

## **COMPLAINT FOR ABSOLUTE DIVORCE INSTRUCTIONS FOR COMPLETING FORM CC-DR-020**

Prior to completing Form CC-DR-020 Complaint for Absolute Divorce review the **General Instructions (Form CC-DRIN)** in addition to this Instruction form.

These Instructions are meant to assist you and are for informational purposes only and not intended as legal advice.

### **WHO SHOULD USE THIS FORM?**

You should use Form CC-DR-020 Complaint for Absolute Divorce if **ALL** of the following are true:

- *At least* one (1) of the grounds for divorce described in Paragraph 15 has been met;
- You are asking the court to grant you a complete dissolution (ending) of your marriage; AND
- You are not hiring a lawyer (also called an attorney or counsel) to file the case for you.

### **DO I NEED A LAWYER?**

The answer is probably YES if:

- The case is contested or your spouse has a lawyer.
- You do not have an address for or cannot locate your spouse in order to serve him or her with your papers.
- You or your spouse has a house, a pension/retirement account, or a large amount of property or income. Even if you are mutually consenting to divorce, it is advisable to speak with a lawyer before signing settlement agreements or filing papers with the court.
- There is a dispute on who should have custody of the children.
- The court may need information that you cannot get.
- You want an annulment instead of an absolute divorce.
- You want a divorce after a long-term marriage (approximately 10 or more years) and/or you want alimony.

You may speak with or hire a lawyer at any time during the course of your case.

### **THERE ARE TEN (10) STEPS IN ORDER TO COMPLETE THE CASE YOURSELF:**

#### **□ STEP 1 - COMPLETE FORM CC-DR-020 COMPLAINT FOR ABSOLUTE DIVORCE:**

**Case caption:** Fill in complete names, addresses and telephone numbers for yourself (as Plaintiff) and your spouse (as Defendant). **However, if you are requesting that your address or that of the child(ren) remain confidential because of concerns for safety or domestic violence issues, do not include your address or contact information** rather contact the clerk's office regarding your contact information. The clerk will assign a **case number** once your case is filed. Fill in your name on the first line of the Complaint. You will need to provide an address where the opposing party (other side) will be able to serve you with their papers.

**Paragraph 1:** Fill in the month, day and year that you and your spouse became married; fill in the city or county and state where the marriage took place, and check the box indicating whether it was a civil (court or justice of the peace) or religious (church or by clergy) ceremony.

**Paragraph 2:** Check the statement that applies about Maryland residence for the purpose of this divorce, and fill in month and year that person's residence in Maryland began.

**Paragraph 3:** Check all boxes that apply about where the grounds for divorce (Paragraph 15) occurred.

**Paragraph 4:** Check one box that applies to your case about children. If you and your spouse have no children together **you may skip to Paragraph 12.** If you and your spouse have any children, fill in their complete names and dates of birth in the lines provided.

**Paragraph 5:** If you and your spouse have children and there are other cases in any court (in Maryland or any other state) involving any one or all of the children, including any domestic violence case, provide complete case information in the lines provided, including the name of the court where the case was filed, case number, kind of case, year filed and the result or current status of the case.

**Paragraph 6:** List all cases you have been a party or witness to, or involved in, concerning custody, guardianship or visitation (child access) of one or all of the children including the state where the case was filed, name of the court, case number, and date that any child custody or guardianship determination was made, **and attach a copy of the most recent court order for all of the cases that you list.**

**Paragraph 7:** Fill in complete names and addresses of any people who are NOT a party (Plaintiff or Defendant) in this case, but who have physical custody of, or who may claim rights of legal (decision-making) or physical custody, or visitation (child access) with, the child(ren).

**Paragraph 8:** Fill in complete address where the child(ren) presently live(s), and complete name of the person(s) they live with at this time.

**Paragraph 9:** Fill in the appropriate box about whether the child(ren) has/have lived in Maryland for six (6) months. Fill in dates, places (towns or states) where the child(ren) has/have lived, and complete names and current addresses for each person the child(ren) lived with during the last five (5) years.

**Paragraph 10:** Check the appropriate statements about the legal (decision-making) and physical custody of, and visitation (child access or parenting time) with the child(ren) that you are asking the court to consider.

**Paragraph 11:** Check the statement that applies about child support and/or health insurance; if there is already a separate child support case in the Office of Child Support Enforcement or the court, fill in case number information for that case. **If child support is an issue in your case you MUST file a financial statement with your Complaint.** If child support is the only financial issue in your case, complete and file **Form CC-DR-030 Financial Statement (Child Support Guidelines).** If you also have property, alimony or other financial issues complete and file **Form CC-DR-031 General Financial Statement** instead.

**Paragraph 12:** Check the appropriate statement about alimony and fill in a brief explanation. If you are requesting alimony **you must file a Form CC-DR-031 General Financial Form** with your Complaint.

**NOTE:** If you do not request alimony, or waive a claim to alimony in this divorce case, a future claim for alimony may not be made after an absolute divorce is granted.

**Paragraph 13:** Check the appropriate statement about marital property and debt that applies in your case.

**NOTE:** If you and your spouse do not have an agreement about division of property but do not request property division at the time of a final divorce hearing, the court may be prohibited from addressing property issues after the divorce is granted.

**Paragraph 14:** If you would like to take back a name you used before this marriage, fill in the complete name you want to take back. You may request to be restored to a former name as long as it is not for any fraudulent reason, or to avoid or hide from creditors.

**NOTE:** If you do not request to be restored to your former name at the time of divorce, you may do so by a separate request no longer than 18 months after the date the clerk enters a decree (judgment) of absolute divorce.

**Paragraph 15:** Grounds for Divorce - read each ground and check any that apply to your case (you may check more than one). **The ground you choose must have already "accrued" before filing this Complaint.** For example, to check Twelve (12) Month Separation you must have been separated for 12 months *before* filing for divorce using this ground.

**NOTE: About the Mutual Consent ground: If you and your spouse have minor children together you may not use the Mutual Consent ground for divorce. If you are filing for divorce using this ground you must have a written agreement with your spouse that resolves all property and alimony issues, you MUST attach a copy of your agreement signed by both parties to the Complaint AND both parties MUST attend the final divorce hearing. IF YOU DO NOT PROVIDE A SIGNED AGREEMENT OR IF EITHER SPOUSE FAILS TO ATTEND THE FINAL DIVORCE HEARING A DIVORCE CANNOT BE GRANTED.**

**Final Paragraph "FOR THESE REASONS":** Check off ALL requests you are asking the court to grant based on the statements made in your numbered paragraphs. These are your "requests for relief."

**Affidavit:** Complete the Affidavit. This is your sworn statement that all the statements and information contained in your paper are true and correct.

□ **STEP 2 - COMPLETE ALL OTHER REQUIRED FORMS:**

- **Civil-Domestic Case Information Report (Form CC/DCM-001).** This form assists the court in understanding the issues in your case and the anticipated time for case scheduling.
- **Form CC-DR-030 Financial Statement (Child Support Guidelines).** This is a "short form financial statement" that MUST be completed and filed with your Complaint if you are asking to establish child support.
- **Form CC-DR-031 Financial Statement (General).** This is a "long form financial statement" that MUST be completed and filed with your Complaint if you are requesting alimony or a monetary award in property division. If you have property, alimony **AND** child support claims you may file this form (you do not need to also file the short form above).
- **Form CC-DR-033 Joint Statement of Parties Concerning Marital and Non-Marital Property.** This form must be completed and filed no less than 10 days before your final hearing date. (*See below Step 8 Pre-Hearing Matters*)
- **Your signed and dated settlement agreement.** If you filed for divorce based on the ground of **Mutual Consent**, you MUST attach a copy of your agreement to the Complaint.
- **Division of Vital Statistics, Report of Absolute Divorce or Annulment of Marriage.** This Maryland Department of Health form tracks divorce statistics in Maryland. You must complete this form and submit it to the court at the end of your hearing. The clerk's office or the courtroom clerk can give you a blank form. **Your divorce decree will not be mailed to you unless this form is filed.**

□ **STEP 3 - FILING FEE:**

Filing fees are required for most case forms and must be paid to the Clerk of the Court at the time you file papers. Contact the Clerk of the Court for the amount and form of payment accepted (some clerk's offices do not accept personal checks). If you meet income requirements to have prepayment of the filing and other court costs waived, complete a **Form CC-DR-089 Request for Waiver of Prepaid Costs, with the required documentation.** (See *General Instructions Form CC-DRIN "How Much Will This Cost?"*).

□ **STEP 4 - FILING YOUR FORMS:**

Give your completed and signed forms, fee payment or Request for Waiver of Prepaid Costs, to the civil clerk of the appropriate circuit court. **Make at least two (2) copies of all forms before filing**, one (1) for service of process to the opposing party, and one (1) for your records. The clerk will issue a case number at the time of filing; write-in the case number on each of the copies you made. (See *General Instructions, Form CC-DRIN "Where Should I File My Case?"*, or speak to a lawyer if you are not sure where you should file your case).

□ **STEP 5 - SERVICE OF PROCESS:**

After your case has been filed and accepted the Clerk of the Court will issue a Writ of Summons; you must arrange for service of process of the Writ of Summons AND a complete copy of all forms and documents filed in the case. Proof of service must be filed with the court clerk before the case can continue. If you are unable to complete service, or you do not know where to find the defendant for service speak to a lawyer about alternate forms of service. (See *General Instructions, Form CC-DRIN, "What is Service of Process?"*)

□ **STEP 6 - REQUEST AN ORDER OF DEFAULT IF NO ANSWER IS FILED:**

After proper service of process is made the defendant has a set period of time to file an Answer; this period of time depends on where service was made.

If the opposing party resides or was served:

- within the state of Maryland, he or she has **30 days** to file an Answer.
- in another state, he or she has **60 days** to file an Answer.
- in another country, he or she has **90 days** to file an Answer.

If NO ANSWER has been filed by the deadline after service, complete and file a **Request for Order of Default, (Form CC-DR-054)**. The judge will grant the Order of Default if he or she is satisfied that the opposing party is not presently in the military and proof of service has been filed with the court. (See *General Instructions, Form CC-DRIN, "What Happens After Service is Made?"*)

□ **STEP 7 - REQUEST FOR HEARING OR PROCEEDING:**

Most courts will automatically begin scheduling a case conference or hearing once an Answer or Order of Default is docketed by the clerk. However, if you don't receive notice from the court within a reasonable time contact the Clerk of the Court to determine if you should file a **Request for Hearing (Form CC-DR-059)**. (See *General Instructions Form CC-DRIN, "What Happens Next?"*).

□ **STEP 8 - PRE-HEARING MATTERS:**

Once your case is scheduled for a hearing or trial date, prepare for the following issues if they are part of your case:

- **Marital and Non-Marital Property:** If you are requesting the court to divide property and debt, or to grant a monetary award for value of property, both you and your spouse must complete the **Joint Statement of Parties Concerning Marital and Non-Marital Property (Form CC-DR-033)**. This form provides required information to the court about what each party believes is marital or non-marital property. This form must be filed with the clerk's office **no later than 10 days prior to your final trial date**. Even if your spouse does not cooperate in completing a joint form, you must file your completed form.
- **Child Support:** If you have minor children, complete the **Child Support Guidelines Worksheet (Worksheet A-Primary Physical Custody, Form CC-DR-034, OR Worksheet B-Shared Physical Custody, Form CC-DR-035)**. A Child Support Calculator is available through the People's Law Library of Maryland website ([www.peoples-law.org](http://www.peoples-law.org)) (See Child Support Instructions, Form CC-DRIN-010)

□ **STEP 9 - HEARING/TRIAL:**

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 also present any evidence that may be accepted by the court under the **Rules of Evidence**. The other side will also have an opportunity to present his/her side of the case and offer testimony, witnesses, and evidence. Both sides will have opportunity to cross-examine (ask questions) of the other side's witnesses about their testimony. Arrive to the courthouse before your scheduled hearing time and be prepared with the original and additional copies of your evidence for the court and the opposing party. **The court is not required to make copies for you.** (*See General Instructions Form CC-DRIN, "What Happens in Court?"*)

**NOTE:** As a general rule, children under 18 should not be witnesses in a divorce or custody trial. However, if you have been ordered by the court to bring your child(ren) to court, you must do so. If you believe your child(ren)'s testimony is absolutely necessary you should speak with lawyer about how best to present this to the court. If a parent must be in court, and needs child care, some courthouses provide this service. Please check the website of the specific courthouse.

**NOTE:** *The courts are no longer prohibited from entering a Judgment of Absolute Divorce without corroborating testimony of a witness. Although you are no longer required to provide a corroborating witness, you **must still prove your eligibility and ground for divorce to the court.** A corroborating witness may still be useful in your case, particularly if there are contested (disputed) issues in your case.*

□ **STEP 10 - JUDGMENT OF ABSOLUTE DIVORCE:**

You will not be officially absolutely divorced on the day of the final hearing. Although the magistrate or judge may recommend or grant your absolute divorce, you are not legally divorced until a final Judgment of Absolute Divorce is signed by a judge. You will receive the certified Judgment of Absolute Divorce from the Clerk of the Court (unless outstanding court costs have not been paid), depending on the following:

- **Magistrate's hearing** - if the hearing was before a magistrate, the Magistrate's Report and Recommendations will be reviewed by a judge (10 days after the Report is issued). A judgment will be signed unless either side files a Notice of Exceptions disputing the magistrate's recommendations. If no exceptions are filed the clerk's office will mail the Judgment for Absolute Divorce usually within two (2) to three (3) weeks of the hearing date.
- **Judge's hearing** - if the hearing was before a judge you will receive your Judgment once the judge's chambers has completed it and forwarded it to the clerk for docketing and mailing. If a lawyer was involved in the case, the judge will likely instruct him or her to prepare and send a Judgment to the court for the judge's review and signature.

*(See General Instructions, Form CC-DRIN, "What Happens After Court?" for additional information on what you may expect after your hearing is completed.)*