

# INSTRUCTIONS FOR FILING A COMPLAINT FOR DIVORCE WITH MINOR CHILDREN

This is the form packet for people who want to file their own divorce without an attorney and who have minor children together with their spouse. Parties to a case who are unrepresented by an attorney are also known as "pro se." If you and your spouse do not have minor children together, DO NOT use this form packet. Instead, you must use the version called *Complaint for Divorce Without Minor Children*. **Please read these instructions and each form very carefully.** Missing or misreading a word could cause you to make serious errors in your case, placing your rights and the direction of your divorce case in jeopardy.

A "minor" is a child who is younger than eighteen years of age, **as of the date of filing your case.**

## **INTRODUCTION**

In the State of Georgia, if you want to end your marriage, you must file a complaint for divorce in the Superior Court. After a court grants your divorce and issues a *Final Judgment and Decree of Divorce*, you will be legally able to remarry.

**It is advisable to speak with a lawyer before filing any action with the court.** There are often more issues involved in a divorce than you might realize if you fail to hire an attorney. If you cannot afford an attorney to file your divorce, for a reduced fee, you may be able to consult with an attorney on your filings to assure you have properly addressed all the issues involved.

Divorce can be a very complicated process. If documents are not completed, signed, notarized and filed, the divorce pleadings are not in compliance with the law. This means a judge cannot grant your request for divorce and may dismiss your case.

If you want a court to grant your divorce, **you must follow the law and you must complete every paragraph of every form that applies to your case (but not paragraphs that do not apply to your case).** Please carefully read and complete all 5 steps listed below to complete your divorce.

State law, OCGA § 15-19-51 prohibits court personnel (including staff attorneys or law clerks, calendar clerks, clerk's office staff, and sheriff's department staff) from giving legal advice or answering legal questions.

## **YOU MAY ESPECIALLY NEED AN ATTORNEY IF:**

- The case is contested (more info on this in Step 2) OR an attorney represents your spouse.
- If the paternity of a child is in dispute or unknown
- You or your children are victims of family violence against you by your spouse.
- You want an arrangement for custody or visitation that does not exactly fit these forms.
- You are unable to locate your spouse to have him/her served with this action.
- You and your spouse have a house, pension, or large amount of property or income to be divided.
- You think you may have difficulty getting financial information from your spouse.

**If you still have questions after reading ALL the instructions below and the required forms, please see the FAQ page at [augustafamilybar.com](http://augustafamilybar.com)**

**STEP 1: Determine the proper county in which to file your case documents. If you do not file in the proper county, the court **MUST** dismiss your case.**

- File in the county of **your** residence if any **one** of the following applies:
  - You and your spouse live in the same county in Georgia;
  - Defendant lives in a different county in Georgia than you AND will sign both the Acknowledgment of Service **and** Waiver of Jurisdiction Forms (more information on these forms below);
  - The Defendant lives outside of Georgia
- File in the county of **Defendant's residence** if the defendant lives in Georgia AND will not sign the consent to Jurisdiction Form. If this is true, you must file in the **county where Defendant lives**.

**STEP 2: Determine whether your divorce will be contested or uncontested.**

- Your divorce is **uncontested** if ALL of the following statements are true:
  - (1) I know where my spouse lives; AND
  - (2) My spouse is willing to sign an Acknowledgment of Service and if necessary a Waiver of Venue/Jurisdiction; AND
  - (3) My spouse and I are willing to sign a settlement agreement which resolves all the remaining issues of our marriage
- Your divorce is **contested** if ANY of the following statements are true:
  - (1) I do **not** know where my spouse lives; OR
  - (2) My spouse is unwilling to voluntarily acknowledge service; OR
  - (3) My spouse and I are unable to agree on how to resolve the remaining issues of our marriage

**STEP 3: Complete and sign ALL of the required documents. Which documents you need depends on whether you have determined your divorce to be uncontested or contested. If your divorce is uncontested use the checklist on page 3. The contested divorce checklist begins on page 4. PDF-Fillable Versions of all forms can be found at [augustafamilybar.com](http://augustafamilybar.com). Read the instructions and required sections carefully, as certain documents are required to be notarized, as noted in the checklists below.**

**STEP 4: File your completed documents with the Clerk of Court in the proper county (see Step 1) and pay all required fees. Forms can be filed electronically at PeachCourt.com. You will be required to create a free account.**

- What if I cannot afford to pay the filings and service fees? You must **complete, notarize, and file** a Poverty Affidavit. Form found at [augustafamilybar.com](http://augustafamilybar.com).

\*\*\*If you lie about your income, the divorce can be overturned later, and you will be prosecuted for perjury\*\*\*

**STEP 5: Attend your divorce hearing, if required. Most judges require pro se parties to attend a final hearing to finalize their divorce. The judge's office will send notice of your hearing date to you via U.S. Mail or email. Please note there may be a fee associated with a court reporter at your hearing.**

## Uncontested Divorce Checklist

- 1) \_\_\_\_\_ Domestic Relations Case Filing Information Form
- 2) \_\_\_\_\_ Complaint for Divorce
- 3) \_\_\_\_\_ Notarized Verification signed by the Plaintiff
- 4) \_\_\_\_\_ Child Support Worksheet -must complete online at [georgiacourts.org/csc](http://georgiacourts.org/csc)
- 5) \_\_\_\_\_ Child Support Addendum- must reflect the amount calculated by the Child Support Worksheet
- 6) \_\_\_\_\_ Parenting Plan A or B

**Plan A** is the standard plan used for parents living **within 150 miles of one another**.

**Plan B** is the long-distance plan used for parents living **over 150 miles apart**.

- 7) \_\_\_\_\_ Parenting Seminar Certificates (more info at [augustafamilybar.com](http://augustafamilybar.com))
- 8) \_\_\_\_\_ Settlement Agreement signed and notarized by both Plaintiff and Defendant
- 9) \_\_\_\_\_ Service of Process. For your divorce to be uncontested, your spouse must be notified of the divorce in the following way:

### **Defendant's notarized Acknowledgment of Service**

TIP: Use this form only if:

- 1) you can give all the papers to your spouse;
- 2) your spouse consents to file the case in the county you plan to file in;  
and
- 3) your spouse wants to get a final order quickly.

### **\*Defendant's Waiver of Jurisdiction and Venue**

This form must ALSO be included if your spouse lives in a different Georgia county than where you file but agrees to getting the divorce in your county of residence.

- 10) \_\_\_\_\_ Domestic Relations Financial Affidavits signed and notarized for both spouses
- 11) \_\_\_\_\_ Domestic Relations Case Disposition Information Form
- 12) \_\_\_\_\_ Report of Divorce, Annulment or Dissolution of Marriage (Georgia Department of Public Health Form 3907)

## Contested Divorce Checklist:

- 1) \_\_\_\_\_ Domestic Relations Case Filing Information Form
- 2) \_\_\_\_\_ Complaint for Divorce
- 3) \_\_\_\_\_ Notarized Verification signed by the Plaintiff
- 4) \_\_\_\_\_ Child Support Worksheet- must complete online at [georgiacourts.org/csc](http://georgiacourts.org/csc)
- 5) \_\_\_\_\_ Child Support Addendum- must reflect the amount calculated by the Child Support Worksheet
- 6) \_\_\_\_\_ Parenting Plan A or B

**Plan A** is the standard plan used for parents living **within 150 miles of one another**.

**Plan B** is the long-distance plan used for parents living **over 150 miles apart**.

- 7) \_\_\_\_\_ Parenting Seminar Certificate (more info at [augustafamilybar.com](http://augustafamilybar.com))
- 8) \_\_\_\_\_ Service of Process. In a contested divorce, your spouse must be notified of the divorce in one of the following ways:

### **(1) Personal Service by the Sheriff's Office**

As a pro se Plaintiff, you are responsible for making sure the Sheriff's Office in the county where your spouse lives receives all divorce paperwork and defendants proper address for service.

### **(2) Defendant's notarized Acknowledgment of Service**

Use this form only if:

- 1) you can give all the papers to your spouse;
- 2) your spouse consents to file the case in the county you plan to file in;
- and
- 3) your spouse wants to get a final order quickly.

### **(3) Service by Publication**

Service by publication is only available if you cannot find your spouse. It is a last resort option and can often take a lot of time and money. You must prove to the court by sworn (notarized) affidavit that your spouse cannot be located **only after a thorough search and efforts to personally serve them**. Complete the following steps if publication is the **ONLY** way to serve your spouse:

- 1) Complete, sign, notarize, and file an **Affidavit of Diligent Search**;
- 2) If your request to publish is granted by the Judge, you must ensure the Judge's Order and a notice of publication are sent to the newspaper.

Contact the Clerk of Court's office to determine whether they will send these documents for you or if you need to handle it yourself; AND

- 3) Once you have paid the newspaper and the ad has run for 4 weeks, obtain an **Affidavit of Publication** from the newspaper and file it with the Clerk of Court. The divorce can be granted 60 days after the first ad.

NOTE: In a divorce by publication, the court cannot award alimony or child support or divide property located outside of Georgia.

- 9) \_\_\_\_\_ Domestic Relations Financial Affidavits signed and notarized for both spouses
- 10) \_\_\_\_\_ Domestic Relations Case Disposition Information Form
- 11) \_\_\_\_\_ Report of Divorce, Annulment or Dissolution of Marriage (Georgia Department of Public Health Form 3907)