

**GENERAL INSTRUCTIONS
DOMESTIC RELATIONS AND GUARDIANSHIP FORMS
(Form CC-DRIN)**

Use the CC-DR and CC-GN Forms if you do not have a lawyer and need to file papers for family law or domestic relations cases. These cases include child custody or visitation, child support, divorce, alimony, name change, contempt, and guardianship. These Instructions answer the following questions:

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DO I NEED A LAWYER?

The answer is probably YES if:

- The case is contested and the other side (opposing party) has a lawyer.
- You do not have an address for or cannot locate the other side to serve them with your papers.
- This is a child custody case and there is a dispute about who should have custody.
- This is a divorce case and either side has a house, pension / retirement account, or a large amount of property or income.
- This is a divorce after a long-term marriage and / or you want alimony.
- This is an annulment case.

NOTE: You may speak with or hire a lawyer at any time during your case. Hiring a lawyer at the last minute is usually not grounds for a postponement of your hearing or trial date. Many lawyers may not accept a case close to a hearing or trial date if they believe there is not enough time to prepare.

WHAT LEGAL RESOURCES ARE AVAILABLE?

Court Clerks - Clerks cannot give legal advice, complete forms, or tell you how to complete forms, but they can give you information about where to file your papers, the filings costs, and resources and services that are available.

Maryland Court Help Center - The Court Help Center is staffed by lawyers who provide free help by phone or chat. They cannot represent you in court.

Hours: Monday-Friday, 8:30 a.m. to 8:00 p.m.

Telephone: (410) 260-1392

Live Chat: Accessed directly from mdcourts.gov/helpcenter

Family Law Help Centers/Family Law Help/Pro Se Assistance - Each circuit court offers information, assistance, or referrals. Services vary by court. Court Help Center attorneys and staff cannot represent you in court or complete forms.

Family Services Programs - Services differ by court, and may include custody evaluators, mediators, and more. Visit mdcourts.gov/family for information.

The People's Law Library of Maryland (peoples-law.org) - This legal information and self-help website. The website also includes links to resources for free or reduced-fee lawyer referrals.

Family Law Hotline - This Hotline is staffed by lawyers and is free to low-income callers. Hotline lawyers give information about Maryland family law to help you understand your rights and legal options. Hotline lawyers cannot represent you in court but can give you information about Maryland family law and may give you the phone number of a lawyer referral service.

Hours: Monday-Friday, 9:30 a.m. to 4:00 p.m.

Telephone: 1-800-845-8550

Court Help Video Library - available at mdcourts.gov/videos.

Maryland Law Help App - This is a free mobile app that includes links to self-help videos, court form finders, access to legal help by phone or chat, public law libraries, mediation resources, and more. Visit: mdcourts.gov/legalhelp/mobileapp

WHERE SHOULD I FILE MY CASE?

The type of case determines where to file your case. If you are unsure about where to file, ask the court clerk or speak with a lawyer.

- **ANNULMENT:** in the circuit court in the county where you live, in the county where the marriage was performed, OR in the circuit court in the county where your spouse lives or works.
- **DIVORCE:** in the circuit court in the county where you live OR in the circuit court in the county where your spouse lives or works.
- **CHILD CUSTODY, VISITATION, or CHILD SUPPORT:** in the circuit court in the county where the child(ren) or either parent lives. Different rules may apply if the child(ren) currently live(s) outside of Maryland.
- **CHANGE OF NAME:** in the circuit court in the county where you live.
- **PETITION FOR GUARDIANSHIP:** in the circuit court in the county where the minor or alleged disabled person lives or, if they are not a Maryland resident, in the county in which they are physically present in Maryland. If you are requesting guardianship of the property, you may also file the petition in any circuit court in the county in which the minor or alleged disabled person has property such as a house.

- **PETITION FOR PROTECTION FROM DOMESTIC VIOLENCE:** in either the circuit or District Court in any county.
- **ANSWER** (to a complaint, petition, or motion): in the court where the complaint, petition or motion was filed.
- **REQUEST TO MODIFY** or **ENFORCE** (by **contempt filing**): a court order in the same court and **under the same case number** as the existing case. A request to modify reopens the initial case.
- **MOTION FOR RESTORATION OF FORMER NAME:** in the same court and **under the same case number** as your absolute divorce case.

HOW MUCH WILL THIS COST?

There are filing fees for all cases except Protection from Domestic Violence cases, and a Motion for Restoration of Former Name. You must prepay these fees before the court will open your case.

If you cannot afford the filing fees, ask the court to waive them at the beginning of your case by filing a **Request for Waiver of Prepaid Costs (CC-DC-089)** with your initial papers. If the court grants your request, you will not pay the fees at the time of filing and your case will move forward. If the court denies your request, you have 10 days to pay the filing fee. If you do not pay the fees, your case will **not** move forward. Contact your county's court clerk, or visit mdcourts.gov/circuit/feeschedule for a list of filing fees and costs.

If you are granted a Waiver of Prepaid Costs, you may be required to pay court fees and costs at the end of your case. If you can't afford to pay the fees at the end of the case, you may ask the court to waive them at the end of the final hearing in your case or by filing a **Request for Final Waiver of Open Costs (CC-DC-090)**. For information about fee waivers, visit: mdcourts.gov/legalhelp/filingfeewaivers.

There is a fee if you have the Sheriff's Office serve your papers on the opposing party (See "WHAT IS SERVICE OF PROCESS?"). The court clerk will provide you with a fee quote. If you are granted a waiver of prepayment of fees, this usually includes the Sheriff's fee.

HOW DO I START MY CASE?

Review the list of court forms in the Courts link on the Maryland Judiciary website (mdcourts.gov/forms). Choose the form, with instructions, for the kind case you want to file.

Forms are also available from the court clerk. Court clerks **cannot** tell you which forms to file or complete the forms for you.

- Review the instructions carefully and complete all forms required for your case, including any financial statements if you are seeking child support, alimony, or property distribution.
- Complete **Civil-Domestic Case Information Report (CC-DCM-001)**.
- Make sure that all names and complete addresses are clearly written on each form. If it's a new case, the clerk will assign a case number when you file. If you are reopening a case, include the case number on all forms. Make at least two (2) copies of **all forms**: One (1) set for yourself **AND** one (1) for service on the person you're filing against. If you want the clerk's office to make copies, they may charge a fee.
- File completed and signed forms in the clerk's office with the filing fee, or Request for Waiver of Prepaid Costs (CC-DC-089). Do not serve a copy of the Request for Waiver on the person you are filing against. The clerk will not docket your case until a judge decides whether to grant the fee waiver request.

- Once your case is docketed, the clerk's office will issue a **Writ of Summons**. This may take a few days to a week or two (2) weeks if you filed a Request for Waiver of Prepaid Costs (CC-DC-089). After the clerk issues the Writ of Summons, the case is ready for **service of process** on the person you filed against. **Exception:** if you are filing a Motion for Restoration of Former Name **within 30 days** of your divorce judgment, a Writ of Summons is not required for service.

NOTE: Your signature on each form is made under oath and you are stating that the information and statements are true and correct to the best of your knowledge.

WHAT IS SERVICE OF PROCESS?

Service of Process (or "service") means providing the person you filed against copies of the papers you filed and the summons issued by the court. The Court Help Video Library at mdcourts.gov/reference/videolibrary contains information about service of process.

HOW DO I SERVE SOMEONE?

Methods of Service:

****IMPORTANT: You may NOT serve the other side yourself directly, or by certified mail, when serving a Writ of Summons and an initial filing (or papers that are reopening a previous case) ****

Petition for Protection from Domestic Violence or Petition for Peace Order: served by a law enforcement official. There is no service fee for a Petition for Protection from Domestic Violence.

Service by Sheriff - For a fee (if not waived), the clerk can forward the Writ of Summons with a copy of the filing to the Sheriff's Office. The Sheriff will attempt service and file the required Return (Proof) of Service with the court.

Service by Private Process - Forward the Writ of Summons and a copy of all the papers you filed to a private process server. They will serve the other side and file an **Affidavit (Proof) of Service** with the court. Private process companies charge a fee. Private process may also be made any person who is: 1) over 18, and 2) not involved in the case. Give this person an **Affidavit of Service (Hand Delivery/Private Process) (CC-DR-055)** to complete. You cannot complete the Affidavit, but you may file it with the court.

Service by Certified Mail, Restricted Delivery – Have someone (not you) send the Writ of Summons and a copy of all papers you filed by certified mail, return receipt with **restricted delivery**. Service is completed when the person being served *personally* signs the certified mail return receipt card, which will be returned to the person who mailed the papers for service. That person must complete an **Affidavit of Service (Certified Mail Restricted Delivery-Receipt Requested) (CC-DR-056)**. You must attach the original return receipt card to the Affidavit of Service and file it with the court. Keep a copy of both sides of the certified mail return receipt card.

WHAT IF SERVICE IS NOT MADE?

After several unsuccessful attempts to make service of process by the Sheriff, a private process server, or by certified mail, OR if you have been unable to find where the other side lives or works, you may file a **Motion for Alternate Service and Affidavit (CC-DR-070)** with a **Notice-Alternate Service (CC-DR-072)**. Attach proof of your efforts. A judge will decide if you may use another form of service. If your motion is granted, you will notify the person you filed against of your court filings by whatever reasonable method the judge orders. There is a fee for the Sheriff to post notice for alternate service on the sheriff's bulletin board.

If the Sheriff posted notice of alternate service, the Sheriff's office will file proof with the court. If the court ordered another form of alternate service, you must file proof with the court that it was completed.

The Maryland Judiciary's court help video library has a helpful video and resources on service of process at mdcourts.gov/video/selfhelp/serviceofprocess.

WHAT HAPPENS AFTER SERVICE IS MADE?

After service of process is made **AND** proof of service is filed with the court, the person you served may file an Answer, a motion challenging service, jurisdiction, or other aspects of your filing. If the person resides or was served:

- within Maryland, they have **30 days** to file a response.
- in another state, they have **60 days** to file a response.
- in another country, they have **90 days** to file a response.

Court-approved response forms:

- **Answer to Complaint / Petition / Motion (CC-DR-050)**
- **Counter-Claim for Absolute Divorce (CC-DR-094) or**
- **Counter-Claim for Custody (CC-DR-095)**

If No Answer is Filed:

If no Answer is filed by the deadline, file a **Request for Order of Default (CC-DR-054)**. The judge will grant the Order of Default if they are satisfied that the other person is not presently in the military and proof of service has been filed with the court. The clerk's office will issue a **Notice of Default**. The other person has 30 days to file a written explanation about why an Answer was not filed and ask the court to vacate (cancel) the Order of Default. If the other person does not respond to the Notice of Default, the case may move forward without their participation.

WHAT HAPPENS NEXT?

After each person's papers have been filed and served, or an Order of Default is granted, the court will schedule your case. You may be required to attend the following, and will receive notice by mail and possible by other means:

- **scheduling conference:** to set dates and deadlines, and possibly make referrals for services.
- **settlement conference:** to explore areas of agreement and disagreement.
- **hearing or trial:** if you have settled your issues and just need to formalize the divorce, name change, custody agreement, etc., you will be given a hearing. Otherwise, the case will go to trial. If a reasonable period of time passes after the filing of an Answer or Order of Default and you have not received notice from the court, you may file a **Request for Hearing or Proceeding (CC-DR-059)**.

The Maryland Safe at Home Address Confidentiality Program provides a substitute address for victims of domestic violence who have moved or are about to move to a location unknown to their abuser. It also offers free confidential mail-forwarding for first-class mail and legal papers. Application assistants can help you apply. Call 1-800-633-9657 ext. 3875, visit sos.maryland.gov/ACP, or email safe.athome@maryland.gov.

WHAT HAPPENS IN COURT?

At your hearing or trial, you have an opportunity to testify. Witnesses who have first-hand knowledge about your case may also testify. You may present evidence that may be accepted by the court under the **Rules of Evidence**. The person you filed against will also have a chance to present their side of the case and offer testimony, witnesses, and evidence. Each side may cross-examine (ask questions of) the other side's witnesses about their testimony. In preparing for your court day, keep the following in mind:

- Arrive **before** your scheduled trial time. You must go through security and find the courtroom where your case will be heard.
- Prepare the documents and evidence that you want to show the court. Have **at least** three (3) copies of any documents you bring: one (1) for the court, one (1) for the other side, and one (1) for yourself. **The court is not required to make copies for you.**
- If you filed the initial case and fail to appear for the hearing date, your case may be dismissed. If a Counter-Complaint/Claim was filed and you fail to appear, the other side may still proceed and could be granted the relief requested in their papers.
- If you have an emergency that prevents you from appearing for your hearing, **contact the court** before the hearing. However, contacting the court does not necessarily mean that your case will be postponed.
- Children under 18 should not be witnesses in a divorce or custody trial. However, if the court has ordered you to bring your child(ren) to court, you must do so. If you believe your child(ren)'s testimony is necessary, speak with a lawyer about how to present this to the court. If a parent must be in court, and needs childcare, some courthouses provide this service. Please check the website of the courthouse.
- When the hearing or trial is complete, the magistrate or judge will make a decision. They may state the facts, evidence, and the law that applies in their decision (or **ruling**) either that day or in a written decision mailed to both sides on a later date.
- You should consider consulting or hiring a lawyer to help you.

WHAT HAPPENS AFTER COURT?

What happens after a decision is made depends on whether a judge or magistrate heard your case.

- If your hearing was in front of a judge, they will sign a final order. You may receive the order at the end of the hearing or by mail.
- If your hearing was in front of a magistrate, they will issue a Report and Recommendations with findings of fact and a proposed order. A judge will review it before it becomes final. After ten (10) days, a judge will sign the order and it will be mailed to both sides.
- If either party believes that the magistrate or judge made an error in applying the law in their case, there are procedures for requesting the court to review the decisions and orders. You may file exceptions to a magistrate's report, or an appeal of a judge's decision to another (higher) court. **Requests for review, exceptions, or an appeal are complex with specific requirements and strict deadlines. Speak with a lawyer before filing any further papers.**

DICTIONARY GLOSSARY OF COMMON LEGAL TERMS

Affidavit: A written statement made under oath.

Alimony: Court-ordered payments made by one (1) spouse to the other for support.

Annulment: A court's decision that a marriage is void; it never legally existed. It is available only under certain limited circumstances.

Answer: A written response to a complaint, petition or motion.

Arrears: The amount of money a person failed to pay when due. A person who does not make court-ordered payments such as alimony or child support is "in arrears" for the amount they owe.

Certificate of Service: A written statement filed with the court as proof that copies of papers filed with the court were given to the appropriate parties.

Child Custody: Court-ordered arrangement of who children live with and how decisions about them will be made. There are two (2) types of custody:

Legal Custody/Decision-making authority: Refers to how long-term decisions about children's education, health, religion, etc. are made.

Physical Custody/Parenting time: Refers to where children live and the amount of time they spend with each parent.

Child support: The amount of financial and other support each parent is responsible to provide for the care of their minor child(ren).

Child support guidelines: Maryland's guidelines are used to determine the appropriate amount of child support. The guidelines formula calculates support based on the number of children in the family, additional expenses (for example, childcare and health insurance), and the combined gross income of the adults. The court may award child support higher or lower than the guidelines. See the Annotated Code of Maryland, Family Law Article, Sections 12-201 through 12-204.

Civil (or Court) Clerk: A court employee who receives and maintains case files and issues some court documents such as writs of summons, copies of court orders, and other notices.

Complaint: One (1) type of legal paper that starts a case. The person who files the initial case is referred to as the plaintiff and the person against whom the complaint is made is the defendant.

Contempt: The failure to follow a court order. One (1) side may request that the court determine that the other side is in contempt. If the court determines that a person is "in contempt," it can punish them.

Contested Case: A case that involves one (1) or more disputed issues.

Counter-Complaint/Counter-Claim: A complaint the defendant files against the plaintiff after the plaintiff's initial complaint.

Custody: The legal arrangements regarding with whom a child will live and how decisions about the child will be made. Custody has two (2) parts: legal and physical. Legal custody refers to decision-making authority. Physical custody refers to the child(ren)'s time with each parent. Parents may agree on the custody arrangement that is in the best interest of their child(ren). If the court decides custody, the judge determines what is in the best interest of the children and makes an order.

Decision/Judgment/Opinion/Ruling: The result reached by the court in resolving the disputes in a case.

Default: A party's failure to file a timely answer to a complaint, motion or petition after proper service of process has been made. After a certain time has passed, the plaintiff can ask the court for a default judgment.

Default Judgment: A court's finding on behalf of a plaintiff because the defendant did not respond to a complaint, motion, or petition.

Defendant: The person the case is brought against. If a defendant files a counter-complaint/claim, they become the counter-plaintiff.

Discovery: A process in which each party is allowed to investigate the other side's case and get information related to the case before a trial or hearing. Special rules determine how and when discovery occurs. Discovery methods include:

- **Interrogatories:** Written questions one side gives the other side to answer under oath.
- **Oral Depositions:** In-person question-and-answer sessions about the facts of a case. Answers are made under oath and recorded.
- **Requests for Production, Inspection and Copying of Documents:** Asking one (1) party to give the other party documents related to the case.
- **Orders for mental or physical examinations:** Asking a party to be examined by an expert.
- **Requests for Admissions of Fact:** Asking the party to admit to facts so that those facts do not have to be decided by the court.

Dissolution: Another name for the legal end of a marriage.

Divorce: A process for the ending of a marriage.

Absolute Divorce: The legal ending of a marriage. Once granted, both parties can remarry.

Evidence: Testimony of witnesses and documents presented to and considered by the court in making a decision. Rules of evidence are complicated and technical, you should consider consulting or hiring a lawyer to help you.

Exhibit: A document or object admitted into evidence to prove or disprove an issue in court.

Filing: The process of giving the clerk of the court papers in a case. Those papers are also called "filings." Some filings require payment of a fee.

Grounds for Divorce: The legal basis for a divorce. The law sets out specific circumstances under which a divorce may be granted. Before the court will grant a divorce, the person seeking the divorce must prove that those conditions exist.

Hearing: A trial or legal proceeding during which an issue is presented to a judge or magistrate.

Judge: A court official with the authority to hear and make decisions about a case.

Judgment: A court's decision (the final order of the court). For example, the court will enter a Judgment of Absolute Divorce. A judgment also refers to the grant of money such as for fees and costs, contempt fees, or attorney fees to be paid by the other party.

Jurisdiction: Refers to the authority of the court to hear and decide a case.

Marital Property: All property acquired during the marriage, even it is not titled in both names, with some exceptions. See Annotated Code of Maryland, Family Law Article, Section 8-201(e) for definition and Sections 8-203 through 8-205 for how the court treats marital property. Marital property can be divided when spouses divorce. If spouses cannot agree, the court will decide. You should consider consulting or hiring a lawyer.

Family Use Personal Property: Personal property acquired during the marriage and used for family purposes (e.g., family car, family home, furniture, appliances, etc.).

Use and Possession: Under certain circumstances the court may grant use and possession to the parent who has primary custody of the minor child(ren) of the marriage, allowing that parent and the child(ren) to live in the family home and/or use family property for up to three (3) years from the date of the divorce.

Family Magistrate: A court official who hears cases. A magistrate's decision is reviewed by a judge before it is final.

Mediation: A process in which the parties meet with a trained, neutral third-party (a mediator) who helps them resolve issues and reach an agreement. With some exceptions, most courts refer parties in family law cases involving children, to mediation.

Modification: A change to an existing order. A party asking the court for a modification must show that there has been a "material change in circumstance" since the date of the existing order.

Motion: A request during a case for the court to take certain action in a case.

Non-Marital property: Property acquired before marriage by one spouse, third-person gifts to one spouse, and inheritances made to one spouse. Non-marital property will not be divided by the court unless the spouses agree, or the property has been commingled with marital property.

Oath: A promise to tell the truth subject to criminal penalties for lying. Oaths can be oral (for example, made in court while testifying or during a deposition) or written (for example, by signing a form or an affidavit).

Order: A written directive to the parties based on a ruling/decision of the court about the issues stated in a complaint, petition, motion, or other matter; a command that one or both parties must follow.

Order of Default: A court's order allowing a party's case to proceed without the participation of the other party, who failed to file a timely Answer after proper service of process was made.

Parties: The two (2) sides in a case; the plaintiff and the defendant. There may be more than one (1) plaintiff and defendant named in a case.

Pendente Lite: Temporary arrangements for child custody, child support, child visitation, alimony, use and possession of the family home/property, etc. until a final hearing or trial in a case.

Petition: One (1) type of legal paper that starts a case. The person who files the case is the petitioner. The person who is served is the respondent. For example, a Petition for Protection from Domestic Violence or a Petition for Contempt.

Plaintiff: The person who files the initial case. If a counter-complaint/claim is filed by the opposing party, the plaintiff also becomes the "counter-defendant."

Pro se/Self-Represented Litigant/Proper Person: A person who represents themselves in court without a lawyer.

Reconciliation: Married but separated people getting back together.

Service of Process (or "Service"): Providing a copy of the papers being filed to the other side.

Spouse: The person to whom you are married.

Subpoena: A form issued by the court requiring someone to appear in court and/or to provide documents.

Uncontested Divorce Case: When neither spouse disagrees with the divorce *and* there are no issues for the court to decide about children, money or property.

Venue: The county or city where the case is heard.

Writ of Summons: A form issued by the court directing a party to respond to a complaint, motion or petition.