

Instructions for Plaintiff in Pro Se Divorce with Children

PLEASE READ ALL INSTRUCTIONS BEFORE BEGINNING TO FILL OUT ANY DOCUMENTS. IT IS IMPORTANT TO FOLLOW ALL INSTRUCTIONS ACCURATELY.

1. Complete Case Filing Statement (UJS-232) available in this packet.
2. Read and follow instructions for Summons with Children Form (UJS-311).
3. Read and follow instructions for Complaint with Children Form (UJS-312).
4. Read and follow instructions for Financial Affidavit (UJS-304).
5. Read and follow instructions for Affidavit of Non-Military Status (UJS-306).
6. Read and follow instructions for Child Support Order Filing Data Form (UJS-089).
7. Make at least two photocopies of all documents, one for you and one to serve on your spouse.
8. Take the original completed Case Filing Statement, Complaint, Summons, Financial Affidavit, Affidavit of Non-Military Status, and Child Support Order Filing Data (documents in paragraphs 1-6) to the Clerk of Court and tell the Clerk you are filing for divorce.

There is a \$95.00 filing fee that must be paid to begin your divorce. If you cannot afford the filing fee, read and follow the instructions for the Affidavit of Indigency (Form UJS-305). The Clerk will present the Affidavit to the Judge before any filing and you will be notified if the fee has been waived or if you must pay. If the waiver is accepted, you will not be charged the filing fee and the Sheriff will not charge you for service of process. If the Application for Indigent Waiver of Filing Fee is denied by the judge, you must pay the filing fee in order to proceed with the case. If the filing fee isn't paid within 30 days, your case will be dismissed.

9. Copies of the following documents shall be served on the defendant: Complaint, Summons, **including** a copy of the South Dakota Parenting Time Guidelines, Financial Affidavit, Affidavit of Non-Military Status, Child Support Order Filing Data Form, and Civil Case Filing Statement. Additionally, service should include the following blank documents for the defendant's use: Answer (With Children), Answer and Counterclaim with Children, Stipulation and Settlement With Children, and Affidavit as to Jurisdiction and Grounds for Divorce.

10. Service may be accomplished by either:
 - a. Reading and following the instructions for Notice and Admission of Service of Summons and Complaint, which should be used if you believe the defendant will sign and return within 20 days
 - OR**
 - b. Reading and following the instructions for Affidavit of Personal Service, which is service by Sheriff, constable, or other office process server
11. Upon receipt of proof of service by either method, make a copy of proof of service for you and file the original proof of service with the Clerk of Court. Filing proof of service starts the 30 days for the Answer and the 60 days for finalization of the divorce.
12. “Answer With or Without Children (UJS-318)” or “Answer and Counterclaim with Children (UJS-317)” must be filed within 30 days after service of the Summons and Complaint. If an “Answer” or “Answer and Complaint” are filed continue to (14). If no Answer or Answer and Complaint are filed, continue to (17)
13. Parties may reach an agreement before a court hearing. If an agreement can be reached, the parties should follow the instructions for Stipulation and Settlement Agreement with Children (UJS-325) and Affidavit of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce. After sixty days, read and follow the instructions for Judgment and Decree of Divorce Form (UJS-326A).
14. If the parties are unable to reach an agreement, a hearing will be scheduled and both parties will receive a Notice of Hearing from the Clerk of Courts.
15. If the judge signs the Decree of Divorce, the Clerk of Courts will send you a copy of the signed Judgment and Decree of Divorce. You then must read and follow the Instructions for Notice of Entry of Decree of Divorce
16. In the event the defendant does not file an Answer or Answer and Complaint within thirty days, read and follow instructions for Affidavit of Default Form (UJS-320) and Instructions for Notice of Intent to Take Default Judgment (UJS-321). Make at least two photocopies of these documents, one for you and one to be served on the defendant. File the original documents with the Clerk of Court.
17. Service may be accomplished by reading and following the instructions for Affidavit of Service by Mail Form.
18. Read and follow the instructions for Judgment and Decree of Divorce (Default) Form (UJS-326A) and Pro Se Divorce Checklist (UJS-303A).

19. File the original Notice of Intent to Take Default Judgment (UJS-321), Affidavit of Default (UJS-320), Affidavit of Service by Mail (UJS-313), Judgment and Decree of Divorce (UJS-326A) and Pro Se Checklist (UJS-303A) with the Clerk of Court.
20. If the judge signs the Decree of Divorce, the Clerk of Courts will send you a copy of the signed Judgment and Decree of Divorce. You must then read and follow the Instructions for Notice of Entry of Decree of Divorce (UJS-327).
21. If at any time the parties reconcile their differences and wish to dismiss the divorce, read and follow the directions for Stipulation and Order for Dismissal Form (UJS-328).