

DV05

How to file a Complaint for Divorce

USE these instructions if:
You are filing to divorce your spouse

Do not use this form if:
You and your spouse wish to file for divorce jointly

To file for divorce you must have a certified copy of your marriage certificate. This can be obtained from the city hall of the city or town where you were married.

Produced by the Suffolk Probate & Family Court Community Outreach Program—Richard Iannella, Register

READ THIS:

Information provided in this packet IS NOT LEGAL ADVICE, it is information. This information is not a substitute for a competent lawyer.

When you sign a legal document or file any papers in court, it can seriously affect you in the future. You should always try to get legal advice before filing documents.

Bar Association lawyer referral services are listed in our brochure "Legal Resources in and around Suffolk County." Also listed are free legal service providers. You may be eligible for help.

Read this carefully. If you do not understand the information, ask for help. This is an outline of the procedure for filing a Complaint for Divorce. In addition, there are instructions for each individual form.

Step 1: COMPLETE THE FOLLOWING FORMS : Fill out all the forms completely and in black ink. You may want to get an extra copy of the blank forms before you fill them, in case you make mistakes as you are completing the forms. There are detailed instructions for each form.

IF there were *no* children born or conceived during the marriage complete the following:

- ✓ Complaint for Divorce
- ✓ Financial Statement
- ✓ Military Affidavit
- ✓ Vital Statistics Form

2: If there were children born during the marriage, you must also file the following:

- ✓ Affidavit of Care or Custody
- ✓ Public Assistance Affidavit
- ✓ Child Support Guidelines Worksheet
- ✓ Certificates of Attendance at Parent Education Class

COPIES: Make one (1) copy of all the completed forms. Assemble the copies so that you have 2 COMPLETE SETS OF THE FORMS-- the originals and copies for yourself.

3: Take the original forms and a *certified copy of your marriage certificate* to: Office of the Register of Probate, Richard Iannella, on the third floor of the court, for processing. If you file the papers in person and you have an existing court file, the first thing you should do at the Register's office is retrieve the file. Then see an Assistant or Deputy Register to file the papers. **You may also file the papers by mail to:**

Register of Probate, Richard Iannella
Suffolk Registry of Probate, Docketing Department
24 New Chardon Street
Boston, MA 02114-4703

4: GET A SUMMONS FORM FROM THE COURT. YOU must arrange for the papers to be delivered to the other party to the case. YOU MAY NOT serve them yourself. You must use either a sheriff or constable. (See detailed instructions on how to serve a divorce summons)

5: FILE A REQUEST FOR TRIAL/PRE-TRIAL ASSIGNMENT. The defendant has 20 days after s/he has been served with the complaint, to file a written response, called an "Answer." If the defendant does not file an answer the case is considered "Uncontested." If the defendant does file an answer the case is considered "Contested." If you are the plaintiff, YOU must file a "Request for Trial Assignment" form with the court. You may not file this form until 20 days after the defendant has been served with the Complaint. The court will not assign a date for hearing until proof that the summons has been served is on file and also 20 days have passed since the date of service of the summons. The court will notify both parties by mail of the court date.

6: IF you have filed for divorce on the grounds of "irretrievable breakdown of the marriage" THERE CAN NOT BE A HEARING GRANTING YOUR DIVORCE UNTIL SIX MONTHS AFTER THE DATE YOU FILE YOUR COMPLAINT FOR DIVORCE.

OTHER HELP: If you have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "Attorneys". Also, the Resource Center has a list of legal assistance and lawyer referral programs.

INSTRUCTIONS FOR COMPLETING the COMPLAINT FOR DIVORCE

Look at the sample form attached and follow the instructions for each letter or number. Please print (in ink) or type all information.

- A.** Write in Suffolk.
- B.** You are the plaintiff. Print your name here.
- C.** Your spouse is the Defendant. Print their name here.
- 1.** Print your address here. ON the next line print the address of your spouse.
- 2.** Fill in the where you were married and when you were married and where you last lived together with your spouse and when you last lived together. Make sure the date you fill in of your marriage is the same as the date on your marriage certificate.
- 3.** Write in the names and dates of birth of any children born or conceived during this marriage.
- 4.** If you have filed another case against this spouse for child support or custody, write in the name and number of the case here.
- 5.** In this section you must fill in the things that happened which led to the end of the marriage. For example: *“on or about June 15, 2000, the defendant left the marital home and did not ever return or have any contact with me since that time.”*
See the information in the resource center *“Grounds for Divorce in Massachusetts.”*
- 6.** Check off the boxes which describe what you would like to court to order. The first line must be filled in with the reason for your divorce. The reason must be one of the grounds for divorce under Massachusetts law. See the information in the resource center *“Grounds for Divorce in Massachusetts.”*
Check off any other boxes which apply to your case, for instance if you wish to change your name back to what it was before your marriage, check the box which says *“allow the plaintiff to resume her former name”*, and fill in your previous name.
- D.** Put in today’s date.
- E.** Sign the form, then print your name, address, and telephone number.
Please turn the form over and print your name and address in the section which says *For Plaintiff*.

Every time a case is filed in court, a *DOCKET NUMBER* is assigned. This is the number the court uses to identify your case and find your case file.

Write this number on *all* papers you file in Court. Have the Docket Number handy when you come to the courthouse or call on the telephone to ask about your case.