

Divorce



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The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and other personnel eligible for legal assistance from the Space Base Delta 1 Legal Office. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws change from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

DIVORCE

The Basics of Colorado Divorce

- Either party must reside in Colorado for at least 91 days prior to filing for divorce.
- The divorce action must be heard in the county where you or your spouse resides.
- There is a \$230 filing fee that is required when filing for a divorce in El Paso County.
- Additionally, if there are children involved, the county may require that parents enroll in a parenting skills class. Current filing fees can be found at the Colorado Courts website: www.courts.state.co.us
- A divorce is a legal proceeding that is initiated by filing a petition with the clerk of the district court. If you file the petition, you are known as the petitioner, and your spouse is the respondent. If you file together, you are co-petitioners.
- You and your spouse are not required to hire attorneys to divorce, but you might talk to a legal assistance attorney to see if hiring an attorney would be best in your situation.

Legal Separation as an Alternative to Divorce

Legal separation may be accomplished upon petition to the court which may be helpful to temporarily divide assets, split parenting time, etc. while you decide if you want to proceed with divorce. *See also* Temporary Orders, which may be necessary while a divorce action is pending in order to ensure that both parties and any children involved are adequately provided for. The legal separation process is very similar to the divorce process in costs, required time, and required forms, so in many cases, it is an unnecessary step. Colorado does not require parties to be legally or physically separated before filing for or obtaining a divorce.

Forms

You will need to obtain a divorce (dissolution) packet. The specific packet you need will depend on whether you are filing jointly with your spouse or separately as well as whether there are children of the marriage. You can obtain this packet at the El Paso county courthouse or at <https://www.courts.state.co.us/Forms/SubCategory.cfm?Category=Divorce>. Regardless of whether there are children of the marriage or not, you will need the same set of documents to begin the divorce process.

If filing “On your own,” you will need the following forms:

- JDF 1000- Case Information Sheet
- JDF 1101- Petition for Dissolution or Legal Separation
- JDF 1102- Summons for Dissolution or Legal Separation
- Filing fee (at least \$230)

If filing “Jointly,” you will need the following forms:

- JDF 1000- Case Information Sheet
- JDF 1101- Petition for Dissolution or Legal Separation
- Filing fee (at least \$230)

The first documents you must give the court and your spouse are the case information sheet (JDF 1000) and petition (JDF 1101). The petition is your formal request to have the court dissolve your marriage. After you file this initial paperwork, if the divorce is contested, you must provide your spouse with formal notice of the proceedings and show the court proof of such notice. This is done with the Summons (JDF 1102). Proof can be provided in one of the following ways:

- Your spouse may accept service by signing the Waiver & Acceptance of Service form on the back of the summons; or
- Remember, if you and your spouse file jointly, no Summons/notice is necessary, because you will sign the Petition as Co-Petitioners.

Temporary Orders

Temporary orders allow you to keep things stable while you are waiting to get a final divorce. Temporary orders are available for child support, spousal support, allocation of parental responsibilities, parenting time, payment of debt, and maintenance of property. Note, however, that by signing the Petition, or receiving service of a contested petition, you are agreeing to a Temporary Injunction stating that you will maintain the financial status quo and will not remove minor children of the marriage from Colorado without consent or a court order. Violation of its terms could result in the violating party being held in contempt of court, and fined and/or taken into police custody.

Additional Forms

After you have filed the initial paperwork and filing fee, if either or both parties are proceeding without an attorney, you will appear before the Family Court Facilitators for an Initial Status Conference. The date of your Initial Status Conference will be set when you file your Petition. Usually, the Conference will take place about a month after you file, for an uncontested divorce. For a contested divorce, the timing varies depending on what documents the respondent files. By the date of the Initial Status Conference, you will need the following:

- Sworn Financial Statement (JDF 1111 SC)
- Certificate of Compliance with Mandatory Financial Disclosures (JDF 1104)
- The Parenting Plan (JDF 1113)
- The Separation Agreement (JDF 1115)
- The Decree of Dissolution of Marriage or Legal Separation (JDF 1116) (complete only the caption)

The Sworn Financial Statement (JDF 1111) does NOT have to be submitted to the Court but must be supplied to the other party. The first task in completing your financial affidavit will be to distinguish separate from joint property. Separate property is anything you or your spouse acquired before the marriage and kept separate or obtained at any time by gift/inheritance. Joint property is anything acquired during the marriage regardless of who paid for it or whose name is on it. Joint debt includes any liability that was incurred during the marriage.

The forms that the Family Court Facilitator will review are the Certificate of Compliance (JDF 1104), wherein you will affirm that you have filled out the JDF 1111 as required by statute;

the Separation Agreement (JDF 1115), the caption of the Decree (JDF 1116), and the Parenting Plan (JDF 1113), if there are minor children of the marriage. Also, be prepared to provide proof that you have attended the parenting class

For purposes of distribution, military retirement is treated as marital property. DFAS requires a minimum length of marriage (10 years) to directly pay an ex-spouse retirement benefits. Where there is a large military pension, consider seeking the advice of a domestic law attorney in private practice.

Former Spouse's Benefits After a Divorce

- A non-military spouse will be automatically entitled to full military benefits if he or she meets the "20/20/20" rule. This rule requires that the parties be married for at least 20 years, that there have been at least 20 years of creditable military service, and that there be at least 20 years of overlap between the service and the marriage.
- If there is only 15 years of military and marital overlap, then the dependent spouse is entitled only to 1 year of continued Tricare coverage and no other benefits.
- Any continued medical coverage and other military benefits terminate if the former spouse remarries.
- If there are less than 15 years of overlap of the military member's service and the term of the marriage, Tricare coverage stops at midnight on the date of the decree. The former spouse retains no other benefits or privileges.

Separation Agreement

You will be required to complete a Separation Agreement form. If you and your spouse agree about all the issues of support, division of property and debts, you will file a completed agreement, signed by both of you. If you do not agree or agree on only some of the issues, you should fill it out to show the court what you would like the order to look like. A separation agreement must contain the following details: (1) property division, (2) debt division, (3) spousal support/maintenance (if appropriate), and (4) how the costs of the divorce are to be divided. Do not assume that either party will be entitled to legal fees.

Permanent Orders and Decree

Permanent orders are entered by a judge or magistrate. Once you have completed all the required steps and shown proof of residency, you may request that the judge enter a divorce decree. If you cannot agree on the important aspects of your divorce like children, property, or support, the court will make the final determinations on these issues at a formal hearing.

Final Papers Checklist:

- Financial affidavits for each party
- Notice of hearing
- Affidavit for decree without appearance (if there are no children of the marriage)
- Separation agreement

- Parenting plan
- Decree
- Support Order (if applicable)