

## **Instructions for RESPONDING to a Petition for Divorce – With Children**

Read these directions carefully and completely.

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### **WARNINGS**

- 1. These forms are basic forms for simple divorces. They do not deal with every situation. If your divorce is complicated, 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 or give you legal advice. The Clerk can only give very limited information about the process. If you have any questions, you should contact an attorney.**
- 3. These forms are not for sale. *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. 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. Property includes all assets, real estate, personal property, liquid accounts, retirement accounts, and any other things that were owned by either spouse during the marriage. Agreements that are not binding can include mortgages, promissory notes, debt obligations or other contracts involving third persons or entities.**
- 7. If one spouse is to receive part of the other spouse's retirement benefits, additional documents may be needed to complete the transfer. Consult an attorney. This type of situation is too complicated for use of these forms.**

## GENERAL INFORMATION

- ❖ To get a divorce in Kansas, you or your spouse must have lived in Kansas for at least sixty (60) days before the Petition for divorce is filed.
- ❖ Filing for divorce starts with filing certain documents, and paying a filing fee, with the Clerk of the District Court in the county where you or your spouse lives. The office of the Clerk of the District Court is in the county courthouse.
- ❖ Make sure to tell the Clerk of the District Court every time your mailing address changes.
- ❖ The Clerk of the District Court cannot help you prepare any legal documents or provide any legal advice.
- ❖ The district court where you file for divorce may have local court rules that apply to your case. Contact the Clerk of the District Court to ask how you can find a copy of the local court rules. Some courts have their local court rules available on their website.

## COMMON TERMS

- ❖ **Case Caption** = The section above the title of every document is called the case caption. It says which county the case was filed in, the case number, and the names of the people involved in the case. The case number is assigned by the court when the Petition for Divorce is filed.

Example:

IN THE DISTRICT COURT OF <u>SMITH</u> COUNTY, KANSAS	
<i>In the Matter of the Marriage of</i>	
<u>John Doe</u>	
and	Case No. <u>20 DM 555</u>
<u>Mary Doe</u>	

- ❖ **Clerk of the District Court** = A person at the courthouse who is responsible for taking the papers you give to the court.
  - You can find the Clerk's phone number on the [Kansas Judicial Branch website](#).
- ❖ **Decree** = A final order of the Court.

- ❖ **File Stamped** = When you give documents to the Clerk of the District Court, the Clerk of the District Court will stamp each document showing that it was officially filed on the date printed on the stamp. The documents are now "file stamped." This stamp shows the documents were received by the Clerk of the District Court and are now part of the court's file.
- ❖ **Filing Fee (or Docket Fee)** = The money the person who files the Petition for Divorce pays to start the case.
- ❖ **Parties** = A general word meaning both Petitioner and Respondent.
- ❖ **Petitioner** = The person who files the Petition for Divorce.
- ❖ **Respondent** = The person served with a Petition for Divorce and who may file an Answer.
- ❖ **Real Estate Legal Description** = A legal description of a property is the geographical description of the real estate that identifies its precise location, boundaries, and any easements. You can get the legal description from the local Register of Deeds office.
- ❖ **Self-Represented Litigant (SRL)** = A petitioner or respondent who does not have an attorney representing him or her in this case.
- ❖ **Service of Process** = The procedure by which Petitioner gives appropriate notice of the legal action to the Respondent.

## FORMS

To get a form online, go to [www.kansasjudicialcouncil.org](http://www.kansasjudicialcouncil.org) and click on the "Legal Forms" tab. Scroll down and click on the "[Divorce](#)" box. Forms are available in PDF. You may type on the forms or print the form and write on it. If you write on the forms, write neatly in ink.

You can find an explanation of each form in Appendix A.

## RESPONDING TO A PETITION FOR DIVORCE

You have the right to file an Answer to a Petition for Divorce, but you do not have to do so. If you decide to file an Answer, the Answer must be filed within the number of days (either 21 days or 30 days) stated in the Summons after you received a copy of the Petition for Divorce.

If you are on active military duty you should seek the advice of an attorney.

**Step 1:** If your spouse gave you file-stamped copies of the Petition for Divorce, Summons, and [Voluntary Entry of Appearance](#) form, fill out the [Voluntary Entry of Appearance](#) form

- ❖ Do not sign this form until you are in front of a Notary Public or the Clerk of the District Court.
- ❖ If you received copies of the Petition for Divorce and Summons from the sheriff, the sheriff will fill out a form telling the court you got the paperwork.
- ❖ If your spouse did not give you a copy of the [Voluntary Entry of Appearance](#) form, you can download the form from the Judicial Council website.

**Step 2:** Read the Petition for Divorce and Summons

**Step 3:** Decide whether you will file a response to the Petition for Divorce

- ❖ You do NOT have to file a response (called an Answer to Petition for Divorce). The judge can order the divorce even if you do not file a response.
- ❖ If you want to file a response to the Petition for Divorce, you must complete Steps 4 to 10 below within 21 days after receiving the Petition for Divorce.

**Step 4:** If you **AGREE** with all the information in the Petition for Divorce, fill out the [Answer to Petition for Divorce – AGREE](#) form

Do not sign this form until you are in front of a Notary Public or the Clerk of the District Court.

**OR**

If you **DO NOT** agree with all the information in the Petition for Divorce, fill out the [Answer to Petition for Divorce – DISAGREE \(with children\)](#) form

Do not sign this form until you are in front of a Notary Public or the Clerk of the District Court.

- Step 5: Fill out the [Domestic Relations Affidavit](#) and [Self-Represented Litigant Certification](#) forms
  
- Step 6: Find a Notary Public and sign your Answer to Petition for Divorce - [Disagree](#) or [Agree, and](#) the [Voluntary Entry of Appearance](#) form (if needed) in front of the Notary Public

**OR**

**Wait to sign your Answer to Petition for Divorce – Disagree or Agree, and the Voluntary Entry of Appearance form (if needed) in front of the Clerk of the District Court in Step 9**

- ❖ You must sign the Answer to Petition for Divorce and the Voluntary Entry of Appearance (if needed) in front of a Notary Public or the Clerk of the District Court. You may have to pay a fee to the Notary Public.
  
- ❖ Here are the most common types of businesses where you can find a Notary Public.

Banks, Law Firms or Law Offices, Real Estate Firms or Real Estate Offices, Tax Preparer or Accountant Offices, Photocopy Shops, Parcel Shipping Stores, Colleges and Universities, or Public Libraries.

- Step 7: **Call the Clerk of the District Court’s office in the county listed at the top of the case caption on the first page of the Petition for Divorce**

- ❖ You can search for the phone number on the [Kansas Judicial Branch website](#).
  
- ❖ Call the Clerk of the District Court’s office to ask:
  - how many copies of each document you need to give to the Clerk when you file the documents (Step 9); and

*Number of copies of each document:* \_\_\_\_\_

- what the process is for the Clerk of the District Court to witness your signature on the Answer to Petition for Divorce and the Voluntary Entry of Appearance (if needed) as the notarial officer (Step 9).

*Notes:* \_\_\_\_\_

\_\_\_\_\_

**Step 8: Make copies of documents**

- ❖ Based on what the Clerk of the District Court told you in Step 7, make the correct number of copies of your documents.

**Step 9: Go to the Clerk of the District Court's office to sign (if needed) and file your completed documents**

- ❖ Go to the Clerk of the District Court's office in the county listed at the top of the case caption on the Petition for Divorce. You can find the address of the county courthouse on the [Kansas Judicial Branch website](#).
- ❖ (if needed) Sign the Answer to Petition for Divorce – Disagree or Agree, and the Voluntary Entry of Appearance (if needed) in front of the Clerk of the District Court and have the clerk complete the notarial officer section.
- ❖ Give the original and all copies of the following completed documents to the Clerk of the District Court:

- Answer to Petition for Divorce – [Disagree](#) or [Agree](#) (if you chose to file an Answer)
- [Self-Represented Litigant Certification Form](#) (you must file this)
- [Voluntary Entry of Appearance](#) (if needed)
- [Domestic Relations Affidavit](#) (you MUST file this)

- ❖ The Clerk of the District Court will stamp each document showing that it was filed on the date printed on the stamp. The documents are now "file stamped." The Clerk will give you back a "file stamped" copy of your documents.

**Step 10: Mail a file-stamped copy of your Answer to Petition for Divorce – [Disagree](#) or [Agree](#) (if applicable), [Voluntary Entry of Appearance](#) (if applicable), and [Domestic Relations Affidavit](#) to your spouse and your spouse's attorney, if your spouse has an attorney**

- ❖ On the same day you file the documents with the Clerk of the District Court's office, you must mail file-stamped copies of the documents to your spouse and your spouse's attorney, if your spouse has an attorney.
- ❖ You may be able to find the mailing address for your spouse or your spouse's attorney on the Petition for Divorce.

**Step 11: Complete any required parenting, co-parenting, or other required class**

- ❖ If required by local rules, attend and complete any required parenting, co-parenting, divorce or other required classes before your final divorce hearing.
- ❖ You may find a copy of your local court rules on the district court's website or by calling the Clerk of the District Court's office.

INSTRUCTIONS FOR RESPONDING TO  
PETITION FOR DIVORCE  
(WITH CHILDREN)

**Step 12: Receive a Notice of Hearing telling you when the court hearing will be.**

- ❖ Your spouse should give or mail you a document telling you when and where there will be a hearing to finalize the divorce.

**Step 13: If you and your spouse AGREE on how property, debts, or real estate will be divided or a parenting plan for your children, work with your spouse to write out what you have agreed on.**

*Personal Property & Debts*

- ❖ If you and your spouse **agree** about how you will split your personal property (items you own, such as furniture, appliances, electronics, clothes, etc) and debts, complete paragraphs 11-16 of the [Decree of Divorce](#), or write out your agreement on a separate piece of paper to give to the judge.
- ❖ If you and your spouse **DO NOT agree** about how you will split your personal property (items you own, such as furniture, appliances, electronics, clothes, etc) and debts, **DO NOT** complete paragraphs 11-16 of the [Decree of Divorce](#). The judge will decide how to split your personal property.

*Real Estate*

- ❖ If you and your spouse **agree** on who will keep the real estate, in the [Decree of Divorce](#) check the box in paragraph 18 for Petitioner or Respondent.
- ❖ If you and your spouse **DO NOT agree** on who will keep the real estate, in the [Decree of Divorce](#), **DO NOT** check the box in paragraph 18 for Petitioner or Respondent. The judge will decide how to split your real estate.

*Children*

- ❖ If you and your spouse **agree** on the parenting plan, fill out paragraphs 23 – 27 of the [Decree of Divorce](#) or complete the [parenting plan](#) form and give it to the judge.
- ❖ If you and your spouse **DO NOT agree** on the parenting plan, **DO NOT** fill out paragraphs 23 – 27 of the [Decree of Divorce](#). The judge will decide what the parenting plan will be.

**Step 14: Before the hearing, complete the [Child Support Worksheet](#)**

- ❖ The [Child Support Worksheet](#) must be completed before your hearing.
- ❖ A copy of the [Child Support Guidelines](#) is available on the [Kansas Judicial Branch website](#) ([www.kscourts.org/About-the-Courts/Programs/Child-Support-Guidelines](http://www.kscourts.org/About-the-Courts/Programs/Child-Support-Guidelines)).
- ❖ **Free** child support calculator:
  - If the total yearly income of both you and your spouse combined is less than \$50,000, you can use [Kansas Legal Services' interactive Child Support Worksheet](#) to calculate child support.
- ❖ **Fee-based** child support calculator:
  - You can pay a fee and use the [Kansas Child Support Calculator](#) ([childsupporttools.com](http://childsupporttools.com)) if any of the following situations apply:
    - the total yearly income of both you and your spouse combined is more than \$50,000;
    - you or your spouse have children with other people;
    - if you and your spouse live in different states; or
    - you need to calculate an income tax adjustment.

*When using these online forms, sign in and create an account because you need to save your answers often while completing the forms.*

**Step 15: Go to the final divorce hearing.**

- ❖ Plan to arrive at the courthouse early.
- ❖ Be prepared to go through security when entering the courthouse.
- ❖ Wear clean and appropriate clothing.
- ❖ Do not bring children with you to the courthouse.

**Step 16: Take the following things with you to the final divorce hearing:**

- Copies of any documents you previously filed.
- Any documents you received from your spouse.
- The blank [Decree of Divorce](#) form.
- The partially completed [Decree of Divorce](#) form.



- Any written property and debt division agreement signed by you and your spouse.
- Any written [parenting plan](#) agreed to and signed by you and your spouse.
- If you have not already filed it, take 3 copies of your completed [Domestic Relations Affidavit](#) (you will need to give one copy to the judge, and one copy to your spouse).
- A completed [Child Support Worksheet](#).
- Any certificate showing you completed any required parenting, co-parenting, or divorce or other classes required by local court rule.

**Step 17: Talking to the judge in the hearing**

- ❖ There may be multiple families in the courtroom waiting for the judge. The judge will say the name of your case you when it is your turn.
- ❖ Be polite to the judge and other party. Don't interrupt.
- ❖ Be calm and logical. Don't yell or object on the grounds that the other side is lying.
- ❖ Speak only when asked to. Don't talk unless the judge instructs you to do so.
- ❖ Always stand if you are asked to speak.
- ❖ The judge will ask you and your spouse questions about the divorce. Only answer the questions the judge asks directly to you.
- ❖ Be prepared to tell the judge:
  - about the facts stated in the Petition for Divorce,
  - that you and your spouse are incompatible, and
  - why you are asking the judge to approve your proposed agreements about your property, debts, and children.
- ❖ When the judge is done questioning each party, the judge will decide the issues in your divorce case and tell you what orders they are making.

**Step 18: After the final divorce hearing**

- ❖ Your ex-spouse should give you a file-stamped copy of the Divorce Decree, any parenting plan and child support worksheet.
- ❖ If the judge ordered that child support and/or spousal maintenance to be paid through an Income Withholding Order in paragraph 33, issuing the Income Withholding Order is outside the scope of these forms. You may want to ask the Clerk of the District Court if there is a local procedure for getting the Income Withholding Order (see below).
- ❖ If the judge ordered you or your ex-spouse to pay child support, you can have the child support order enforced (issuing Income Withholding Orders) through:
  - the [local district court trustee's office](#) (if your judicial district has a court trustee). You can get information about your local district court trustee by contacting the Clerk of the District Court.

OR

- [Kansas Department for Children and Families Child Support Services](#) (DCF CSS). You may contact DCF CSS by calling toll free at 1-888-757-2445.

# APPENDIX A

## EXPLANATIONS OF FORMS

[Answer to Petition for Divorce – AGREE](#)



This form tells the judge you agree with everything in the Petition for Divorce.

[Answer to Petition for Divorce - DISAGREE \(with children\)](#)



This form tells the judge you do not agree with everything in the Petition for Divorce.

[Voluntary Entry of Appearance](#)



This form tells the court that your spouse got a copy of the Petition for Divorce and Summons from you and your spouse does not want the sheriff to serve the same paperwork to you.

[Domestic Relations Affidavit](#)



This form gives the court information about the money you have, your income, expenses, debts, property, and health insurance.

[Self-Represented Litigant Certification Form](#)



This form tells the court that the document you are filing does not contain prohibited personally identifiable information "PPI." Examples of PPI include, full dates of birth and full social security numbers.

[Child Support Worksheet](#)



This form shows how child support is calculated.

[Parenting Plan](#)



This form sets out how you and your spouse will make decisions about your children and when your children will be with you or your spouse.

[Decree of Divorce](#)



This form is where the judge grants your divorce and makes orders about your property, support, and children.