

# **Kansas Legal Services**

A non-profit law firm and community education organization helping low and moderate income people in Kansas

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## **Instructions for filing Divorce with Children**

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

(This packet contains: Instructions, Civil Information Sheet, Petition for Divorce, Voluntary Entry of Appearance, Request for Service Form, Summons, Domestic Relations Affidavit, Child Support Worksheet, Parenting Plan, The divorce decree packet (done separately at [www.kansaslegalservices.org/FreeLegalForms](http://www.kansaslegalservices.org/FreeLegalForms)) Kansas Payment Center Information Sheet, Vital Statistics Form, Notice of Final Hearing and Decree of Divorce, and is for use in divorces where the filing person and spouse have children of their relationship together.)

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

### **WARNINGS**

**These are basic forms that will not cover every situation. A divorce can be complicated and using legal forms without a lawyer's help can harm your legal rights. Every district court has specific local rules that apply and you must follow those rules or you may not be able to finish your case.**

**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 a lawyer.**

**It is important to note that property decisions are binding and may not be subject to modification. In addition, agreements regarding debt are NOT binding on, and do not affect the rights of, third parties.**

## **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 a lawyer, 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:
  - Filing Spouse = Petitioner or Plaintiff
  - Non-filing Spouse = Respondent or Defendant

## **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 and the Domestic Relations Affidavit 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.

5. Contact the Clerk of the District Court to find out how to get a final hearing date and time in 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 written notice of the hearing date 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 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 may 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.
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 to 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 Vital Statistics Form.
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. Take the original and 3 copies of the decree of divorce to the divorce hearing. 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.

**===== Instructions prepared by the Kansas Judicial Council =====**

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