

## **Instructions for FILING Divorce – With Children**

(You may need to copy or download the following forms: Civil Information Sheet, Petition for Divorce, Voluntary Entry of Appearance, Request for Service Form, Summons, Domestic Relations Affidavit, Child Support Worksheet, Parenting Plan, Kansas Payment Center Information Sheet, Vital Statistics Worksheet, Notice of Hearing and Decree of Divorce. These forms are for use in divorces where the filing person and spouse have children from their relationship together. The following forms will be used ONLY if there is no other way to notify your spouse of the divorce filing as provided in instruction 4d: Affidavit for Service by Publication, Order Allowing Service by Publication and Notice of Suit.)

Read these directions carefully and completely. When completing forms, type or print neatly in ink.

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### **WARNINGS**

- 1. The forms provided by the Judicial Council are basic forms for simple divorces. They do not deal with every divorce situation. A divorce can be complicated and using legal forms without an attorney's help can harm your legal rights.**
- 2. The Clerk of the District Court cannot help you prepare these forms. The Clerk cannot give legal advice about your rights or responsibilities and can only provide very limited information about the divorce process. If you have any questions, you should contact an attorney.**
- 3. It is illegal for anyone who is not licensed to practice law in Kansas to: (A) give another person advice about that other person's legal rights or duties; (B) help another person to select, draft, or complete any legal document that affects the other person's rights or duties; (C) represent another person in court; and (D) help another person negotiate legal rights or responsibilities. *If you paid a company for these forms, contact the Attorney General's consumer complaint hotline and the Kansas Judicial Council.***
- 4. Courts require anyone filing a divorce case to follow court rules. You must follow the court rules or you will not be able to finish your case. Self-represented persons are expected to know the rules as if you were an attorney.**
- 5. IF YOUR SPOUSE IS ACTIVE-DUTY MILITARY, YOU SHOULD CONSULT AN ATTORNEY BECAUSE YOU MUST MEET SPECIFIC ADDITIONAL REQUIREMENTS.**
- 6. Property decisions are binding on you and your spouse and may not be changed. Agreements are NOT binding on, and do not affect the rights of anyone other than you and your spouse.**
- 7. If one spouse is to receive part of the other spouse's retirement benefits, additional documents may be needed to complete the transfer. You will need to seek the advice of an attorney to complete this process because it is outside the scope of these forms.**

## **Facts About Filing for Divorce in Kansas:**

- You or your spouse must have lived in Kansas for at least sixty (60) days before filing a Petition for Divorce with the court.
- You must start the legal process by filing certain documents, and paying a filing fee, with the Clerk of the District Court in the county where you or your spouse lives.
- Once your case is filed, you will be given a case number which must be on all documents you file with the court in the future.
- If you are filing for a divorce without the assistance of an attorney, you are responsible for completing all the necessary forms and the Clerk of the District Court cannot help you prepare any legal documents or provide any legal advice.
- Once you have filed your Petition for Divorce, it is important that you inform the Clerk of the District Court if you or your spouse's address changes.
- Terminology:
  - Petitioner = Person who files the Petition
  - Respondent = Person who did not file the Petition
  - Parties = Petitioner and Respondent
- Case Caption:

The section above the title of every document is called the case caption. It identifies which county the case was filed in, the case number, and the names of the people involved in the case. The person who originally filed the petition is listed on the top line and is called the "Petitioner." The person who did not file the petition is listed on the lower line and is called the "Respondent." These name designations remain the same for the entire case including in all documents filed with the court after the divorce is final.

## **Instructions for filing a divorce:**

1. Complete the Civil Information Sheet, Domestic Relations Affidavit, Parenting Plan and Petition for Divorce.
2. Sign the Petition for Divorce in front of a notary public. Notary publics may commonly be found in law firms, title companies and financial institutions, i.e. banks and credit unions.
3. File with the Clerk of the District Court:
  - the original Petition for Divorce with required copies;
  - the original Domestic Relations Affidavit with required copies;
  - the original Civil Information Sheet; and
  - the Request for Service Form, if not filing a Voluntary Entry of Appearance.Pay the required filing fee. (Check with the Clerk or the local rules to determine the number of additional copies required as well as the amount of the filing fee.)
4. You must notify your spouse that you have filed a Petition for Divorce in one of the following ways:

- a. “Voluntary Entry of Appearance”: Your spouse signs a Voluntary Entry of Appearance form in front of a notary public, which acknowledges receipt of the Petition for Divorce. The Voluntary Entry of Appearance with your spouse’s original signature is then filed with the Clerk.
  - b. “Sheriff’s Service”: You must fill out a Request for Service Form, requesting that the sheriff deliver the Petition for Divorce to your spouse. If your spouse lives in Kansas, you must pay a sheriff’s service fee. If your spouse lives in a State other than Kansas, it is your responsibility to find out the procedures required by the sheriff in that state and county and to pay any fees required.
    - i. If your spouse lives in Kansas, please complete the In State Summons form.
    - ii. If your spouse lives in a state other than Kansas, please complete the Out of State Summons form.
  - c. “Certified Mail Service”: You must mail the summons and Petition for Divorce by certified mail - return receipt requested to your spouse at his or her last known residential address. File the “green” “return-receipt card” with the Clerk when you receive it from the US Postal Service.
  - d. “Publication”: If you cannot provide notice of the divorce to your spouse under either (a), (b), or (c), then you may be able to provide notice of the divorce by publishing notice in a local newspaper. In order to obtain “publication service,” you must request permission to do so by filing the “Affidavit for Service by Publication,” and obtaining an order from the assigned judge allowing you to publish notice. After you obtain the signed “Order Allowing Service by Publication”, you must then publish notice following the process set out in K.S.A. 60-307. You must obtain “proof of publication” from the newspaper and file the proof with the court. Court personnel cannot help you with this process.
5. Contact the Clerk of the District Court to find out how to get a final hearing date and time for your divorce. Different courts have different procedures and requirements. Kansas law provides that a divorce decree cannot be entered until at least 60 days after the petition filing date.
  6. Send a copy of the Notice of Hearing to your spouse and file the original of that notice with the Clerk. Certified mail is the preferred method of mailing.
  7. If required by local rules, attend and complete any required parenting, co-parenting, divorce or other required classes prior to your final divorce hearing.
  8. Complete the Child Support Worksheet (CSW). Instructions for the calculation of child support and completion of the CSW may be found on the Kansas Judicial Branch website at <http://www.kscourts.org/rules-procedures-forms/Child-Support-Guidelines/default.asp>, or by visiting your local law library. The CSW must be completed prior to your hearing.

9. You should complete paragraphs 8, 12-13, 20-23, and 25 of the Decree of Divorce before the final divorce hearing. The remaining paragraphs of the Decree of Divorce are for the judge to complete. Legal descriptions of your house and land may usually be obtained from your local Register of Deeds office.
10. Attend the final divorce hearing, taking with you:
  - a. The Decree of Divorce and at least 3 copies;
  - b. Any written property division agreement signed by you and your spouse;
  - c. Written proof that you gave your spouse notice of the hearing date and time;
  - d. Required copies of the completed Domestic Relations Affidavit;
  - e. Required copies of the completed Parenting Plan;
  - f. Required copies of the completed Child Support Worksheet;
  - g. The Kansas Payment Center Information Sheet (for child support); and,
  - h. The completed Vital Statistics Worksheet.
11. When you present the decree to the judge, you should be prepared to tell the judge about the facts stated in the petition, that you and your spouse are incompatible, and why your proposed agreements are fair.
12. The process of obtaining Income Withholding Orders is separate from the divorce process and is outside the scope of these forms. You will need to check with the Clerk to find out what the local procedures are for obtaining these orders.
13. If the judge orders one parent to pay child support, the parent receiving the child support may enforce the child support order through the district court trustee's office (if available) or the Kansas Department For Children and Families Child Support Services (DCF CSS) office. You may contact DCF CSS by calling toll free at 1-888-757-2445. Contact the court Clerk for information about how to contact the district court trustee.
14. Once the judge has signed the original decree, take the original and all copies to the Clerk who will file the original. Provide your former spouse a file stamped copy of the decree and keep the remaining copies.

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