

DISSOLUTION OF MARRIAGE INSTRUCTIONS
FOR ONE SPOUSE FILING ALONE
WHEN THE OTHER SPOUSE CANNOT BE LOCATED

Court staff generally can inform you about court procedures, court rules, court records, and forms. Court staff must remain neutral and impartial. They are not allowed to give legal advice. Court staff cannot:

- advise you how statutes and rules apply to your case,
- tell you whether the documents you prepare properly present your case,
- tell you what the best procedures are to accomplish a particular objective, or
- interpret laws for you.

If you need help with your case, you should talk to a lawyer.

Dissolution of Marriage

A decree of dissolution of marriage has the same force and effect as a decree of divorce. However, the procedures for getting a dissolution are somewhat different than those for a divorce. Dissolution procedures are described in Alaska Statutes 25.24.200 - .260 and Civil Rule 90.1. Divorce procedures are described in Alaska Statutes 25.24.010 - .180 and Civil Rule 90.1.

If one spouse alone petitions for dissolution when the other spouse cannot be located, the dissolution decree will dissolve the marriage, but will not grant other relief such as child custody, child support and division of property.

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Requirements

The requirements for one spouse alone to use the dissolution procedure are:

1. That spouse must be domiciled in Alaska. That means the person must claim residency in Alaska. The person must be physically present in Alaska and intend to remain indefinitely. No minimum number of days of residency is required. In addition, military personnel who do not claim to be Alaska residents may file for dissolution if they have been continuously stationed at a military base or installation in Alaska for at least 30 days. AS 25.24.900.
2. That spouse must assert that "incompatibility of temperament, as evidenced by extended absence or otherwise, has caused the irremediable breakdown of the marriage." This means there is no chance of saving the marriage because the husband and wife cannot get along.
3. The whereabouts of the other spouse must be unknown to the petitioning spouse after reasonable efforts have been made to locate the absent spouse.
4. The petitioning spouse must have been unable to find out the absent spouse's position on the following because the absent spouse cannot be located:
 - a. the dissolution of their marriage,
 - b. the fair and just division of their property, including retirement benefits,
 - c. spousal maintenance,
 - d. payment of debts, and
 - e. custody, support and visitation of any minor children of the marriage.
5. It must be shown that the absent spouse cannot be personally served with process inside or outside the state.

If you cannot meet one or more of these requirements, contact a lawyer to find out what your options are.

Procedure to Follow

To get a decree dissolving your marriage, you must do the following:

1. Fill out the following four forms attached to these instructions:
 - a. Form DR-200, Petition for Dissolution of Marriage: One Spouse. See the instructions beginning on page 5.
 - b. Form DR-210, Affidavit of Diligent Inquiry. Check all of the boxes that apply, and describe what you have done to try to find your spouse. You must sign your affidavit under oath before a notary public, a court clerk or any other person authorized to administer oaths.
 - c. Form DR-314, Information Sheet.
 - d. Form VS-401, Certificate of Divorce, Dissolution of Marriage or Annulment. Complete the "Parties' Information" block, lines 11-30. If you make a mistake, get a new form from the court. This form will be sent to the Bureau of Vital Statistics after the dissolution is granted, and the Bureau will not accept forms with crossouts, whiteouts, or other corrections on them. The Bureau also will not accept photocopies of this form.
2. File these forms at the clerk's office and pay the \$150 filing fee. If you cannot afford this fee, ask the clerk for form TF-920, Request for Exemption from Payment of Fees.
3. The court will review your Affidavit of Diligent Inquiry for sufficiency. If the court believes you have not done enough to attempt to locate your spouse, the court will require further inquiries.
4. After your affidavit is filed, the clerk will issue a Notice to Absent Spouse (form DR-220) which you must publish in a newspaper once a week for four consecutive weeks as is explained in the instructions at the bottom of form DR-220. You must pay the costs of publication.

If you believe that

- a. publication in a newspaper is not the best way to give notice to your spouse (for example, if there is no newspaper published in your community or in the community where your spouse is most likely to be), and
- b. posting of the notice in public places or some other method of notice would be more likely to give notice to your spouse,

you may fill out form DR-215, Motion and Order for Alternative Service, to ask the court for permission to give notice by posting (or some other way) rather than publication.

5. After publication or posting of the Notice to Absent Spouse, you must complete the Proof of Notice (form DR-225), have it notarized and file it with the court. Be sure to fill in the case number which the court clerk assigned to your petition.
6. When you file your Proof of Notice, ask the clerk's office for instructions on setting a hearing date. The hearing must be at least 30 days after the last date of notice to the absent spouse.
7. Hearing.

You must attend the hearing unless the court, for good cause, provides otherwise. You may have a lawyer at the hearing, but you are not required to have one.

At the hearing, the court will ask you questions to determine whether you fully understand the nature and consequences of the action; whether the location of your spouse is unknown; whether an incompatibility of temperament has caused the irremediable breakdown of your marriage and whether the other requirements on page 2 have been met.

At some court locations, hearings are held before a Superior Court Master instead of a judge. A master cannot grant a decree. A master can only recommend to a judge whether or not a decree should be granted.

8. The Decree.

Although in some cases the decree may be granted at the hearing (if the hearing is before a judge rather than a master), usually the decree is not entered until a few days later. Do not assume a decree has been granted until you receive your copy.

Once signed by the judge, the decree will dissolve your marriage. It will not, however, grant other relief such as child custody, child support, spousal maintenance or property division.

How To Fill Out The Petition

When you fill out the Petition form and any other forms you file with the court, please type or print neatly in black ink. Do not leave any spaces blank. Write "none" or "N/A" (not applicable) where appropriate. If more space is needed, attach additional pages and sign them.

At the top of the petition form, fill in the city where the superior court is located. Then fill in your name and your spouse's name on the lines in the box. Leave the "Case No." line blank.

Read the first section of the petition and be sure you agree that all statements in it are true. Then fill in the information requested in paragraphs 1 through 7.

Paragraph 6. Mailing Address.

If your mailing address changes after you file the petition but before the decree is entered, you must send the court written notice of your new mailing address. Be sure to include your case number in any letters to the court.

Paragraph 8. Restoration or Change of Name.

If you want to either have a former name restored or have a new name authorized, check one of the boxes in paragraph 8.

If you want a former name restored, you merely need to check the "Restoration" box and fill in the blanks. (You may also want to follow steps #2, #9, #10 and #11 below.)

If you want to change your name to a new one you have never had before, there will be additional costs and your dissolution hearing will be delayed. You must do the following:

1. Check the "Change" box and fill in the blanks which follow.
2. Ask the court for form VS-405, Application or Report of Name Change. Fill out the form (please type the information if possible) and return it to the court when you file your dissolution petition.
3. When you file your dissolution petition, tell the clerk your petition includes a request for name change and that you need to have a hearing date set and an order for publication.
4. The court will then send you an Order For Hearing, Publication and Posting (CIV-701). This order will tell you the time and place of the hearing on your name change. It will also tell you the newspaper in which you must publish notice of your request (a newspaper of general circulation in the judicial district) and whether you must post the notice in various places as well as publish it.

Take the order to the newspaper designated by the court and arrange for the newspaper to publish the "Notice of Petition to Change Name" (at the bottom of the order) in the legal notices section of their newspaper once each week for four consecutive weeks before the hearing. You must pay the newspaper for this. Do

not delay in doing this. All four publications must be completed before the hearing.

If the order requires posting in addition to publication, you must post copies of the notice in the places and for the periods of time ordered by the court.

5. After publication is completed, the newspaper will give you an "Affidavit of Publication" which will contain a copy of the published notice and the dates it was published. File this affidavit with the court before the hearing.

If you are also required to post the notice, you must file proof that you did so. Get form CIV-702, Affidavit of Posting, from the court, fill it out and file it with the court before the hearing.

6. The hearing is usually short and fairly informal. It will usually be combined with your dissolution hearing. You must tell the judge why you want to change your name and assure the judge that you are not seeking to change your name in order to avoid debts or defraud anyone. If the judge finds sufficient reasons for the change and also finds it consistent with the public interest, the judge will sign a judgment allowing you to take the new name. However, you cannot begin using the new name yet, because the judgment will not be effective until the following steps are completed.
7. Take a copy of the judgment to the newspaper designated by the judge and have the newspaper publish once the "Notice of Judgment" (at the bottom of the form). Get an "Affidavit of Publication" from the newspaper to prove publication. The judge may also require you to post a copy of the judgment.
8. File proof of publication (and any required posting) with the court. The clerk will then issue a Certificate of Name Change (form CIV-705). You can begin using your new name on the date stated in the certificate. This date will be at least 30 days after the judgment was distributed. The clerk will give you two copies of the Certificate. One will be a free certified copy. If you need additional certified copies, there will be a charge for them. Administrative Rule 9(e)(2)
9. If you have an Alaska driver's license or you own a vehicle registered in Alaska, you must send written notice of your name change to the Division of Motor Vehicles within 30 days. AS 28.05.071. To get a new driver's license, you will need to go to a DMV office and present a copy of the Certificate of Name Change.
10. Notify the Social Security Administration of your name change (to avoid tax problems and help assure proper employment credit). Toll free telephone number: 1-800-772-1213.
11. If you want a new birth certificate, contact the Vital Statistics office of the state in which you were born and pay their required fee.

Signature and Verification

You must sign your petition under oath before a notary public, a court clerk or any other person authorized to administer oaths.

Please keep in mind that, in signing the petition under oath, you are swearing that every statement you have made in your petition is the truth.