

Procedure: How do I begin a dissolution of marriage

Whether using an attorney or not, it is essential to at least know the basic process of getting a divorce. Each county has different local rules that change often, so check with your local court clerk to make sure you are following the correct local rules.

In general, the process involves three main stages: **Filing stage, Interim Period, Pre-trial stage, Finalization.**

Filing Stage

To start a divorce, one spouse (called the "petitioner") must file with the county clerk (check your local courthouse) a summons and "petition for dissolution of marriage.

This document is then served on the other spouse (known as the "respondent"), usually by having copies delivered to him or her. Although there is no major legal significance as to whether the husband or wife files the petition, there may be emotional or procedural advantages.

The purpose of the summons is to command the responding spouse to reply to the petition. Basic facts about the marriage are contained in the petition, which also specifies what the petitioning spouse wants in the way of a parenting plan, property division and support.

Once served, and depending on the recipient's location (whether in-state or elsewhere), the responding spouse has from 20 to 60 days to reply in writing to the petition. This reply, called a "response," may include a "counter-petition," and states the respondent's position on children, property and support.

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Interim Stage

In many situations, the next step is to arrange temporary orders to guide the conduct of the parties. Either spouse may obtain temporary orders. Typically, the requests cover such subjects as residential arrangements for the children and child support, spousal maintenance, occupancy of the family home, payment of bills, and other concerns for protecting people or preserving property. If the spouses cannot agree on the temporary orders, a court hearing with a judge or court commissioner will be held to establish necessary requirements.

To settle any immediate problems in a dissolution action, a "show cause" proceeding may be requested by either spouse. This proceeding is initiated by obtaining a court order that requires your spouse to show cause why you should not be granted the relief you are requesting. At the same time, the court can also immediately restrain your spouse from harassing you, entering your home, taking children out of state, disposing of property, or incurring any unusual debts.

Other restraints may also be imposed in exceptional circumstances. A hearing is held (usually about two weeks after the show cause order is issued) to decide most requests. Attendance by spouses is recommended, but not usually required if both parties are represented by attorneys.

All issues must be settled in order to finish a case. If terms cannot be negotiated between spouses, a trial will be held to decide any disputes. If spouses agree on a settlement and no aspect of the dissolution is contested, the case does not have to go to trial.

Pre-Trial

At this point, you prepare your evidence, witnesses and testimony to present for the judge. Each county has unique rules and deadlines that tell you when to provide exhibits, witness lists.

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Final Stage

The final stage occurs after a settlement or trial where a decision is made. The court signs a "Decree of Dissolution of Marriage." Settlements negotiated between spouses are presented in writing for approval by the court and signature by the judge. If the case requires a trial, the judge's decision is recorded in writing and signed by the judge who conducts the trial. A marriage is not dissolved until the judge signs the decree.

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