

# Basic Guide to Divorce/Legal Separation Manitowoc County



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<https://myforms.wicourts.gov>

## 10 Basic Steps for Getting a Divorce or Legal Separation

Even though each county may do things a little differently, or call various hearings by different names, there is a basic structure to how a divorce or legal separation will proceed in Wisconsin.

1. **Decide How You Will File.** You need to decide if you and your spouse will be signing the Petition together (filing jointly) or if only one of you will be completing the forms to start the action (filing alone).
2. **Decide If You Need a Temporary Hearing.** You may request a temporary hearing before the Family Court Commissioner by completing an Order to Show Cause and Affidavit for Temporary Order if you and your spouse cannot agree on any of the following issues:

Child Custody	Use of automobiles or other personal property
Child Placement	Payment of bills
Child Support	Payment of maintenance or spousal support
Use of the family residence	
3. **File the Action.** The summons and petition (or joint petition) for divorce or legal separation and confidential petition addendum must be filed and a fee paid to the Clerk of Circuit Court. (Note: There is a mandatory 120-day waiting period before the court can hear the final hearing.)
4. **Deliver (or serve) copies of the documents to those who must receive them.** In order for the court to hear the case, your spouse must be provided with copies of the summons, petition, confidential petition addendum, and proposed parenting plan and proof of that service must be filed with the Clerk of Circuit Court.
5. **Obtain a Temporary Order (if needed).**

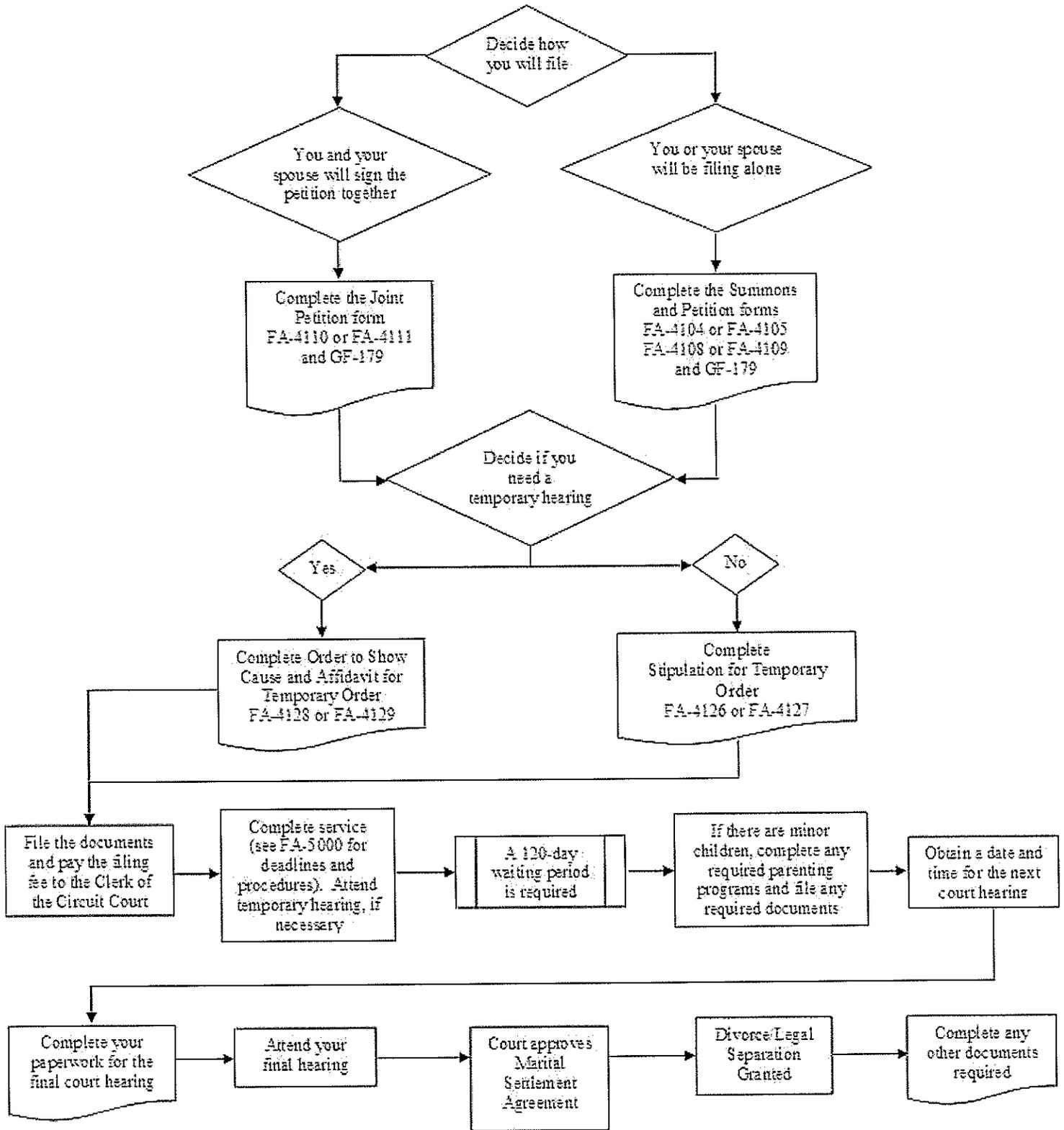
If you completed the Order To Show Cause and Affidavit for Temporary Order you must attend the Temporary Hearing you requested to have a temporary order issued.

If you and your spouse reach an agreement, you can complete and file a Stipulation for Temporary Order.

If you and your spouse don't believe it is necessary to have a formal temporary order, you may ignore this step at this time. If the situation changes before the final hearing, either spouse may seek a temporary order.
6. **If there are minor children, complete any required parenting programs and file any required Parenting Plans.** Some counties may require the parents to complete programs concerning the effects of divorce on children as a condition to obtaining a divorce.
7. **Obtain a date and time for the next hearing.** In some counties the court automatically schedules the next hearing. In other counties you may have to contact the court to schedule the next hearing. This next hearing, depending on the county, may be the final hearing.
8. **Complete your paperwork for the final hearing:**
  - a. Marital Settlement Agreement (if you and your spouse can agree on everything) or a Proposed Marital Settlement (if you don't agree).
  - b. Financial Disclosure Statements
  - c. Findings of Fact, Conclusions of Law, and Judgment of Divorce
  - d. Vital Statistics Form (from the Clerk of Circuit Court office).
9. **Attend your final hearing.** Arrive early, be prepared, bring your paperwork, and be polite.
10. **Complete any other documents required after the final hearing.** Sign car titles and real estate deeds, complete documents to divide pension plans (QDRO), change beneficiaries on life insurance policies, revise your will, and other matters when appropriate.

# BASIC STEPS FOR GETTING A DIVORCE/LEGAL SEPARATION

This flow chart gives a general outline of divorce proceedings in Wisconsin. The procedures in every county are a little bit different. Please refer to the procedural checklist section of this guide.



## Important Court Related Offices

### Family Court Division

**Physical Address:**

Room 105  
1010 South Eighth Street  
Manitowoc, WI 54220

**Mailing Address:**

P.O. Box 2000  
Manitowoc, WI 54221-2000

**Phone:** 920-683-4036

**Contact:** April Higgins, Family Clerk

**Directions:** COC office on the first floor of the courthouse, room 105

### Family Court Commissioner's Office

**Family Court Commissioner:** Lorene D. Mozinski

**Physical Address:**

Room 317  
1010 South Eighth Street  
Manitowoc, WI 54220

**Mailing Address:**

Same

**Phone:** 920-683-4493

**Contact:** Janet Galien, FCC Judicial Assistant

**Directions:** Third floor of courthouse, Room 317

### Child Support Division

**Physical Address:**

Room B-21  
1010 South Eighth Street  
Manitowoc, WI 54220

**Mailing Address:**

Same

**Phone:** 920-683-4066

**Directions:** Located in courthouse basement, room B-21

## Important Court Related Offices

### Court Self-Help Center/Services

Self-Help services are not available in Manitowoc County, however it is recommended that you have a friend or relative review your forms for completeness.

**Forms are available at:**

**Location:** [www.wicourts.gov](http://www.wicourts.gov)

**Cost of Divorce Form Packets:** None

### Americans With Disabilities Act

If you need accommodations for a disability contact:  
Lynn Zigmunt, Clerk of Circuit Court  
920-683-4025

### Notary Public Services

**Location:** Clerk of Court Office, County Clerk Office, FCC Office

**Fee:** None

**Directions:** First floor-Room 105, First Floor-Room 115, and Third floor-Room 317 respectively.

### Copy Services

A copy machine is available in the Courthouse. It is located in County Clerk's Office, Room 115 and copies cost \$0.25 per page.

The Clerk will make copies for you for \$1.25 per page.

### Process Service

#### **Sheriff's Department**

**Name/Agency/Unit:** Manitowoc County Sheriff

**Address:** 1025 South Ninth Street  
Manitowoc, WI 54220

**Phone:** 920-683-4211

**Fee:** \$40.00 A prepayment fee is charged.

**Information Available:** Process Service Information This information is available at the Clerk of Court Office

#### **Other Professional Process Services Available Locally**

There are private process servers in Manitowoc County. The Clerk's office can provide information about these private process servers.

## Legal Issues to Consider

### Self-Representation (Pro Se)

Pro Se means to represent yourself in court without an attorney. There are significant risks and responsibilities to doing so. You should explore the risks and determine if you can fulfill the responsibilities required. Your case may be too complex to handle on your own. Sometimes when people represent themselves, they have to hire an attorney to "fix" their mistakes. It may cost more to hire an attorney to "fix" the mistake than it would to have hired the attorney to handle it from the beginning.

Court staff **cannot** give legal advice to you. Court staff can provide general information about court rules, procedures, practices, and terms.

### Jurisdiction: Where should you file?

Divorces and legal separations are filed in the county you currently reside, not where you were married.

To file for divorce in Manitowoc County, at least one of the parties must:

- Be a **resident of the State of Wisconsin** for at least the **6 months** immediately before the date the action is filed, and
- Be a **resident of Manitowoc County** for at least the **30 days** immediately before the date the action is filed.

To file for legal separation in Manitowoc County, at least one of the parties must:

- Be a **resident of the State of Wisconsin** for at least the **30 days** immediately before the date the action is filed, and
- Be a **resident of Manitowoc County** for at least the **30 days** immediately before the date the action is filed.

### Divorce, Legal Separation, or Annulment?

#### Divorce

Divorce **ends** a marriage. The court rules on such issues as the division of property, maintenance (spousal support), and if necessary, arrangements for child support, legal custody, and physical placement. There is a 120-day waiting period to get divorced. Once the divorce is granted, the parties cannot remarry anywhere in the world for at least six months.

Spouses do not have to give reasons for wanting a divorce. Wisconsin is a "no fault" divorce state, which means neither spouse must prove that the other has done anything wrong, and only one spouse must testify under oath that he or she believes that the marriage is irretrievably broken. A marriage is irretrievably broken when there is no chance for reconciliation.

#### Legal Separation

Legal separation **does not end** a marriage. The court rules on the same issues as for divorce. The forms, instructions, procedural information, and waiting period (120 days) for obtaining a legal separation are also the same as those for divorce. Spouses are free to reconcile at any time. Spouses cannot marry another person while they are legally separated. If the spouses agree, they may convert the legal separation to a divorce at any time. If they do not agree, either spouse may convert the legal separation into a divorce by filing a motion to do so after one year from the date the legal separation was granted. The parties may not remarry anywhere in the world for at least six months from the day the legal separation is converted to a divorce.

Spouses do have to give a reason why they are requesting a legal separation and not a divorce. Both of the spouses will have to give testimony under oath that the marital relationship is broken.

## **Annulment**

An annulment is a court procedure that declares that a marriage never existed. However, a court may annul a marriage only under limited circumstances. A short term marriage IS NOT a legal reason for annulment. See Wisconsin Statute 767.313 for the acceptable reasons to request an annulment. The forms, instructions, and procedural information provided by the Wisconsin Court System **are not** designed to be used to request an annulment. You should seek legal assistance if you feel you qualify and would like to file an annulment.

## **Other Issues To Consider**

### **Legal Custody**

Legal custody refers to the major decision-making authority for a minor child, including but not limited to decisions regarding consent to marry, enter military service, obtain a driver's license, authorization for non-emergency healthcare and choice of school and religion. Wisconsin law presumes that it is in the best interest of the minor child that the parents be granted joint legal custody. Joint legal custody means that **neither** parent's legal custody rights are superior, except as ordered by the court or agreed to by the parents. A court may find that awarding joint legal custody would be harmful to the minor child and order sole legal custody to one parent.

### **Physical Placement (visitation)**

Physical placement refers to the right to have a minor child physically placed with a parent. It gives that parent the right and responsibility to make, during that placement, routine daily decisions regarding the child's care. One parent may be awarded physical placement with the other parent having periods of physical placement (visitation), or the parents may be awarded shared physical placement.

### **Mediation**

It is recommended that the parents come to an agreement as to the legal custody and physical placement of their children. If they cannot, and a dispute arises, the court will order that the parents attend a mediation session. If the parents are still unable to come to an agreement, the court may make other orders, including the appointment of an attorney to represent the interests of a minor child (Guardian ad Litem), and the completion of a Proposed Parenting Plan. In making a final decision on legal custody or physical placement, the court will consider all factors related to the best interest of the child, including those listed in WI Statute 767.41, which is available at the following website: <http://www.legis.state.wi.us/Statutes/Stat0767.pdf>

### **Personal Safety Issues**

If your case involves minor children, and you have serious reason to believe that your health, safety, or liberty or that of a minor child would be jeopardized by the disclosure of certain identifying information both in paper and electronic records, you may request that identifying information be sealed from the public or the other party until a hearing is held. Once you have completed the forms (GF-177 and GF-178), the court will schedule a hearing. At that hearing you will have to convince the judge that it is in the interest of justice for the information to continue to be sealed.

### **Child Support**

The court shall order either or both parents to pay child support for a child who is:

- Under the age of 18, or
- Age 18, but less than 19 and pursuing an accredited course of instruction leading to a high school diploma or its equivalent.

Payments for **child support** are generally intended to include basic support costs including food, shelter, clothing, transportation, personal care, and incidental recreational costs. Under a shared placement circumstance, parents may also be required to pay **variable costs** (reasonable expenses above basic support costs) in addition to child support, including child care, tuition, a child's special needs, or other activities that involve substantial cost.

Child support is calculated based upon the percentage standard guidelines established by the State of Wisconsin Department of Children and Families (DCF) Chapter 150. **Not every family situation is the same, so the approach that applies to a specific situation may be somewhat different from the guidelines.** The court may order an alternative that is greater or less than the guidelines if the use of the guidelines is unfair to one of the parents or children based on the circumstances, including but not limited to shared-placement, split-placement, low-income, high-income, or serial-family payer circumstances. The percentage standard guidelines are based on the payer's "gross" (pre-tax) income or earning capacity and the number of children in the payee's care. The guideline percentage amounts are:

- 17% for one child
- 25% for two children
- 29% for three children
- 31% for four children
- 34% for five children

For more specific information about how to calculate child support, parents may refer to DCF Chapter 150 Calculator which is available at the following website: [http://dcf.wisconsin.gov/bcs/guidelines\\_tools.htm](http://dcf.wisconsin.gov/bcs/guidelines_tools.htm)

### **Maintenance (Spousal Support)**

A spouse seeking support from the other spouse may request maintenance in the divorce or legal separation. The court may order maintenance for a limited or indefinite length of time. When considering whether to award maintenance, the court will look at all of the circumstances of the parties, including but not limited to, the factors listed in WI Statute 767.56. This statute is available at the following website: <http://www.legis.state.wi.us/Statutes/Stat0767.pdf>

### **Family Support**

Family support is a combination of child support and maintenance in a single order.

**NOTE: There may be tax consequences for child support, maintenance, and/or family support payments.**

### **Property Division**

Wisconsin presumes that all property, other than property that a party receives as a gift or through inheritance, will be divided equally (after considering all debts). To achieve an equal division of property, the judge may award property to one party and a cash payment to the other party. The judge may divide property unequally after considering the factors described in WI Statute 767.61, which is available at the following website: <http://www.legis.state.wi.us/Statutes/Stat0767.pdf>

If the spouses agree on how to divide all their property, they must provide a description of which spouse will receive which property. This also applies to the property that may have already been divided. **If the spouses have already divided the property, or it is only in one spouse's name, they must still tell the court which spouse will get what property and the value of that property.**

### **Debts and Obligations**

**The spouses must disclose all debts, regardless of who they believe will be responsible for them.** The judge will determine which spouse is responsible to pay the debts and other obligations after considering any agreements between the parties. Even if the judge orders one spouse to pay certain debts after divorce/legal separation, creditors are not bound by the court order established in Family Court and may seek payment from the other party if the party ordered to make the payments doesn't pay or files for bankruptcy. If this occurs, the party may request relief from the Family Court, but only if a specific order was established for payment of the debt or obligation.

# Procedural Checklist

## 1. Decide How You Will File

**Alone:** Complete a

- **Summons** form
- **Petition** form
- **Confidential Petition Addendum** form

**Jointly:** Complete a

- **Joint Petition** form
- **Confidential Petition Addendum** form

## 2. Decide If You Need a Temporary Hearing

**If Yes,** complete the following form(s):

- **Order to Show Cause and Affidavit for Temporary Order**

These form(s) provide a place for the court to assign a Temporary Hearing date. The parties are given a date for this hearing at the time of filing.

This date is provided by Family Court Commissioner.

*Go to #3*

**If NO,** skip to #3

## 3. File the Action

A. Self-Help Services are not available in Manitowoc County, however it is recommended that you have a friend or a relative review your forms for completeness.

B. Make 4 copies each of the following:

- **Summons**
- **Petition**
- **Confidential Petition Addendum**
- **Order to Show Cause and Affidavit for Temporary Order**

or

- **Joint Petition**
- **Confidential Petition Addendum**
- **Order to Show Cause and Affidavit for Temporary Order**

C. Take the original and the 4 copies to the Clerk of Courts office.

- In all counties except Milwaukee, the Clerk will collect the \$184.50 filing fee (if there are no minor children or there is not a request for maintenance) or the \$194.50 filing fee (if there are minor children or there is a request for maintenance).

In Milwaukee County, the Clerk will collect the \$188.00 filing fee (if there are no minor children or there is not a request for maintenance) or the \$198.00 filing fee (if there are minor children or there is a request for maintenance).

If you cannot afford the fees, and consider yourself indigent (low income), you may obtain a **Petition for Waiver of Court Costs and Fees** at the Clerk of Courts Office. Once completed and notarized the party takes the waiver form to the Clerk of Court Office or Family Court Commissioner Office. The Clerk of Court Office or Family Court Commissioner Office will review the form when available. Once reviewed, the form will be returned for filing to the Clerk of Court Office.

- The clerk will return the necessary copies to you for distribution as follows:
  - **1 copy for each party**
  - **1 copy for Family Court Commissioner**
  - **1 copy for Child Support Agency**
  - **1 copy to be returned after service**

4. **Deliver (or serve) copies of the documents to those who must receive them**

(See the **Service Packet** for Additional Information)

- A. You must deliver a copy to the Family Court Commissioner's Office.
- B. If you receive public assistance, you must deliver a copy to the Child Support Agency.
- C. Have your spouse served with the following documents (if not filing jointly):
  - **Summons**
  - **Petition (including the Confidential Petition Addendum)**
  - **Order to Show Cause for Temp Hearing**
  - **Affidavit in Support of Temp Hearing, if applicable**
- D. Obtain a completed and signed **Affidavit of Service** form (proof of service) from the individual who served your spouse or an **Admission of Service** form (proof of service) signed by your spouse.
- E. File Proof of Service with the Clerk's office.

5. **Obtain a Temporary Order (if needed)**

If you completed the Order To Show Cause and Affidavit for Temporary Order you must attend the Temporary Hearing you requested to have a temporary order issued.

If you and your spouse reach an agreement, you can complete and file a written stipulation (agreement) for a temporary order.

If you and your spouse don't believe it is necessary to have a formal temporary order, you may ignore this step at this time. If the situation changes before the final hearing, either spouse may seek a temporary order.

**By Temporary Hearing**

1. Prepare and take the following items to court on the Temporary Hearing date:
    - **Wage statements**
    - **Completed financial disclosure forms**
    - **Income tax returns**
    - **List of disputed items**
- Directions to Manitowoc County Courthouse, Room B-15:** Room B-15, located in courthouse basement.
2. The Family Court Commissioner completes the order during the hearing on a standard order form. This order will remain in effect until the divorce or legal separation is final, or otherwise modified by the court.

**By Stipulation**

1. Complete the **Stipulation for Temporary Order**.
2. Both you and your spouse, and the Child Support Agency if you are receiving public assistance, must approve and sign the form.
3. Self-Help Services are not available in Manitowoc County, however it is recommended that you have a friend or relative review your forms for completeness.
4. Make 4 copies.
5. Send or deliver the original and 4 copies of the following documents to the Family Court Commissioner:
  - **Stipulation for Temporary Order**
  - **Self-addressed stamped envelope for petitioner**
  - **Self-addressed stamped envelope for respondent**
  - **Note to forward copy to FCC**
  - **Note to forward copy to CS Agency**
6. Once filed, a Court Official will review the Stipulation. The Clerk of Circuit Court will mail a copy back to you.

6. **If There Are Minor Children, Complete Any Required Parenting Programs And File Any Required Parenting Plans**

At the time of filing or when you obtained a court date, you may have been notified that there is a requirement to attend a parenting education class or complete a Proposed Parenting Plan. If so, make sure you have done what is required. If you are unsure about this requirement, ask the Clerk of Court or Family Court Commissioner in your county.

7. **Obtain a Date and Time for the Next Hearing**

(if not already automatically assigned)

A. If your divorce is

- Stipulated: To receive a Default Divorce Hearing which may be your final court date, you must request it from the court.
- 
- Contested: To receive a contested divorce hearing which may be your final court date, you must request it from the court.

B. The date will then be assigned by the Judicial Assistant and you are notified by mail from the court.

C. Complete the **Order to Appear** form if necessary with the date of your hearing

- Make 2 copies.
- Go to the presiding court official to obtain a court official's signature.
- Serve the **Order to Appear** or other court notice on your spouse and the Child Support Agency by Admission of Service or personal service by process server.
- Take Proof of service with you to your next hearing.

8. **Complete Your Paperwork for the Final Hearing**

A. If you haven't already, you must **complete** the following documents prior to your final hearing:

- **Completed / updated financial disclosure statements**
- **Marital Settlement Agreement**

B. If not filed already, the following documents need to be **filed** in the Clerk of Court no later than FINAL HEARING DATE days before the final hearing:

- **Completed / updated financial disclosure statements**
- **Marital Settlement Agreement**

C. **Bring** the following original documents and the correct number of copies with you to the final hearing:

- **Findings of Fact, Conclusions of Law and Judgment (2 copies)**
- **Marital Settlement Agreement (2 copies)**
- **Updated Financial Disclosure Statements (2 copies)**
- **Self-addressed stamped envelopes for petitioner and respondent for return of signed Judgment of Divorce-- MAKE SURE SUFFICIENT POSTAGE ATTACHED (2 copies)**

9. **Attend Your Final Hearing**

- A. Go to the assigned courtroom at least 15 minutes before your court time and let the bailiff or court clerk know for which case you are appearing (you may want to go even earlier to observe another hearing). Be prepared with all your copies and documents and be polite to the court official, your spouse, or any other person that is in the courtroom.
- B. When your case is called, go to the front of the room and sit where directed by the court or the bailiff. Bring any papers and documents with you that are related to the hearing.
- C. Be prepared to testify under oath and answer questions that may be asked of you by the Court or your spouse. If you wish to offer written evidence or documents to the court, give the original to the court and a copy to your spouse.

10. **Complete Any Other Documents Required After Your Final Hearing**

If a divorce is granted, a form called the Certificate of Divorce/Vital Statistics must be completed. The form for your divorce is completed after the hearing by one of the parties in the Clerk of Court Office. If you still need to complete it you may get it at the Clerk of Court Office.

If you did not receive copies of the Findings of Fact, Conclusions of Law and Judgment and attached Marital Settlement Agreement forms immediately following your final hearing, you will receive a copy of them from the court with the Judge's conformed signature in 1 week.

These documents serve as your final divorce papers and you must keep them for your records as proof of the divorce.

If you agreed to exchange certain types of property you may be required to follow up with different government offices and businesses with certain paperwork. For example, you may need to sign car titles and real estate deeds, complete documents to divide pension plans (QDRO), change beneficiaries on life insurance policies, revise your will, and other matters when appropriate.

# Service

“Service” or “service of process” are the legal terms used to describe the act of giving notice of a lawsuit or court hearing to another person. There are several different methods and very specific time limits by which you must have the other party served. The type of service you are required to use depends on the type of forms you are filing. If you do not have the other party served properly (within the correct time limits and using the correct method), the court cannot hear or decide your case.

**Notice:** This packet describes only the most common methods of service available for use. Please seek legal assistance if you would like to explore additional/alternative methods or the forms you are filing are not listed.

Court Self-Help Form	Required Type of Service	Service Time Limits
Summons and Petition for Divorce/Legal Separation (FA-4104/FA-4105)	Personal	Within <b>90 Calendar days</b> from the date the divorce/legal separation was filed
Order To Show Cause and Affidavit for Temporary Order (FA-4128/FA-4129)	Personal	Not less than <b>5 Business days</b> before the date of the Temporary hearing
Response & Counterclaim (FA-4113)	Mail	Within <b>20 Calendar days</b> after the date of service
Order To Appear (FA-4142)	Personal	Not less than <b>24 hours</b> if the other party lives within the county the action is filed Not less than <b>72 hours</b> if the other party does NOT live in the county the action is filed, but in the State of Wisconsin
Motion for and Notice of New (DeNovo) Hearing (FA-4130)	Personal (Contempt matters)	Not less than <b>5 Business days</b> before the date of the hearing
	Mail (All other matters)	Not less than <b>8 Business days</b> before the date of the hearing
Notice of Motion and Motion (Post Judgment) (FA-4170)	Mail	Not less than <b>8 Business days</b> before the date of the hearing
Order To Show Cause (Post Judgment) (FA-4171/FA-4172)	Personal	Not less than <b>5 Business days</b> before the date of the hearing
Subpoena	Personal	Not less than <b>10 Business days</b> before the date of the hearing
Petition to Enforce Physical Placement (FA-609)	Personal	Not less than <b>5 Business days</b> before the date of the hearing

**NOTE:** If you are unable to serve the other party within the required time limits, you may write a letter to the court requesting a different court date.

**WARNING:** Copies, NOT original documents, should only be given to the other party. The originals (if in your possession) and proof of service need to be returned to court after the other party has been served.

## Personal Service

There are **five** basic ways to have the other party personally served:

### 1A. Admission of Service by the State of Wisconsin / Child Support Agency

If the State of Wisconsin is a party to the action, you must serve your local Child Support Agency using the following steps below.

- Take a copy of the forms to be served and an **Admission of Service** form (FA-4119) to the Child Support Agency.
- Give the papers to a representative from the Child Support Agency and ask him/her to "admit service". He/she will complete the bottom portion of the **Admission of Service** form.
- Return the **Admission of Service** form to the Clerk of Courts Office as proof of service (keep a copy for your records).

### 1B. Admission of Service for the other party

You may give the documents to the other party and **ask** that he/she voluntarily accept the papers from you. If the other party agrees to accept the documents, you need to:

- Complete the caption of the **Admission of Service** form (FA-4119).
- Have him/her complete and sign the bottom.
- Return the **Admission of Service** form and a set of the documents served, as soon as possible to the Clerk of Courts. Remember to keep a copy for your records.

If the other party will not voluntarily accept the papers from you, or you do not wish to have contact with the other party, you must have the other party served using one of the other methods described below.

### 2. Sheriff's Department

The **Sheriff's Department**, of the County in which the individual to be served resides, may serve the other party. Proof of service and a set of the documents which were served must be returned to court as soon as possible. Remember to keep a copy for your records.

### 3. Private Process Server

You may make arrangements with a **private process server** to have the other party personally served. Contact individual companies for fees and procedural information. To find a private process server in your or the other party's area, you may look under "Process Service" using a phone or internet directory or by going to <http://www.iprocessservers.com>. Proof of service and a set of the documents which were served must be returned to court as soon as possible. Remember to keep a copy for your records.

#### 4. Service by Friend or Relative

A friend or relative who is over 18, is a resident of Wisconsin, and is not a party to the action can also serve the other party.

- You:** complete the caption of the **Affidavit of Service** form (FA-4120).
- Friend or Relative:** Gives a copy of the paperwork to the other party.
- Friend or Relative:** Completes the bottom portion of the **Affidavit of Service**.
- Friend or Relative:** Signs it in the presence of a notary public.
- You:** Return the **Affidavit of Service** form and a set of the documents served, as soon as possible to the Clerk of Courts. Remember to keep a copy for your records.

## LAST RESORT

Before attempting this last resort, you should consider seeking legal assistance. There are specific and complicated rules that must be followed to successfully serve a party by publication.

#### 5. Service by Publication

Service by Publication is a **last resort** and can **only** be used if you failed to have the other party served by one of the methods above. You have a responsibility to make every effort to make personal service if possible, which includes gathering reasonably available information from family and friends to try and determine the other party's location.

The option of **Service by Publication** is only available to you if you can answer yes to **all** of the following:

- You have tried personal service through the Sheriff's Department or a private process server.
- You have given them as much information as possible to help them find the other person.
- The Sheriff's Department or private process server cannot find the other person after a diligent search.
- You have been given an **Affidavit of Due Diligence/Not Found/ Attempted Service** by the Sheriff's Department or private process server stating that the other party could not be found. Keep this affidavit.

The **Service by Publication Packet** is available to assist individuals who are filing an action for divorce/legal separation.

### Service by Mail

Serving documents on the other party by mail is allowed for certain types of forms. If service by mail is allowed, you must:

- Mail copies of the documents to the other party.
- Sign a sworn affidavit called the **Affidavit of Mailing** (FA-4121) in the presence of a Notary Public.
- Return the **Affidavit of Mailing** and a set of the documents that were mailed to the Court as soon as possible. Remember to keep a copy for your records.