.

B. If MINOR CHILDREN are involved in the divorce, IN ADDITION to the forms in Group 1, you MUST also complete and file the following forms:

Application for Child Support Enforcement and Income Withholding Services - Deadline: Must be filed with the Petition.

Proposed Parenting Plan - Deadline: Before the first hearing.

AND

You MUST also file the following information with your Financial Statement:

1. A copy of your 3 most recent wage or salary stubs showing gross pay, deductions for taxes and other items, and net pay for a normal pay period, and for the year-to-date;

2. Copies of your and your spouse's complete income tax returns for the two years immediately preceding the date the Petition was filed, together with copies of the federal Form W-2 for those years; and a copy of the Form W-2 for the most recent year for which that form is available, even if a tax return has not yet been filed for that year;
3. For self-employed persons and business owners, a copy of a current financial statement showing gross income, expenses, and net income;
4. Copies of any invoices or receipts showing the cost of any extraordinary medical expenses for the party or the children, any child care expenses, and any expenses necessitated by the special needs of the children.

AND

You MUST also complete a Parent Education Class. **Deadlines:** You must pay the Parent Education Fee when you file your Petition, unless your fees have been waived. You should attempt to complete a Parent Education Class before your first hearing. If you do not, your case may be delayed.

- C. If you are requesting SPOUSAL SUPPORT, (alimony), IN ADDITION to the Group 1 forms, you MUST also complete and file:**

Application for Child Support Enforcement and Income Withholding Services -
Deadline: Must be filed with the Petition.

AND

You MUST file WITH your Financial Statement the additional information listed in items B. 1 - 4 immediately above.

- D. If you serve the Respondent by PUBLICATION, IN ADDITION to the required Group 1, 2, and 3 forms, you ALSO must complete and file an Affidavit of Non-residency.**

Now that you've determined the forms required for your divorce, go to Step 2 to learn about how to fill out the Petition form, and other required forms.

STEP 2. HOW TO FILL OUT THE PETITION AND OTHER FORMS.

Before you begin, you may want to make several copies of each blank form. You can use the copies to practice on, and you'll have extra blank forms if you make an error completing a form.

Filling out the Petition form is a matter of checking the right boxes, and filling in blanks. The form is self-explanatory, but make certain you read everything carefully, and fully understand what you're doing when you check a box or fill in a blank. Items 20, 21, 22, and 23 on the Petition concern the grounds for divorce. Read the last section in this step for information about the grounds for divorce. Complete the Petition form down to the Verification. Don't complete and sign the Verification until you are before a Notary Public. Deputy Circuit Clerks can also notarize your Verification.

Next, take a look at the other forms you must fill out. If necessary, return to Step 1 and review the list of forms to make certain you fill out all of the required forms. Some forms have a set of instructions accompanying them; the Parenting Plan, for example. Other forms have instructions built into the form. Read the instructions and forms carefully, and make certain you understand what you're doing when you check a box or fill in a blank.

GROUND FOR DIVORCE

The Divorce Petition form included in this packet lists three common grounds for divorce. The most common ground is Irreconcilable Differences. This ground is Item 20 in the Divorce Petition. Item 20 does not require a check mark. In other words, when you file the form, Petition for Divorce, you are automatically claiming Irreconcilable Differences as a ground, unless you cross it out. The other two grounds listed in the form Petition, Items 21 and 22, must be checked to be claimed as grounds. The grounds of Irreconcilable Differences and One Year Separation are briefly explained in the next two paragraphs.

Irreconcilable Differences

To obtain a divorce on the ground of Irreconcilable Differences:

1. The Divorce Petition must claim Irreconcilable Differences as a ground. Irreconcilable Differences is automatically claimed by filing the form, Petition for Divorce, included with the Petitioner's Divorce Packet.
2. The Respondent must file an Answer To Divorce Petition, **and** the Answer must admit Irreconcilable Differences.
3. At least one of the parties to the divorce, you or the Respondent, must attend the final hearing.

One Year Separation

To obtain a divorce on the ground of One Year Separation:

1. You must check Item 21 on the Divorce Petition.
2. At least one witness must testify to the 1 year separation. (Neither you, nor the Respondent, count as this one witness.)
3. At least one of the parties to the divorce, you or the Respondent, must attend the final hearing.

After you've filled out the correct forms, the next step is to determine the county in which you need to file your forms. Step 3 explains this, and also provides information about the filing fee, and other fees and court costs.

STEP 3. FILE YOUR FORMS IN THE PROPER COUNTY. FEES AND COURT COSTS.

After you have completed the correct forms, you'll begin your divorce case by filing the forms in the Circuit Clerk's Office in the proper county. Here's how to determine the county in which to file your divorce.

If the Respondent lives in West Virginia:

1. You can file in the county in which the Respondent lives.
OR
2. You can file in the county in which you and the Respondent last lived together.

If the Respondent's address is unknown, or the Respondent lives out of state:

1. You can file in the county in which you now live.
OR
2. You can file in the county in which you and the Respondent last lived together.

After you have determined the county in which you will file, take your completed forms to the Circuit Clerk's Office in that county and give them to a Deputy Clerk for filing.

Important Note. The law prohibits the Circuit Clerk and Deputy Clerks from providing legal advice. This means they cannot assist you in completing your forms, or “check” your forms to see if you’ve completed them correctly.

Fees and Court Costs.

The law requires a person filing a court case to pay a filing fee, and certain other fees and costs which are used to help pay the cost of operating the court system. These fees and costs are not refundable if you change your mind about your divorce. Read the following information to learn more about the fees and costs you will have to pay, and to learn what to do if you cannot afford to pay these fees and costs.

The following fees are due at the time you file your divorce.

- * Fee for filing Divorce Petition - \$135.
- * Fee if your Petition is served on the Respondent by the Sheriff's Department - \$30.
- * Fee if your Petition is served on the Respondent by certified mail/restricted delivery - \$20.

If you cannot afford to pay these fees and court costs, you should ask a Deputy Circuit Clerk for an affidavit to waive fees and court costs. You can fill out the affidavit in the Clerk's office. The affidavit requires you to list some basic information about your financial situation with supporting documentation. A Deputy Clerk will review your completed affidavit, and tell you if you meet the legal requirements to have your fees and costs waived. If you meet these requirements, you will not have to pay fees and costs. If you don't meet these requirements, you must pay fees and costs, but you can ask the Court to review your affidavit later. The Court will review your request for waiver of fees at a later hearing and will determine your eligibility even if the clerk has approved your waiver. Criminal charges can be filed against you if you provide false information on this affidavit.

After your divorce has been filed, the next step is having the divorce papers served on the Respondent. To learn how this is done, go to Step 4.

STEP 4. HOW TO HAVE DIVORCE PAPERS SERVED ON THE RESPONDENT.

Before any type of hearing, except an emergency hearing, can be held in your case, the Respondent must be served with a Summons, a copy of your Petition, and the other documents you filed with it. The Summons, your Petition, and the documents you filed with it are sometimes referred to as “the divorce papers,” or “the papers.” The serving of court papers is called “service of process,” or just “service.” **It is your responsibility to arrange for the Respondent to be properly served with the divorce papers.** The following paragraphs describe the methods by which the divorce papers can be served. Read this information carefully. **If the Respondent is not properly served, your case will not go forward.**

PERSONAL SERVICE BY THE SHERIFF'S DEPARTMENT. The divorce papers are delivered to the Respondent by the Sheriff's Department. This type of service is arranged through the Circuit Clerk's Office. You pay the fee of \$30, and provide precise directions to the Respondent's residence or place of work. The better your directions, the more likely the Sheriff's Department is to find the Respondent. The Respondent has 20 days from the date the divorce papers are delivered to serve you with an Answer.

ACCEPTANCE OF SERVICE. To use this method of service, you must have the Respondent sign an Acceptance of Service form before a Notary Public when you give the Respondent the divorce papers; and you must promptly file that form in the Circuit Clerk's Office. From the date the form is signed, the Respondent has 20 days to serve you with an Answer.

PERSONAL SERVICE BY PRIVATE PROCESS SERVER. The law permits persons other than members of the Sheriff's Department to deliver the divorce papers to the Respondent, **but**, service cannot be made by a party to the case, **and** the person serving the papers must be 18 years of age or older. For this type of service to be valid, the person who serves the papers must complete an affidavit which states when and where the papers were served, **and** this affidavit must be filed in the Circuit Clerk's Office. The Respondent has 20 days from the date the divorce papers are delivered to serve you with an Answer.

SERVICE BY CERTIFIED MAIL. This type of service is arranged through the Circuit Clerk's Office. You pay a fee of \$20 to the Circuit Clerk. The Circuit Clerk's Office mails the divorce papers to the Respondent by certified mail, with restricted delivery and return receipt requested. If the mailing is accepted, the Clerk's Office will receive the return receipt postcard with the signature of the person who accepted the mailing. If the mailing is returned undelivered, or if a person other than the Respondent accepts the mailing and signs the receipt, you don't have good service, and your case will not go forward. The Respondent has 20 days from the date the divorce papers were delivered to serve you with an Answer.

SERVICE BY PUBLICATION. In this type of service, a legal notice of your Divorce Petition is published in a newspaper in the county in which you filed your divorce. Service by Publication can be used in only two situations.

1. The Respondent's location/address is unknown.
- OR**
2. The Respondent lives out of state, and will not sign the Return Receipt for Service by Certified Mail.

BUT, even if one of these situations applies to your case, you should know that, **if you use Service by Publication, the Court's ability to award child support and/or spousal support will be limited.**

AND, even if one of these situations applies to your case, DO NOT use Service by Publication if the only ground you claim for divorce is irreconcilable differences.

To attempt Service by Publication, follow these steps.

1. Complete the Affidavit of Non-Residency or Unknown Residency form, and take it to the Circuit Clerk's Office.
2. A Deputy Clerk will fill out an Order of Publication.
3. Immediately take the Order of Publication to a newspaper in the county in which you filed your divorce if the Respondent's location is unknown. If the Respondent lives out-of-state and will not sign the Return for Service by Certified Mail, then take the Order of Publication to a newspaper in the county of the last known address of the Respondent. You will be required to pay the newspaper for the publication cost, unless your fees and costs have been waived. The Notice will be published once a week for two weeks in a row. If fees and costs have been waived, the Circuit Clerk will send your Order of Publication to the proper newspaper for publication.

4. After the Notice of Divorce has been published twice, the newspaper will complete an Affidavit of Publication to confirm the publication has taken place. In some counties, the newspaper mails this Affidavit to the Circuit Clerk's Office. In some counties, the newspaper mails this Affidavit to the Petitioner. If the newspaper mails you the Affidavit, you must immediately file it in the Circuit Clerk's Office. Without the Affidavit of Publication in your file, you have no proof of service, and your divorce will not go forward. A copy of the Notice of Divorce from the newspaper is not good proof of service.
5. The Respondent has 30 days from the date of the Notice's first publication to Answer.

Now that you've gotten your case underway by having the Respondent served with the divorce papers, move on to Step 5 to learn about the Respondent's Answer to your Divorce Petition.

STEP 5. THE RESPONDENT'S ANSWER.

The Answer is the Respondent's written reply to your Petition. As you learned in Step 4, the Respondent will have 20 or 30 days to serve you with an Answer, depending on the method by which the divorce papers were served.

If the Respondent doesn't have a lawyer, he or she should obtain a Divorce Answer Packet from a Circuit Clerk's Office, or you can get one and pass it along. These forms are also available online at www.courtswv.gov.

Important reminder about the Respondent's answer and "no-fault" divorces.

To obtain a "no-fault" divorce on the ground of irreconcilable differences, the Respondent must file an Answer admitting irreconcilable differences, and certain other requirements must be met. Return to Step 1 for more information about the requirements for obtaining a "no-fault" divorce.

Next, proceed to Step 6, and learn how the hearings and conferences in your case will be conducted.

STEP 6. CONFERENCES & HEARINGS: WHAT TO EXPECT.

In Step 6, we'll discuss how the conferences and hearings in your case will be conducted. In Step 7, you'll learn what you need to do to prepare for your first conference or hearing. Conferences are conducted by the Family Court's Case Coordinator or the Family Court Judge. Hearings are conducted by the Family Court Judge. Conferences and hearings are set by the family court office.

In Family Court, all hearings and conferences are set by Scheduling Orders. **It is very important that you attend all hearings, show up on time, and come prepared.** You risk hurting your case if you fail to attend hearings, show up late, or come unprepared. Find out where the hearings will be held and allow plenty of time to get there on time.

If you receive a Scheduling Order notifying you of a hearing or conference, and you will not be able to attend, you must send the Family Court a written request to reschedule. This is called a Motion for Continuance. You must state the reason you cannot attend the originally scheduled hearing. The Family Court must receive your motion to continue not less than 7 business days before the date of the hearing you want rescheduled, and you must serve this motion on the Respondent.

Family Court hearings are not open to the public. Only the parties, attorneys for parties, and witnesses are allowed to attend hearings. All hearings are recorded with video and audio equipment. Everyone who testifies must swear or affirm to tell the truth. Everyone is expected to behave in a courteous and dignified manner. Courts will not tolerate improper conduct. The Rules of Court prohibit photographs, videotaping, and sound recording in the courtroom, and in all public areas associated with the courtroom.

Some Family Court Judges question the parties and their witnesses. Others want the attorneys and the self-represented parties to present evidence and question witnesses. If you are representing yourself, you will be expected to present your evidence and question witnesses. Ask a member of the Family Court staff how the judge will conduct your hearing.

Not all hearings produce an immediate decision. Sometimes, the issues in dispute just aren't ready for a decision. For instance, the judge may decide more evidence is needed on an issue. Sometimes, the judge will want to think things over before making a decision. Sometimes, the judge will announce a decision at the conclusion of a hearing. Whatever the circumstances, once made, all decisions are written down in the form of Orders, and filed in the Circuit Clerk's Office. If there's an attorney in the case, the Family Court Judge may ask the attorney to draft an Order which will be sent to the judge and the other party for review. If neither party has an attorney, the Family Court Judge will prepare the Orders.

Now that you've learned some things about the way hearings are conducted, move to Step 7, and learn what you need to do to prepare for the first hearing or conference in your case.

STEP 7. PREPARING FOR THE FIRST HEARING OR CONFERENCE.

In Step 7, we'll discuss what will happen at the first hearing or conference in your case, and what you need to do to prepare. To begin, review the following list of important reminders of things that must be done before the first hearing or conference.

THINGS YOU NEED TO DO BEFORE THE FIRST HEARING OR CONFERENCE.

Parent Education: If minor children are involved in the divorce, both parents must complete an approved Parent Education Class, and file a Class Completion Certificate in the Circuit Clerk's Office. You need to schedule and attempt to complete a Parent Education Class before the first conference/hearing. If you do not, your case may be delayed.

Proposed Parenting Plan: If minor children are involved in the divorce, before the first hearing/conference, you and the other parent need to file a Joint Proposed Parenting Plan together, or each of you need to file Individual Proposed Parenting Plans.

Witness Subpoenas: If you think you will need witnesses to testify at a hearing, you need to make certain those witnesses will attend. If you are not certain a witness will show up, you need to obtain a subpoena. To arrange for a subpoena, go to the Circuit Clerk's Office. You should do this at least 10 days before the hearing. To obtain witness subpoenas, you need to provide the Deputy Clerk with the names and addresses of the witnesses, and pay a Clerk's Fee of .50 cents per subpoena, and for service by the sheriff the fee is \$30 per subpoena, unless your fees have been waived.

THE FIRST CONFERENCE OR HEARING: WHAT TO EXPECT.

If a party makes a written motion for temporary relief, the first hearing may be a hearing on temporary relief. Temporary relief hearings deal with matters such as allocation of custodial responsibility, allocation of time spent with the children, child support, medical support, spousal support, and possession of the marital residence.

The first conference or hearing will be held after the Respondent has been served with your Petition, and the time for the Respondent to serve you with an Answer has ended.

This first hearing is called a case management conference/hearing. You will receive a Scheduling Order telling you the date, time, and place, and whether the proceeding will be a conference conducted by the Case Coordinator, or a hearing conducted by the Family Court Judge. The Scheduling Order will tell you if you need to complete and file any additional forms, file any additional information, or take care of any other matters before you come to the hearing.

One of the purposes of the case management conference/hearing is to determine what issues are disputed in your case, and how many hearings and how much time your case will require. If your case has no disputed issues, the first hearing may be the only hearing necessary, and the Court may suggest making the first hearing the final hearing. This can only be done if there is a good reason to do it, all necessary papers have been filed, and you and the Respondent agree to it.

In cases involving minor children, the most important subject discussed at the first conference/hearing will be the development of a Parenting Plan. Read the Parenting Plan Instructions to learn the things you need to know about Parenting Plans.

HOW TO PREPARE FOR HEARINGS.

As the Petitioner, you will be required to prove the grounds for divorce you claimed in your Petition. The other issues that will be the subject of hearings in your case depend on the nature of your case and the particular issues in dispute between you and the Respondent. Issues frequently in dispute in divorce cases include, but are not limited to, allocation of custodial responsibility, child support, division and possession of marital property, spousal support, and the division of marital assets and debts. To prepare for a hearing, the first thing you need to do is make sure you understand what issues will be addressed at that hearing. The second thing you need to do is decide how you can prove your case on these issues. You can prove your case by your testimony, by documents, or by the testimony of witnesses. The Respondent will be given the same opportunities to testify and present evidence. Make a plan for how you will present your case. It's best to write things down. List the things you want to prove, and for each thing you want to prove, list how you will prove it; by witness testimony, or a document, for example.

As you have learned, in some cases the first hearing may be the only hearing necessary. In other cases, a number of hearings may be required before the case reaches a final hearing. What happens after the final hearing is discussed in Step 8.

STEP 8. WHAT HAPPENS AFTER THE FINAL HEARING?

The final hearing will result in a Final Order concluding the case and settling all issues in dispute. Both parties will receive copies of the Final Order. **You are NOT legally divorced until a Final Order has been signed by the Family Court Judge!**

Any party may file a Motion for Reconsideration of a Final Order for one of the five types of reasons specified in Chapter 51, Article 2A, Section 10 of the West Virginia Code. A Motion for Reconsideration can be filed only for one of these reasons. A Motion for Reconsideration is made to the Family Court, and must be filed with the Circuit Clerk within a reasonable time after the Final Order was entered, or within one year, depending on the reason for which the motion is filed.

Any party may appeal a Final Order of Family Court to the Circuit Court. An appeal to the Circuit Court is made by filing a Petition for Appeal from Family Court Final Order with the Circuit Clerk. A Petition for Appeal must be filed within 30 days after the date the Final Order was entered. The Circuit Court may refuse to consider a Petition for Appeal. The other parties have a right to file a Reply to a Petition for Appeal, and file a Cross Petition; and the party filing the Petition for Appeal has a right to file a Reply to a Cross Petition. If the Circuit Court does not rule on the petition within the time required, all parties will receive a notice the appeal will be automatically transferred to the West Virginia Supreme Court of Appeals unless all parties file written objections to the transfer. If an appeal is transferred to the Supreme Court, the parties are not required to file any additional papers.

If the Circuit Court refuses to consider a Petition for Appeal, or if a party disagrees with the Circuit Court's ruling on a Petition for Appeal, an appeal may be made to the Supreme Court of Appeals.

Under some circumstances, a Final Order of Family Court may be appealed directly to the Supreme Court of Appeals. This may be done if all parties, together or separately, file a Notice of Intent to Appeal Family Court Final Order and Waiver of Right to Appeal to Circuit Court. Filing this Notice requires a waiver of the right to file a Petition for Appeal to the Circuit Court. The Notice must be filed within 14 days after the date the Final Order was entered.

A party filing an appeal to the Circuit Court or Supreme Court may make a Motion for a Stay. A Motion for a Stay asks that the terms of a Final Order not be carried out until the appeal has been resolved. A Motion for a Stay is made in the Family Court. If the Family Court denies the motion, the motion may be made in the Circuit Court. The payment of spousal support and child support cannot be stayed. The payment of past due child support may be stayed.

Forms and instructions for appeals to the Circuit Court and Supreme Court are available in Family Court and Circuit Clerk offices. These forms are also available online at www.courtswwv.gov.

DEFINITIONS OF LEGAL TERMS

Affidavit

A written statement of facts sworn to before a Notary Public.

Alimony

Money paid by a divorced person for the support of the ex-spouse. Alimony is now called “spousal support.” Alimony is not the same as child support.

Allocation of Custodial Responsibility

The allocation of custodial responsibility determines how the parents will share custody of the children after the divorce. Formerly referred to as “child custody.”

Answer

The Respondent’s written response to the Petition for Divorce.

Application For Child Support Enforcement And Income Withholding Services

In cases involving minor children, both parents must fill out this form to request or decline child support enforcement and income withholding services from the Bureau For Child Support Enforcement.

Bureau For Child Support Enforcement (BCSE)

The state agency that enforces parents’ child support obligations and helps collect child support payments.

Case Coordinator

The Family Court staff person who keeps track of cases, and holds conferences with the parties.

Child Support

The money paid by a divorced parent to help pay the expenses of raising the children. The Family Court Judge sets the amount of support by using West Virginia's child support formula.

Circuit Clerk

The court official who keeps all court files and documents. All papers filed in a court case are filed in the Circuit Clerk’s Office. Most service of process is arranged through the Circuit Clerk’s Office.

Circuit Court

The court of general jurisdiction for a county, or for several counties grouped together as a circuit.

Divorce

The termination of a marriage by a Court based on proof provided by the parties.

Family Court

The Court that handles divorces, paternity cases, and other types of family cases.

Financial Statements

Forms that provide the Court with financial information about the income, assets, and liabilities of the parties.

Grounds

The reasons for a divorce. Two common grounds for divorce in West Virginia are irreconcilable differences and one year separation.

Irreconcilable Differences

One of the grounds for a divorce. Irreconcilable differences means the parties cannot get along with each other, and don't think they ever will.

Mediation

A way of settling Parenting Plan disagreements. A neutral third party, the Mediator, helps the parties agree on a Parenting Plan.

Mediator

A person trained to help persons settle disagreements.

Notary Public

An individual certified to witness and authenticate the signing of legal documents.

Order

A written document recording a Court decision.

Parent Education Class

A class designed to help divorcing parents understand the negative effects of divorce and child custody disputes on children, and to teach parents ways to lessen those negative effects. Parent Education Classes are taught by specially trained persons approved by the Courts.

Parenting Plan

A document which states in detail how divorcing parents will share the responsibilities for raising their children after the parents no longer live together.

Party

In a divorce, the Petitioner is one party, and the Respondent is the other party.

Petition for Divorce

The Petition for Divorce is filed by the party who begins the divorce case, the Petitioner. The Petition states the grounds for divorce, and states what actions the Petitioner wants the Court to take on matters such as the allocation of custodial responsibility for children, child support, spousal support, and the division of marital property.

Petitioner

The person who begins the divorce by filing a Petition for Divorce.

Petitioner's Civil Case Information Statement

A form filed in the Circuit Clerk's Office by the Petitioner at the beginning of the case to provide the Court with information about the case. It is filed with the Petition For Divorce.

Premediation Screening

In divorce cases involving minor children, a process in which a trained Premediation Screener meets separately with both parties to determine if a Mediator can help the parties agree on a Joint Parenting Plan.

Relief

What a party to a court case requests from the Court. For example, spousal support would be one type of relief a party might request.

Respondent

The person on the other side of the divorce case from the Petitioner.

Respondent's Civil Case Information Statement

A form filed in the Circuit Clerk's Office by the Respondent to provide the Court with information about the case. It is filed with the Answer To Divorce Petition.

Self-Represented Party

A person who acts as her/his own attorney in a court case. Persons who represent themselves are also referred to as *pro se* litigants, pronounced "pro say."

Separation

In divorce cases, a situation in which Petitioner and Respondent live in separate households and no longer have marital relations.

Service

The delivery, by authorized methods, of a court document.

Servicemembers Civil Relief Act Waiver

This form waives the federal protection to active duty Servicemembers under the Servicemembers Civil Relief Act found at 50 U.S.C. App. § 501 *et seq.*

Shared Parenting

The sharing by divorced parents of their responsibilities for raising their children.

Spousal Support

Money paid by a divorced person to the ex-spouse. Formerly called "alimony."

Spouse

A term used to mean an individual who is legally married; i.e.: the Petitioner or Respondent in a divorce action.

Summons

The court document that notifies the Respondent of the filing of the Petitioner's case, and states the amount of time the Respondent has to serve an Answer.

The End

IN RE:

The Marriage / Children Of:

Case No. _____

Judge: _____

_____, and _____
 Petitioner (First/Middle/Last) Respondent (First/Middle/Last)

**PETITIONER'S CIVIL CASE INFORMATION STATEMENT
 DOMESTIC RELATIONS CASES**

PETITIONER'S IDENTIFYING INFORMATION	IMPORTANT NOTICE
Street Address _____ City / State / Zip Code _____ Phone Number _____ Social Security Number _____ Date of Birth _____ / ____ / ____ Race: ☐ American Indian/Alaskan Native ☐ Hispanic ☐ Asian or Pacific Islander ☐ Black ☐ Unknown ☐ White	☐ Check this box if you wish to keep the information in this box CONFIDENTIAL because you fear for your safety and/or the safety of your children. If the box above is checked, this page is sealed in the file and NOT TRANSMITTED with the Petition and Summons. You must complete the form, Affidavit To Withhold Identifying Information, and file it at the Circuit Clerk's Office.

List all minor children affected by this action:

Name	Date of Birth	Social Security Number
	/ /	
	/ /	
	/ /	
	/ /	

☐ YES ☐ NO Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

IF YES, SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities;
☐ Interpreter or other auxiliary aid for the hearing impaired;
☐ Reader or other auxiliary aid for the visually impaired;
☐ Spokesperson or other auxiliary aid for the speech impaired;
☐ Other: _____

Original and _____ copies of petition enclosed/attached.

PETITIONER: _____

Case No. _____

RESPONDENT: _____

Days To Answer: _____ Type of Service: _____

1. RESPONDENT'S IDENTIFYING INFORMATION

Street Address _____

City / State / Zip Code _____

Phone Number _____

☐ Male / ☐ Female

Social Security Number _____

Date of Birth _____

Race: ☐ American Indian/Alaskan Native ☐ Hispanic
☐ Asian or Pacific Islander ☐ Black
☐ Unknown ☐ White

2. TYPE OF CASE RELIEF
(Check All That Apply)

- ☐ Divorce Without Children
- ☐ Divorce With Children
- ☐ Grandparent Visitation
- ☐ Annulment
- ☐ Separate Maintenance
- ☐ Child Support Only
- ☐ Child Custody Without Divorce
- ☐ Paternity
- ☐ Modification ✓
- ☐ Contempt
- ☐ Infant Guardianship
- ☐ Other (specify): _____

3. ☐ YES ☐ NO Is either party seeking child support or alimony?

4. ☐ YES ☐ NO Is a Domestic Violence Protective Order in effect now?

5. ☐ YES ☐ NO Is there an active Child Protective Services (CPS) investigation of the children or was an investigation conducted in the last year prior to filing this action?

6. ☐ I am proceeding without an attorney.

OR

☐ I have an attorney. (Complete attorney information below.)

Attorney Name: _____

Firm: _____

Address: _____

Telephone: _____

Dated: _____

Signature _____

INFORMATION REQUESTED BY DIVISION OF VITAL STATISTICS

[Pertaining to Divorces and Annulments]

Chapter 16, Article 5, Section 34 of Code of West Virginia, as Amended

Civil Action Number: _____

Petitioner's Full Name: _____

Respondent's Full Name: _____

Petitioner's and/or Respondent's Maiden Name: _____

Petitioner's Date of Birth: ____ / ____ / ____ Respondent's Date of Birth: ____ / ____ / ____

Place of Marriage: _____
[COUNTY] [STATE]

Date of Marriage: ____ / ____ / ____

Divorce: ☐ Yes / ☐ No

Annulment: ☐ Yes / ☐ No

Names of Children Under 18 Years of Age	Date of Birth
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Decree: _____
[To be Completed by Clerk]

ORIGINAL & ONE COPYIN THE FAMILY COURT OF MONONGALIA COUNTY, WEST VIRGINIA

IN RE:

The Marriage / Children Of:

Civil Action No. _____

*(Completed by Circuit Clerk's Office.)*_____, and _____
Petitioner (First/Middle/Last) Respondent (First/Middle/Last)**PETITION FOR DIVORCE**

I, _____, the Petitioner, upon oath, state that the following facts and allegations are true to the best of my personal knowledge and belief; and if I have provided information given to me by others, I believe that information to be true.

Check the boxes and fill in the blanks for all items that apply to your case.

☐ YES ☐ NO Are you currently a party to a domestic violence proceeding?

1. ☐ Petitioner has been a resident of West Virginia for more than one year prior to filing this divorce case.

☐ Respondent has been a resident of West Virginia for more than one year prior to the filing of this divorce case.

☐ Petitioner and Respondent were married in West Virginia, and at least one of them resides in West Virginia at this time.

2. This action is being brought in MONONGALIA County, West Virginia because:

☐ This is the county where the Petitioner and Respondent last lived together as spouses.

☐ This is the county where the Respondent now resides.

☐ This is the county where the Petitioner now resides, and the Respondent is not a resident of West Virginia.

☐ Other reasons: *(Explain)*

3. Petitioner currently resides in _____ County, West Virginia.

4. Respondent currently resides: *(Check only one of the following three items.)*

☐ In _____ County, West Virginia.

☐ At an address unknown to the Petitioner.

☐ Out of state, where the last known address was

_____.

5. Petitioner and Respondent were married in _____ County, in the state of _____, on the _____ day of _____, _____.

6. Petitioner and Respondent last lived together as spouses in _____ County, in the state of _____ at the address of _____.
Petitioner and Respondent separated on the _____ day of _____, _____, and that separation has been continuous and uninterrupted since that date.

7. ☐ YES ☐ NO a. Is either party to this case under the age of eighteen?

☐ YES ☐ NO b. Is either party to this case currently serving on active duty with the military services of the United States?

☐ YES ☐ NO c. Is either party to this case legally incompetent?

☐ YES ☐ NO d. Is either party to this case currently incarcerated?

8. Petitioner and Respondent are the parents of:

☐ No children were born during this marriage, and no children are expected.

☐ The children whose names and dates of birth are:

Name	Date of Birth	Name	Date of Birth
	/ /		/ /
	/ /		/ /
	/ /		/ /
	/ /		/ /

In the rest of this Petition, "the children" always means the children whose names you just listed.

☐ A child is currently expected, and the estimated date of delivery is ____ / ____ / ____.

9. The children currently live with: ☐ Petitioner ☐ Respondent .

☐ Another person, or persons, whose name(s) and address(es) are:

10. During the last five years, if any of the children have lived at addresses other than their current address, use the following space to list where they lived, and for how long. *If there is not enough room in the following space, use an additional sheet of paper.*

I have attached _____ additional sheet(s).

Child's Name	Address	Date of Residence

11. Who provides health insurance for the children?

☐ Petitioner ☐ Respondent ☐ Medicaid ☐ WV CHIP

☐ Another person, whose name and address is

☐ The children DO NOT have health insurance coverage.

The West Virginia Children's Health Insurance Program (WV CHIP) can help parents obtain free or low cost health care for their children. For more information, call 1-877-982-2447, or ask the Family Court staff about WV CHIP.

12. Answer all of the following questions.

☐ YES ☐ NO a. Has the Petitioner been a party or witness in any other proceeding, in any state, concerning the allocation of custodial responsibility for the children?

☐ YES ☐ NO b. Is the Petitioner aware of any other proceeding, past or present, in any state, concerning allocation of custodial responsibility for the children?

☐ YES ☐ NO c. Is the Petitioner aware of any person other than the parties to this case who has physical custody of or claims any custodial right concerning the children?

13. Check all of the following items that apply.

- ☐ The children have resided in West Virginia for at least 6 months immediately preceding the filing of this case, or from birth if less than six months old.
- ☐ The Petitioner believes it is in the best interest of the children for a West Virginia court to assume jurisdiction of this case, because one or both parents have a significant connection to West Virginia, and West Virginia is the location of a substantial number of witnesses and/or other sources of evidence relating to the children's care and upbringing.
- ☐ The children are now present in West Virginia, and have been abandoned here.
- ☐ The children are now present in West Virginia, and the Petitioner believes it is necessary for a West Virginia court to assume jurisdiction of this case on an emergency basis to protect the children, because the children have been subjected to or threatened with mistreatment or abuse, or have otherwise been neglected, or are depending on persons other than their parents.
- ☐ The Petitioner believes no other state has jurisdiction over this case, and it would be in the children's best interest for a West Virginia court to assume jurisdiction.
- ☐ Another state has declined to assume jurisdiction over this case on the ground West Virginia is the best place to decide matters relating to the allocation of custodial responsibility for the children, and for this reason, the Petitioner believes it would be in the children's best interest for a West Virginia court to assume jurisdiction.

14. Check all of the following items that apply to your case.

- ☐ Prior to the separation, both parents performed a reasonable share of the caretaking and parenting functions for the children. For this reason, the Petitioner believes it is appropriate for the parents to continue to share the authority for making significant decisions relating to the children's care and upbringing. The Petitioner also believes custodial responsibility for the children should be allocated in proportion to the time each parent spent in caretaking and parenting functions before the separation.
- ☐ Prior to the separation, the Petitioner performed most, if not all of the caretaking and parenting functions for the children. For this reason, the Petitioner believes it is appropriate for the Petitioner to have sole authority for making significant decisions relating to the children's care and upbringing. The Petitioner also believes custodial responsibility for the children should be allocated between the parties in proportion to the time each parent spent performing caretaking duties prior to the parties' separation.

15. Check all of the following items that apply to your case.

The Respondent has:

- ☐ Abused, neglected, or abandoned one or more of the children.
- ☐ Sexually assaulted or abused one or more of the children.
- ☐ Engaged in acts of domestic violence.
- ☐ Repeatedly interfered with Petitioner's access to or contact with the children.
- ☐ Repeatedly made false reports or accusations of domestic violence or child abuse.

15. (continued) Check all of the following items that apply to your case.

For these reasons, the Petitioner believes:

- ☐ It is in the children's best interest that the authority for making significant decisions relating to the children's care and upbringing be allocated to the Petitioner alone.
 - ☐ The court should impose limits on the Respondent's custodial responsibility for, and contact with, the children.
 - ☐ The Respondent should not be allocated any custodial responsibility, or permitted any contact with the children unless the court specifically finds such custodial responsibility or contact will not endanger the children, or the Petitioner.
16. ☐ Petitioner is in need of spousal support.
17. ☐ Petitioner is in need of support for the minor children.
18. ☐ Over the course of the marriage, the Petitioner and Respondent have accumulated marital property and/or debts which the Court will have to divide.
19. ☐ Petitioner wishes to resume using the name _____.
20. Irreconcilable differences have arisen between the parties.
21. ☐ The parties have lived separate and apart without cohabitation for one year or more.
22. ☐ The Respondent has inflicted cruel and inhuman treatment upon the Petitioner which has destroyed or tended to destroy the mental or physical well-being of the Petitioner, and which renders continued cohabitation with the Respondent unsafe and unendurable.
23. ☐ Other grounds for divorce:

_____.

(Consult the Code of West Virginia for information regarding the grounds for divorce.)

THEREFORE, the Petitioner asks the Court to grant a divorce, and to grant such other relief as the Court considers proper, including the matters specifically stated below:

- ☐ Approve the Proposed Parenting Plan filed by the Petitioner.
- ☐ Order the Respondent to pay support for the minor children.
- ☐ Order the Respondent to maintain health insurance coverage on the children, if reasonably available, and to assist with reasonable health care expenses not covered by insurance or by a government medical card.
- ☐ Order the Respondent to pay spousal support.
- ☐ Make a fair and equitable division of marital property.
- ☐ Award the ☐ Petitioner / ☐ Respondent the exclusive use and possession of the marital home located at _____.

☐ Award the ☐ Petitioner/ ☐ Respondent the exclusive use and possession of the following motor vehicles: _____.

☐ Award the ☐ Petitioner/ ☐ Respondent the exclusive use and possession of the furniture, furnishings and appliances located in the marital home.

☐ Award the Petitioner the exclusive use, possession, and ownership of the following marital property:

Description of Property	Estimated Value
	\$
	\$
	\$
	\$
	\$

☐ Order that the Petitioner be held solely responsible for the following debts:

Description of Debt	Amount Owed
	\$
	\$
	\$
	\$
	\$

☐ Order that the Respondent be held solely responsible for the following debts:

Description of Debt	Amount Owed
	\$
	\$
	\$
	\$
	\$

☐ Prohibit the Respondent from conveying or otherwise disposing of any marital property prior to the time the Court divides the property.

☐ Grant Petitioner the right to resume using the name _____.

☐ Prohibit the Respondent from annoying, abusing, threatening, or interfering with the personal liberty and safety of the Petitioner.

☐ Grant this other relief:

Petitioner's Signature

Date

You must sign the following Verification before a Notary Public or Deputy Circuit Clerk.

VERIFICATION

I, _____, after making an oath or affirmation to tell the truth, say that the facts I have stated in this Petition are true to the best of my personal knowledge and belief; and if I have provided information given to me by others, I believe that information to be true.

Signature

Date

This Verification was sworn to or affirmed before me on the _____ day of _____ 20____.

Notary Public / Other Official

My commission expires: _____.

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA

IN RE:

The Marriage / Children Of:

Civil Action No. _____

_____, and
Petitioner (First/Middle/Last)

Respondent (First/Middle/Last)

FINANCIAL STATEMENT

Please submit

ORIGINAL & ONE COPY

This form MUST be completed in ALL DIVORCE, CHILD SUPPORT, AND PATERNITY CASES.

The Petitioner and the Respondent must each complete one of these forms.

The completed form MUST be filed in the Circuit Clerk's Office at the time of filing the Petition for Divorce and/or the Answer to Divorce Petition, and a copy must be served on the opposing party. If the Bureau For Child Support Enforcement is a party, a copy of the completed form must also be served on their local office.

If your case involves minor children, or either party requests spousal support, you MUST file the following information WITH your completed Financial Statement.

1. A copy of your most recent wage or salary stub showing gross pay, deductions for taxes and other items, and net pay for a normal pay period, and for the year-to-date;
2. Copies of your and your spouse's complete income tax returns for the two years immediately preceding the date the petition was filed, together with copies of the federal Form W-2 for those years; and a copy of the Form W-2 for the most recent year for which that form is available, even if a tax return has not yet been filed for that year;
3. For self-employed persons and business owners, a copy of a current financial statement showing gross income, expenses, and net income;
4. Copies of any invoices or receipts showing the cost of any extraordinary medical expenses for the party or the children, of any child care expenses, and of any expenses necessitated by the special needs of the children.

If the information you provide in this form changes, or any information you file along with this form changes, you MUST immediately provide the new information. Any updates or changes to the financial statement must be filed in the Circuit Clerks office, and a copy served on the opposing party, pursuant to the scheduling order of the Court. If you do not have a scheduling order, then the information must be filed at least 5 days prior to any hearing.

The information you provide on this form is ONLY for use in the judicial system, and is required by law and court rule to be kept CONFIDENTIAL.

☐ **Check this box if you have filed the Affidavit for Withholding Identifying Information.**

If this box is checked you do not have to provide your home or employment address or telephone.

Read each question carefully. Provide all requested information. Write or print clearly. After you have completed the form, you MUST sign the Verification on the last page before a Notary Public.

Full Name: _____ Date of Birth: ____/____/____

Address: _____

Phone Number: _____ Age: _____

Any Physical or Mental Disability: _____

Education: _____

☐ Less than High School ☐ High School or Equivalent ☐ Vocational ☐ College ☐ Postgraduate

Employer: _____ Type of Work: _____

Employer Address: _____

Phone Number: _____ Date Employed: _____

Gross Pay Per Pay Period: \$ _____

Paid: ☐ Weekly ☐ Every Two Weeks ☐ Twice a Month ☐ Monthly

☐ Yes ☐ No: Do you receive TANF benefits? If "Yes," list monthly amount: \$ _____

YOUR INCOME: You MUST attach written documentation for all income. For wage earning employees who work fluctuating hours and/or overtime, provide wage history of at least six months, or length of most recent employment, whichever is less. Wage/salary history MUST be documented by W-2 forms, and/or year-to-date figures on the most recent pay stubs. For self-employed individuals, income MUST be verified by documents which show gross income and expenses.

INCOME SOURCE	MONTHLY	INCOME SOURCE	MONTHLY AMOUNT
1. Salary	\$	6. Payments from a Pension Plan	\$
2. Wages	\$	7. Social Security, SSI	\$
3. Commissions	\$	8. Severance Pay, Unemployment	\$
4. Bonuses	\$	9. Worker's Compensation	\$
5. Tips	\$	10. Other (<i>explain below</i>)	\$

Other Income (*from No. 10*): _____

PROPERTY

List ALL property in which you, and /or your spouse have an interest. In the "Who owns?" column, check "M" for marital property; "P" if separate property of Petitioner; "R" if separate property of Respondent.

PROPERTY DESCRIPTION	MARKET VALUE	AMOUNT OWED	WHO OWNS
Marital Home	\$	\$	☐ M ☐ P ☐ R
Other Real Estate	\$	\$	☐ M ☐ P ☐ R
Mobile Home	\$	\$	☐ M ☐ P ☐ R
Motor Vehicles	\$	\$	☐ M ☐ P ☐ R
	\$	\$	☐ M ☐ P ☐ R
	\$	\$	☐ M ☐ P ☐ R
Household Goods	\$	\$	☐ M ☐ P ☐ R
Checking Accounts	\$	\$	☐ M ☐ P ☐ R
Saving Accounts / CDs	\$	\$	☐ M ☐ P ☐ R
Money Market Certificates	\$	\$	☐ M ☐ P ☐ R
Stocks	\$	\$	☐ M ☐ P ☐ R
Credit Union Accounts	\$	\$	☐ M ☐ P ☐ R
Profit Sharing Plans	\$	\$	☐ M ☐ P ☐ R
Trusts	\$	\$	☐ M ☐ P ☐ R
Stocks / Mutual Funds	\$	\$	☐ M ☐ P ☐ R
Bonds	\$	\$	☐ M ☐ P ☐ R
Pension Plans	\$	\$	☐ M ☐ P ☐ R
IRA / SEP Accounts	\$	\$	☐ M ☐ P ☐ R
Whole Life Insurance	\$	\$	☐ M ☐ P ☐ R
Annuities	\$	\$	☐ M ☐ P ☐ R
Guns	\$	\$	☐ M ☐ P ☐ R
Tools	\$	\$	☐ M ☐ P ☐ R
Jewelry	\$	\$	☐ M ☐ P ☐ R
Personal Property Not Located In Marital Home	\$	\$	☐ M ☐ P ☐ R
*Other	\$	\$	☐ M ☐ P ☐ R
	\$	\$	☐ M ☐ P ☐ R

*Other includes, but is not limited to: coin collections; art; state and federal tax refunds; money owed to you or your spouse; business interests; money expected from a lawsuit or settlement; education benefits; patents; copyrights; royalties; contents of safe deposit boxes; and anything else of value.

PROPERTY CONVEYED TO OTHERS

List all real or personal property with a value of \$500.00 or more that was sold, given away, or otherwise transferred by you and/or your spouse within the last 5 years. Describe each such item; list market value when transferred; list type of transfer; provide name of the person to whom property was transferred; list amount received.

DEBTS

List all debts owed by you, and/or your spouse. In the “Whose debt?” column, check “M” for marital debt; “P” if separate debt of Petitioner; “R” if separate debt of Respondent.

OWED TO WHOM?	AMOUNT OWED	FOR WHAT?	SECURED BY?	WHOSE DEBT?
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
	\$			☐ M ☐ P ☐ R
TOTAL OWED: \$ 0		TOTAL OF ALL MONTHLY PAYMENTS: \$		

CHILDREN

List the names; ages; birth dates; and social security numbers of all minor children involved in this case. Then, answer the list of questions below about the children.

NAME	AGE	DATE OF BIRTH	SOCIAL SECURITY NO.
		/ /	
		/ /	
		/ /	
		/ /	
		/ /	
		/ /	
		/ /	

☐ Yes ☐ No: Do your children receive social security benefits?

If "Yes," list amount per month: \$ _____.

☐ Yes ☐ No: Do your children receive income or wages?

If "Yes," list amount per month: \$ _____.

☐ Yes ☐ No: Do your children have any special needs that result in extraordinary expenses that should be taken into account when the court sets the amount of child support?

If "Yes," explain: _____
_____.

☐ Yes ☐ No: Are child care expenses currently being paid so that the parent who takes care of the children can work or seek work?

If "Yes," how much per month: \$ _____. You MUST attach receipts.

☐ Yes ☐ No: Are you the parent of minor children OTHER than the minor children involved in this case?

☐ Yes ☐ No: Do you provide support for any disabled adult children?

If "Yes," list these children's names, ages, the nature of their disability, and the amount of support you provide each month. You must attach receipts or other documentation for the support you provide.

NAME	AGE	AMOUNT PER MONTH	NATURE OF DISABILITY
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	
		\$	

HEALTH INSURANCE

☐ Yes ☐ No: Is health insurance available to you through your employment? ✓

If you answered "No," you MUST provide written verification from your employer that health insurance is not available to you. If you have health insurance from ANY source, you MUST complete the following table.

INSURANCE COMPANY NAME		ADDRESS	
POLICY NUMBER	GROUP NUMBER	OTHER ID NO.	RESTRICTIONS
PERSONS COVERED		DEDUCTIBLES	CHILDREN'S PORTION OF
		\$	\$

☐ Yes ☐ No: Do you have recurring, out-of-pocket health expenses for yourself or your children that are not covered by insurance?

If "Yes," you MUST attach documents that verify these expenses.

CHILD SUPPORT PAYMENTS

☐ Yes ☐ No: Do you currently pay court-ordered child support payments for any children OTHER than the children involved in this case?

If "Yes," you MUST attach a copy of the Support Order, and records showing your payment history; and you must list the following information for each child: full name; birth date; social security number; monthly payment for that child.

FULL NAME	DATE OF BIRTH	SOCIAL SECURITY NO.	MONTHLY PAYMENT
	/ /		\$
	/ /		\$
	/ /		\$
	/ /		\$
	/ /		\$
	/ /		\$
	/ /		\$

SPOUSAL SUPPORT

If you are requesting spousal support, you MUST complete the following list of monthly expenses. These are the amounts you now pay if you are living separate from your spouse. If you have not yet separated, list the amounts you estimate you will have to pay when you do separate.

MONTHLY EXPENSES

ITEM	MONTHLY AMOUNT	ITEM	MONTHLY AMOUNT
Credit Card Payments/Other Payments on Unsecured Debts:	\$	Rent or Mortgage:	\$
Car Payments:	\$	Home Repair / Maintenance:	\$
Car Repairs:	\$	Electric:	\$
Car Insurance:	\$	Water / Sewer:	\$
Gasoline:	\$	Gas:	\$
Food:	\$	Trash:	\$
Clothing:	\$	TV / Cable:	\$
Child Care:	\$	Telephone:	\$
Health Insurance:	\$	Entertainment / Recreation:	\$
Other Insurance:	\$	Explain:	
Medical / Health Not Covered By Insurance:	\$	Explain:	
Other:	\$	Explain:	
TOTAL MONTHLY EXPENSES: \$ 0			

IF EITHER YOU OR YOUR SPOUSE IS REQUESTING SPOUSAL SUPPORT, YOU MUST COMPLETE THE REST OF THIS FORM.

PETITIONER INFORMATION

PETITIONER'S EDUCATION

☐ Yes ☐ No: Graduate from high school?

If "Yes," what year? _____

☐ Yes ☐ No: Receive a GED?

If "Yes," what year? _____

☐ Yes ☐ No: Graduate from technical or trade school?

If "Yes," list type of training or degree and year received.

☐ Yes ☐ No: Graduate from college?

If "Yes," list degree and year received.

☐ Yes ☐ No: Receive a post-graduate degree?

If "Yes," list degree and year received.

PETITIONER'S EMPLOYMENT HISTORY

List last four jobs. List employer; position held; dates employment began and ended; and monthly salary.

EMPLOYER	POSITION	BEGIN DATE	END DATE	MONTHLY GROSS INCOME
				\$
				\$
				\$
				\$

PETITIONER'S HEALTH

Petitioner's Age: _____

Petitioner's physical health is: ☐ Excellent ☐ Good ☐ Poor. If "Poor," explain:

Petitioner's mental and emotional health is: ☐ Excellent ☐ Good ☐ Poor. If "Poor," explain:

RESPONDENT INFORMATION

RESPONDENT'S EDUCATION

☐ Yes ☐ No Graduate from high school?

If "Yes," what year? _____

☐ Yes ☐ No Receive a GED?

If "Yes," what year? _____

☐ Yes ☐ No: Graduate from technical or trade school?

If "Yes," list type of training or degree and year received.

☐ Yes ☐ No Graduate from college?

If "Yes," list degree and year received.

☐ Yes ☐ No Receive a post-graduate degree?

If "Yes," list degree and year received.

RESPONDENT'S EMPLOYMENT HISTORY

List last four jobs. List employer; position held; dates employment began and ended; and monthly salary.

EMPLOYER	POSITION	BEGIN DATE	END DATE	MONTHLY GROSS INCOME
				\$
				\$
				\$
				\$

RESPONDENT'S HEALTH

Respondent's Age: _____

Respondent's physical health is: ☐ Excellent ☐ Good ☐ Poor. If "Poor," explain:

Respondent's mental and emotional health is: ☐ Excellent ☐ Good ☐ Poor. If "Poor," explain:

OBTAINING ADDITIONAL EDUCATION OR TRAINING

☐ Yes ☐ No: Would additional training and/or education help the party seeking spousal support to increase earning ability within a reasonable time?

If "Yes," explain what type of training or education; the estimated yearly cost of such training or education; and the length of time it would take to complete this training or education:

ADDITIONAL INFORMATION

Explain why you think spousal support should be awarded, or denied:

VERIFICATION

I, _____, after making an oath of affirmation to tell the truth, say that the facts I have stated in this Financial Statement are true to the best of my personal knowledge and belief; and if I provided information from others, I believe that information to be true.

I understand that deliberately failing to provide complete disclosure, and knowingly providing incorrect information constitute the crime of false swearing.

Signature

This Verification was sworn to or affirmed before me on the _____ day of _____, 20____.

Notary Public / Other Official

My commission expires: _____.

CERTIFICATE OF SERVICE

State of West Virginia

County of _____

I, _____, the person completing this Financial Statement, mailed copies of the Financial Statement and all attached documents, by first class mail, postage paid, to:

_____, at the address of _____

_____, at the address of _____

on the _____ day of _____, 20____.

Signature

Date

ORIGINAL & ONE COPY

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA.

In Re:

The Marriage / Children of:

Civil Action No. _____

Petitioner

and

Respondent

Address

Address

Daytime phone

Daytime phone

PROPERTY AGREEMENT

The Petitioner and Respondent agree to the following division of all of their marital property, separate property, and debts.

The Petitioner, _____, shall receive the following property and debts:

The Respondent, _____, shall receive the following property and debts:

By signing this agreement I am representing to the court that:

1. I have entered into the agreement voluntarily.

2. I have full and complete knowledge of all property and debts my spouse and I acquired during our marriage and all separate property owned by each of us during the marriage.
3. I understand this agreement and believe it to be fair and in my best interest.

Petitioner

Date

Respondent

Date

ACKNOWLEDGEMENTS

State of West Virginia

County of _____

I, _____, a Notary Public in the county and state aforesaid do hereby certify that _____, whose name is signed to the writing above has acknowledged the same before me in the aforesaid county and state on _____.

Notary Public

My commission expires: _____

State of West Virginia

County of _____

I, _____, a Notary Public in the county and state aforesaid do hereby certify that _____, whose name is signed to the writing above has acknowledged the same before me in the aforesaid county and state on _____.

Notary Public

My commission expires: _____

BUREAU FOR CHILD SUPPORT ENFORCEMENT

APPLICATION AND INCOME WITHHOLDING FORM

This Form MUST Be Completed In All Cases Involving Minor Children or Spousal Support!

Withholding services will begin immediately when the Bureau for Child Support Enforcement receives this completed application, which MUST be accompanied by a copy of the current Support Order IF one is now in effect.

☐ Check this box if a Support Order is NOW in effect.

PETITIONER

Full Name: _____ Birth Date: ____ / ____ / ____ SSN: _____

☐ Male / ☐ Female Relationship to children involved in this case: _____

Residence Address: _____
(List complete physical address: county, city, street #, apt. #, zip code)

Mailing Address: _____
(List mailing address ONLY if different from physical address)

Daytime Phone No: _____ Driver's License No: _____

RESPONDENT

Full Name: _____ Birth Date: ____ / ____ / ____ SSN: _____

☐ Male / ☐ Female Relationship to children involved in this case: _____

Residence Address: _____
(List complete physical address: county, city, street #, apt. #, zip code)

Mailing Address: _____
(List mailing address ONLY if different from physical address)

Daytime Phone No: _____ Driver's License No: _____

Dependents: (List full name, sex, birth date, social security #, and custodian for each dependent)

Name	Sex	Date of Birth	Social Security No.	Custodian
		/ /		
		/ /		
		/ /		
		/ /		

Income Withholding (List complete address of the employer or other source of income to which an Income Withholding Notice should be sent.)

Pursuant to the Privacy Act [5 U.S.C. 522a], the Bureau for Child Support Enforcement (BCSE) is required to inform you of the following: (a) that the request for your social security number is a mandatory requirement pursuant to the Social Security Act [42 U.S.C. 466(a)(13)]; and (b) the BCSE will use this information only in connection with the State's child support enforcement program for purposes of establishing paternity and establishing, modifying, and enforcing support obligations.

CONTINUED ON NEXT PAGE

☐ Check this box if you or your children currently receive TANF benefits.

☐ Check this box if you currently receive, or have applied for DHHR's Child Support Services.

IF YOU CHECKED any of the two items immediately above, skip to the end of the form, SIGN on the line provided, and you are done.

IF YOU DID NOT CHECK any of the two items immediately above, YOU MUST CONTINUE!

☐ I understand that unless otherwise directed by the Court, any Court Ordered support MUST be collected by the BCSE through Income Withholding.

YOU MUST CHOOSE ONE OF THE THREE FOLLOWING OPTIONS!

OPTION #1:

☐ I am applying for FULL SERVICES from the BCSE. I understand that full services include, but are not limited to the following: *Collection and distribution of support payments. *Collection and Enforcement of support by income withholding. *Establishment and enforcement of Support Orders. *Establishment of paternity. *Enforcement of Support Orders through Federal and State Tax offsets, unemployment compensation intercepts, and workers' compensation intercepts. *Location of parent(s). *Interstate services.

As an applicant for FULL SERVICES, I AGREE to comply with the following requirements: (1.) I understand I MUST assist the BCSE to establish and enforce paternity, child support, and medical support, and to collect child and spousal support. I understand this assistance may include providing information about the non-custodial parent and responding promptly and completely to requests from the BCSE. I understand I may be required to testify as a witness in court or in other proceedings. (2.) I understand that I am free to pursue legal actions through a private lawyer, but that I must inform the BCSE if I do this. (3.) I understand that I MUST repay all money received in error to which I am not entitled.

OPTION #2:

☐ I am applying for Income Withholding Services ONLY.

OPTION #3:

☐ I DID NOT CHECK Option #1 or Option #2. I do not want services from the BCSE at this time. I understand that even though I have not requested services at this time, I can request services at any time by applying at the BCSE office in the county in which I live.

I CERTIFY that I have read and understand all statements on this application, and that all information I have provided is TRUE and ACCURATE to the best of my knowledge.

Signature

Date

☐ Check this box if YOU WOULD FEAR FOR YOUR SAFETY, or THE SAFETY OF YOUR CHILDREN if your address and telephone number are disclosed.

Family Court Parent Education

Online Registration Code: _____

Rule 37. Rules of Practice and Procedure for Family Court
§48-9-104

☐ ***Paid*** ☐ ***Fee Waiver***

Name: _____ ***County:*** _____ ***Case No.:*** _____

Mailing Address: _____ ***Phone No.:*** _____

Course Content - The Administrative Office of The Supreme Court of Appeals of West Virginia has approved the online class, Children in Between—Online offered through The Center for Divorce Education, to satisfy the Parent Education requirement in the absence of in person classes. The curriculum was designed to educate and instruct parents about the following topics:

- (1) how to prepare a parenting plan;
- (2) mediation and other non-judicial methods available to assist parents in achieving agreement on a parenting plan;
- (3) the negative effects on children of divorce and family dissolution, and the ways in which parents can lessen those negative effects;
- (4) the negative effects on children of domestic abuse;
- (5) resources available for dealing with domestic abuse.

Mandatory attendance. — In proceedings involving minor children the parents shall be required to complete parent education, and shall file with the circuit clerk a certificate of completion. For good cause shown, parent education may be waived if the court places on the record a finding attendance is not necessary, and states the specific reasons for the finding. In the absence of such a waiver, parent education shall be completed by both parents prior to any mediation or other non-judicial dispute resolution undertaken to achieve agreement on a parenting plan. If mediation or other non-judicial dispute resolution is not required, parent education shall be completed by both parents prior to the final hearing. If one or both parents have failed to timely complete parent education, the court may halt proceedings, and in such circumstances shall enter a scheduling order setting the next hearing for a date certain and requiring the parents to complete parent education prior to that hearing. For good cause shown the court may conduct proceedings despite the failure of one or both parents to timely complete parent education.

Cost - \$25 per class, Paid to the Circuit Clerk in the county of your case. Retain a copy of the receipt. The cost of the class is waived if participant qualifies for a **fee waiver**.

Attend a Class - Children in Between is offered online to provide convenience and ease for all participants with an in-person class option available to those requesting accommodation. In person classes may not be held in your county and will only be offered periodically as needed.

To log onto the site, you will go to: **divorce-education.com/west-virginia**

If online attendance is not possible, The Court Services Division of the Supreme Court of Appeals of West Virginia will assist you in registering for an in person class. You may contact the office at 304-558-6831 or **Parent.Education@courtswv.gov**.

Updated: 1/2021

**WEST VIRGINIA
SUPREME COURT APPROVED
PARENT EDUCATION**

THE CENTER FOR DIVORCE EDUCATION'S

**CHILDREN
IN BETWEEN®
ONLINE**

divorce-education.com/west-virginia



SCAN TO REGISTER

Award Winning Class ▶ Low Cost ▶ Available 24/7
Just 3-5 Hours to Complete ▶ Instant Certificate

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**CHILDREN IN
BETWEEN®**

Quickly learn skills to protect your children from emotional harm caused by the common conflicts experienced during divorce and separation.

**THE ONLY CLASS APPROVED BY THE
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

divorce-education.com/west-virginia

► To enroll in the program you will need:

1. An Internet ready device
2. A current email address
3. Google Chrome Web Browser

► To register for an account and begin the course:

1. Go to: divorce-education.com/west-virginia
2. Carefully fill out the registration form.
3. Enter the registration code provided by the Circuit Clerk's Office. This code is based on your paid/waived status.
4. You will receive an email with login instructions within 48 hours. Check your spam and junk folders for the welcome email.

► It is your responsibility to file the certificate of completion with the Circuit Clerk's Office.



**THE CENTER FOR
DIVORCE EDUCATION**

divorce-education.com

877-874-1365

staff@divorce-education.com