

# Filing for Divorce in New Hampshire

## A Place To Start - Going to Court without an Attorney

This guide is designed for people who will not have a lawyer to help in a **divorce** case.

A person who goes to court without a lawyer is said to be pro se. There are many reasons to go to court without a lawyer, but anyone who does is taking certain risks.

Before filing a divorce case on your own, or responding to a case filed by your spouse, we urge you to consult with an attorney. If there is no way for you to hire an attorney, call 603 Legal Aid at 603-224-3333, or [apply online](#).

**Avoid hasty decisions!** No matter how anxious you are to be done with your marriage, the long term effects of the divorce must be carefully considered.

## Getting Started

These materials deal with Filing a Petition for Divorce. If you are not married to your child(ren)'s other parent, please see our pages on [Parenting Petitions](#). This page can give you useful information about the process, but the forms have different names and it might be confusing.

If you are filing for divorce and have children, please also [see our parenting pages](#) because the court will need to make Parenting Orders in the Divorce, and these pages will explain how to draft the documents that will be required.

## Filing for Divorce

### Things to consider before you file

It is a good idea before you fill out any form or file anything with the court, to think through all of the issues that the court will need to

decide when it makes an order for Divorce. The following is a list to get you started. Many of these may not apply to your situation. You also may think of other issues that you will need the court to consider.

1. What is the reason for the breakdown of your marriage?
  - Is there "cause", like adultery or extreme cruelty?
  - Did your marriage break down because of "irreconcilable differences" which is the term used for New Hampshire's version of "no fault" divorce.
2. Are there children involved in this family? If so, the court will need to consider what is in the best interest of the children and make orders regarding:
  - Decision-making Responsibility
  - Residential Responsibility
  - Whether or not a Guardian ad Litem (GAL) is necessary to communicate the best interests of the child to the court (and in such case who should pay what portion of the GAL fees)
  - Whether restrictions on the child(ren)'s future relocation is necessary or appropriate
  - Child support
3. Do you and/or the other party own any real estate? If so, how should it be divided and who should bear what kind of financial responsibility?
4. Do you and/or the other party own any other personal property, household furnishings, or motor vehicles? If so, how should they be divided, and how should any financial responsibility be assigned?
5. Do you and/or the other party own any bank accounts, stocks, bonds or investments, business interests, or any other intangible property? If so, how should they be divided?
6. Is health insurance coverage for either party going to be a problem? What kind of orders might the court make regarding health insurance?

Note: If this list seems intimidating, or you are just not sure how to deal with all of these issues, then you should think carefully before you decide to file without assistance from an attorney. If you go to court without an attorney, you will still be expected to follow the rules. If things turn out badly for you, you cannot ask the court to start over simply because you did not have an attorney.

## Who can file:

Any person can file for divorce in New Hampshire IF the courts of this state have jurisdiction over the parties and the subject matter. See Basics of Divorce Law later in this booklet.

## Where to file:

Where to file your petition is controlled by the rules of venue. In general, you file in the county where you live. If your county has the Family Division there may be more than one court location. A telephone call will usually clarify where to file.

## How to file:

"Filing" is a term that means to submit a document to the court. Documents are filed at the Clerk of Court's office in the courthouse. To file your Petition you must submit to the Clerk's office the original signed and notarized Petition along with 2 copies. You will also need to pay a filing fee.

### **Waiver of filing fee**

If you are low-income, you can file a Motion to Waive Filing and Service Fees. Ask the Clerk's office for such a Motion and they should be able to give you the form and a Financial Affidavit. The Financial Affidavit will require that you detail your finances, and swear that the information is true and complete. Once the Motion to Waive fees and Financial Affidavit are filed with the court the judge will decide whether or not to allow you to proceed without paying the filing fee. Then your Petition can be filed.

## What to File - The Petition for Divorce

Whether you are filing an individual petition, or you and your spouse are filing a joint petition, the first step is preparing the petition. These instructions will cover filing an individual petition.

The court clerks have fill-in the blank forms that you can use to get started. The form is fairly straight forward, but you must remember that it is legal document. Anything you file with the court will be binding upon you. You are responsible for everything you tell to a court, and you will have to sign the form and say that everything in it is true.

Note: Just because it is easy to file a Petition does not mean that the legal process itself is not complex. Carefully consider your circumstances before filing on your own.

## What's on the Petition and tips to fill it out

Here is the court's fillable/printable [Petition for Divorce form](#).

**Heading:** the heading is the part of the document that says this is a New Hampshire court document.

**Caption:** the next item on any pleading is the caption. This says the name of the court hearing the case, the name of the case, and the docket number. When filing a petition, you will not have a docket number yet, so leave this blank. The name of the case usually will look something like: "In the Matter of Joe Smith and Mary Smith". The person who files the petition puts his or her name first and is the Petitioner.

**Allegations:** the next part of any pleading is the allegations. This is the part of the document where the facts necessary for the court to hear the case are set out. In divorces, the allegations are facts like: who the parties are, the names of their children, whether or not they own real estate, etc. Filling out the form carefully and completely will provide the court with the facts necessary to get started.

**Requests for relief:** this is the part of the document where you ask the court to issue certain orders. In a divorce there can be temporary orders and final orders. Almost everything the court can order in a final order can also be ordered on a temporary basis (except the divorce and privilege of remarrying). Filling out the court's preprinted Motion form should insure that you ask for all the relief to which you might be entitled.

**Signatures:** you must sign your petition and have your signature notarized. This is how the court knows that everything in the petition is true.

## The Personal Data Sheet

In addition to the Petition for Divorce, you must also file a Personal Data Sheet. This is a fairly straight forward form, designed to give the court basic information about the parties to this case.

## What happens after your Petition is Filed?

## Orders of Notice

After your Petition is filed (how long after depends upon the court, but you should expect to wait several weeks) you will receive in the mail 3 stapled groups of paper. One will be marked "copy" and one will be marked "service", the third is the original. The one marked Copy is for your records. The original and the one marked Service must be **served** on the other party. All of the packets will have **Orders of Notice**.

**Orders of Notice** are Court Orders that apply to you and after service, to the other party. Read the Orders of Notice thoroughly. Failure to comply with these orders could result in bad consequences. If you are not sure what they mean you should get advice immediately.

The Orders of Notice will contain instructions for properly serving the other party. **Service** is the formal term which means that the other party was properly notified of the proceedings.

After you have complied with the instructions from the court regarding service, you must file the **Return of Service** with the Court. This way the court knows that the other party was given proper notice, and the court's future orders will be binding on the other party.

If you have the papers served on the other party by the Sheriff (one acceptable way of completing service), the Sheriff will return to you one copy of the papers with the **Return of Service** attached. You should make a copy and then file the whole package with the court - now the court knows that the other party was properly notified and Orders will be binding. If the court does not receive a return of service from you, you might not be able to have your case heard.

## Discovery Period - Mandatory Initial Self-Disclosure

Mandatory Initial Self-Disclosure is a special discovery process that applies to family law proceedings. Each party must disclose to the other, certain information, generally about personal finances. Unless the parties agree to, or the court orders, a different time frame, Initial Self Disclosures must be delivered to the other party within 45 days of the date of service. Please read our page on Mandatory Initial Self-Disclosure (***MISSING LINK/ PAGE NOT CREATED YET***).

## Scheduling

The kind of court you filed in will affect the way that your case gets scheduled.

In the **Superior Court**, if you asked the court to make "Temporary Orders" - orders governing the parties until the case is final - then the Orders of Notice will include the time and date of the Temporary Hearing. If there is no need for Temporary Orders, then the scheduling notice will probably just include the time and date of the Structuring Conference.

In the **Family Division**, your Orders of Notice are unlikely to include any hearing notice. Instead, after service is completed, the parties are sent a First Appearance notice.

**Structuring Conferences** and **First Appearances** are very different, but they do accomplish some of the same things. Both provide the court with the opportunity to evaluate how the case is likely to progress. In either case, it is a good idea to take your calendar in case the judge wants to schedule the next events in the case.

Your case is now filed, and you have a Notice which tells you what your next steps are. **Make sure you read everything you receive from the court very carefully. The court now has your address, and anything it sends to that address it will expect you to read and understand. Don't let your rights be affected by not giving this matter the attention it deserves.**

## Child Impact Seminar

Attached to the Orders of Notice will be information about the Child Impact Seminar. Both parties in any case involving minor children are **required** to attend a seminar. This seminar is intended to educate parents about how children are affected by divorce. The seminar takes into consideration the different affects divorce has on children depending on their ages. This seminar is extremely useful for parents who are splitting up. It can help them minimize the negative outcomes for children whose parents are not together.

The seminar is **mandatory**. You do not have any choice but to attend. If you do not, you will called into court to explain, and may be held in contempt. In the Family Division, a parent who does not attend may be denied the opportunity to participate in future actions as well. Failing to comply with court orders is not recommended, and could negatively impact on the outcome of your case.

## Try Also Reading...

- [Basics of NH Divorce Law](#)
- [Grandparents' Visitation Rights in a Divorce](#)

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Author: LEGAL ADVICE & REFERRAL CENTER