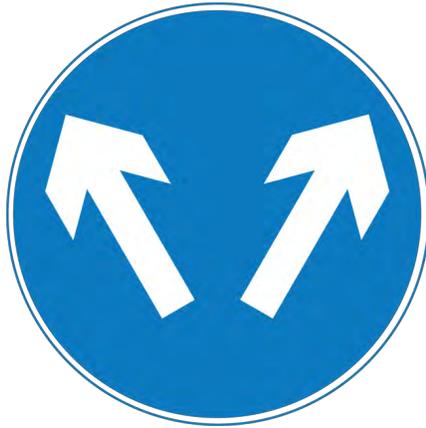


# DIVORCE

## General Information



## Packet 1



## ***Are you heading for a Divorce?***

This first packet of information will give you an overall view of what is needed in order for you to get a divorce. You will find out what forms or packets you will need to fill out, how to fill them out and what to do with them when you are done.



While the process of seeking a divorce can seem overwhelming and intimidating, please know that these packets have been written to help make this process as easy as possible.

In general, if you follow the self-help instructions, and fill out all the necessary forms correctly and completely, then getting a divorce can be a relatively simple process.

Of course, the paperwork can get more involved if you have minor children, parenting decisions to make and property to divide. However, even with these situations you will have the help that you need to move smoothly through the entire process.

There are times when more complex legal problems will come up, and you may want to get the advice of a lawyer. There are lawyers who will help you help yourself. This means that they will only charge you for giving you the help you need, and you can complete the court papers on your own or ask the lawyer for help with your papers. For more information, call the **Self-Service Center at (520) 724-8456** and ask how to find one of these lawyers.

The Self-Service Center has other resources you may want to use. They are located in the Pima County Law Library, Room 256, on the second floor of the Superior Court House [110 West Congress Street, Tucson Arizona 85701]. They are open from 8am to 5pm Monday through Friday (except holidays). You can call or email them at **[pcll@sc.pima.gov](mailto:pcll@sc.pima.gov)**.

## Conciliation Court



Usually it is better to try and work things out. If there is a possibility that you and your spouse can settle your differences, we encourage you to do so.

The Family Center of the Conciliation Court is an agency of the Pima County Superior Court, which offers a variety of services to help. These include the mandatory parent education class, conciliation counseling, and mediation for issues related to children. All of these will be described later in this packet. There is a fee for the parent education class, but the other services are free. For more information, you can call (520) 724-5590 or visit the Conciliation Court web page at: [www.sc.pima.gov/fccc](http://www.sc.pima.gov/fccc).

## Self-Help Packets

There are self-help packets that you can use to get your divorce. They will include all the forms you need as well as detailed information and instructions.

These packets can be found at the Self-Service Center. The Self-Service Center is located in the Pima County Law Library, Room 256, on the second floor of the Pima County Superior Court [110 West Congress Street, Tucson Arizona 85701].

They are open from 8am to 5pm Monday through Friday (except holidays). For more information, call (520) 724-8456 or email [pcll@sc.pima.gov](mailto:pcll@sc.pima.gov).

The symbol (Triangle with an exclamation point inside) is a warning.

It could be a warning for you to make sure that something is done.



It could also be a warning that the topic can be confusing and you may need to talk to an attorney if you need help.

Whenever you see this symbol, please **make sure** you read the information carefully and understand it fully.

## ***Do you meet the requirements?***

In order to file for a divorce in Arizona, you or your spouse **must have lived** in Arizona for at least 90 days before you file. Also if you are in the military, then you have to have been stationed in Arizona for more than 90 days.



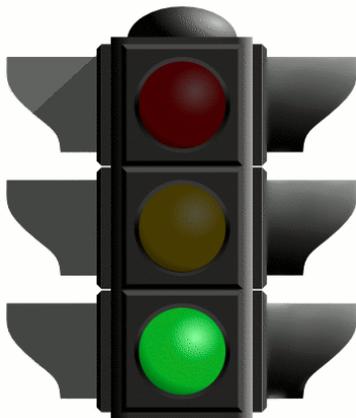
If you have not lived in Arizona for at least 90 days **DO NOT FILE**. You have to wait until you have lived here 90 days.



If the judge needs to decide on matters about children, like parenting time or child support, then Arizona must be your children's primary place of residence. This means your children must have lived in Arizona for **at least 6 months** before you file.

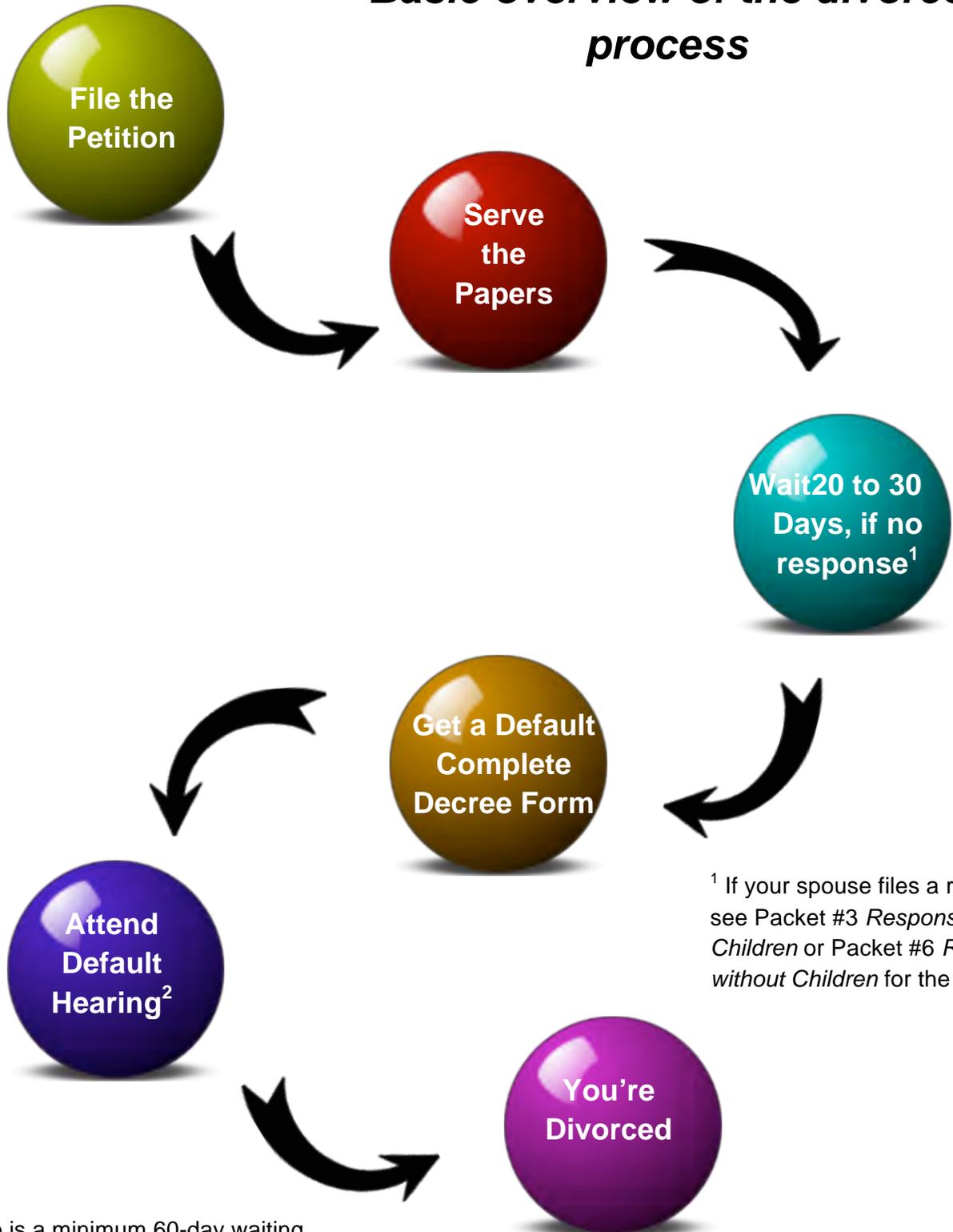
If you are not sure if Arizona is the primary place of residence for your children, talk to a lawyer before filing for divorce.

Arizona is a **no-fault divorce state**. You only need to show that the marriage is irretrievably broken (meaning there is no reasonable possibility of getting back together).



If you have lived in Arizona for 90 days, and your minor children have lived here for at least 6 months, then you have the green light to go ahead and file for a divorce.

## ***Basic overview of the divorce process***



<sup>1</sup> If your spouse files a response, see Packet #3 *Response with Children* or Packet #6 *Response without Children* for the overview.

<sup>2</sup> There is a minimum 60-day waiting period from the time your spouse is legally served with the divorce petition until your divorce hearing can be scheduled.

## ***The Default Judgment***

The diagram on the previous page is the path to getting a Default Judgment. This is the process that the majority of people will follow. Even if you and your spouse have minor children you can still get a default judgment. There is a minimum 60-day waiting period from the time your spouse has been legally served with the divorce petition until your divorce can be finalized.

A **default judgment** means that your spouse did not disagree with the divorce papers and did not file a “Response.” At the very least they did not file the “Response” within the legal time limit



### ***What can throw you off the Default path?***

for doing so. In this situation, you can then ask for a default decision.

There are a few situations that will throw you off the path to a default judgment.

#### **Response to the Divorce Papers:**

If your spouse files a “Response” to the divorce papers then there will be some extra steps that you will have to take. At this point, we strongly urge you to contact a lawyer.

#### **Temporary Orders:**

You may want to ask for temporary orders if you cannot support yourself or your children while the divorce is pending, or if your spouse will not leave the family residence and you two absolutely cannot live together. Please keep in mind that you should not ask for temporary orders unless you really need them. In situations like these, you will have to attend an additional hearing to decide on the temporary orders.



Remember, there are lawyers that will help you help yourself, especially in the cases of a Response and Temporary Orders.

If you need temporary orders, we strongly urge you to contact a lawyer.

# ***It all begins with filing a Petition***

A Petition is a written, legal request for a divorce.



If you and your spouse **do not** have any minor children (under the age of 18), then the packet you should begin with is Packet #5 *Divorce without Children*.

The forms and a detailed explanation on how to fill the forms out and what to do with them after you complete them are all contained in Packet #5.



If you and your spouse have minor children (younger than the age of 18), then the packet you should begin with is Packet #2 *Divorce with Children Petition*.

Because minor children are involved, you must also fill out the following two packets along with Packet #2.



## ***Packet #8 Child Support***

This packet helps you figure out child support. Child support is money paid from one parent to the other for the children's needs.

## ***Packet #9 Legal Decision-Making & Parenting Time***

This packet deals with legal decision-making and parenting time (these used to be called custody and visitation).

## ***Other packets you may want to fill out with the Petition.***

**Packet #13 Temporary Orders:** This was explained on page 6.

Fill this packet out if you want to ask the Court for temporary orders.



You should only ask for temporary orders if you really need them.

### **Packet #12 Deferral - Waiver of Fees & Costs:**

This packet is for people who need financial assistance with court fees.

Since it takes about 5 days to get approval, you may want to file Packet #12 before you file the petition.

## ***What does it mean to “serve” papers?***

Service is when your spouse receives according to court rules a legal document that you have filed with the court.

Any time you file a legal document with the court, you must “serve” your spouse. This is so they know about the divorce proceedings and can choose to respond if they want.

Information on the proper service procedure is found in Packet #10 *Service of Papers*.

Please see this packet to decide exactly how you should serve your spouse and when you should file these specific forms.

After all of the needed paperwork is filled out, you must go to Pima County Superior Court to file the petition and related papers.

- Office of the Clerk of the Court, which is on the first floor at the Pima County Superior Court, 110 West Congress St., Tucson, AZ, 85701.
  - The Clerk of the Court is open from 8:00 a.m. to 5:00 p.m., Monday through Friday (except for legal holidays).
  - Be sure to get there at least an hour before closing to file the papers, as it takes time to process.
- You will have to pay a fee when filing, unless you file Packet #12 *Deferral - Waiver of Fees & Costs* for a deferral or waiver of fees.

## ***Why do you have to wait?***



If your spouse disagrees with anything in the divorce papers, he or she can file a “Response” with the court.

Your spouse has to respond within 20 days if served in Arizona. If they are served outside of Arizona, they have 30 days to respond.

Your spouse will use one of the following packets to file a response:

- Packet #3 *Response to Petition for Dissolution of Marriage (Divorce) with Children*
- Packet #5 *Response to Petition for Dissolution of Marriage (Divorce) without Children*

## ***Obtaining a Default***



If your spouse did not file a response within the time allowed, you can then ask for a default.

Your hearing cannot be scheduled sooner than 61 days from when you originally served your spouse. If you served your spouse by Publication then your hearing cannot be scheduled before 91 days from the date of publication.

The forms and instructions needed to get a default are found in Packet #11 *Obtaining a Default*.

When you have your hearing, the Judge will likely ask you a few questions about your divorce and why you're asking for the things listed in your documents.



If the documents are correct and complete, the Judge will sign the Judgment or Decree. After the hearing the Court Clerk will stamp the copies of your decree and then...



Your divorce is final.

The only thing left to do is send your former spouse copies of the signed decree. You have to do this within three days.

# ***How much will all this cost?***

## **FEES IN GENERAL**

As of March 2013 the cost to file:

- Packet #2 *Divorce with Children Petition*: \$298\* (Parent Education class fee included)
- Packet #3 *Divorce with Children Response*: \$194
- Packet #5 *Divorce without Children Petition* \$263
- Packet #6 *Divorce without Children Response* \$194
- Packet #18 *Paternity* \$258
- Packet #19 *Paternity Response* \$189
- Petitions for "post-decree" matters, such as Child Support Modification: \$84

## **OTHER EXPENSES INCLUDE:**

- \*The mandatory Parent Education Class fee: \$35 (details on page 12)
- Legal record copies through the Clerk of the Court, per page: \$0.50
- General use copies made in the library, per page: \$0.15

## **HOW TO GET A DEFERRAL OR WAIVER**

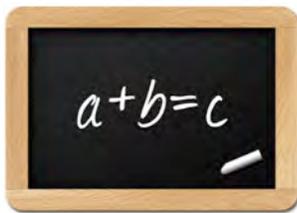
You can apply for a full waiver or deferral of the fees if you cannot pay.

- A **deferral** is like a payment plan. It means that you divide the fees up and pay a little over a period of time, or that you don't pay fees till the end of your case.
- A **waiver** means that you do not have to pay the fees at all.

For more information see Packet #12 *Deferral/Waiver of Fees & Costs*

# ***Important concepts to know***

Some important concepts are explained in the following pages of this document. Not all will apply to you, but it's good to be familiar with them just in case they do.



**PARENT EDUCATION:** All parents with minor children who are going through a divorce are required to attend the “Domestic Relations Education on Children’s Issues” course (parent education). This class should be completed prior to attending mediation. There is a fee for this class. You can register for the course at [www.sc.pima.gov/fccc/parented](http://www.sc.pima.gov/fccc/parented) or by calling (520) 724-4949.

**MEDIATION:** Mediation is for parents who need help in writing a parenting plan for their minor children. If you and your spouse cannot agree on how legal decisions will be made for your children or when the children will spend time with each of you, you will be required to attend mediation. Mediation is when you meet with a neutral third party, and it is a free service through the Conciliation Court.

You can use Packet #15 *Mediation* to ask for this service. This can be done at any time after your spouse has filed a “response”. This is not the same as the mediation that is required before you go to trial.

**CONCILIATION:** This is different than mediation. If you and/or your spouse want to talk to each other about your relationship and to consider whether or not a divorce should occur, you can file a petition for conciliation. Conciliation is a free service. You use Packet #16 *Conciliation* to ask for this service. You can ask for this before a divorce is filed or in the beginning of the divorce process. Keep in mind that while you are going through conciliation your divorce is put on hold.

## Property & Debts

### COMMUNITY PROPERTY

Arizona is a **community property state**. This means that almost all property that you and your spouse get during the marriage probably belongs to both of you.

Also, you are probably both responsible for any debt you take on during the marriage. Debt and property must be divided between you and your spouse at the time of your divorce.



Community property also applies to pensions, retirement funds, profit sharing and stock plans. Both of you have a right to a portion of these. If these kinds of funds need to be divided, you must fill out a **Qualified Domestic Relations Order (QDRO)**. **This form is very complicated and difficult to file on your own. It almost always requires the help of a Lawyer.**

### SEPARATE PROPERTY

Property received as a gift or inheritance is considered separate property and usually belongs only to the spouse that received the gift or inheritance. Property owned before the marriage is also considered separate property and usually belongs only to the spouse who bought the property before the marriage.

### OTHER TIPS

A **Temporary Order** from the court may be needed to deal with issues relating to finances or property before the divorce is final. You can ask for a Temporary Order at any time during the divorce by filing Packet #13 *Temporary Orders*.



Property and debt division can be confusing and sometimes complicated. If you feel that you do not understand your rights about property and debts, then it is a good idea to contact a lawyer for help.

# Spousal Maintenance (*Alimony*)



**Spousal maintenance**, which used to be known as **alimony**, is money one spouse pays to the other. The payment helps the former spouse who cannot provide for himself or herself without the marriage.

Spousal maintenance is usually only ordered for a specific period of time to help a spouse get back on his or her feet.

Spousal maintenance is paid separately from child support and is not a substitute for or a supplement to child support.

The person who receives spousal maintenance will have to pay tax on it. On the other hand, spousal maintenance is tax deductible for person who pays it.

## **WHEN AND HOW SPOUSAL MAINTENANCE IS ORDERED**

When a spouse asks for spousal maintenance, the judicial officer can consider a number of things in making a decision. The criteria for spousal maintenance are listed in Packet #2 *Petition for Dissolution of Marriage with Children* and in Packet #5 *Petition for Dissolution of Marriage without Children*.

**You cannot ask for spousal maintenance after the divorce is over if you did not ask for it during the divorce case.**



If you or your spouse plans to ask for spousal maintenance, you may want to talk to a lawyer. Spousal maintenance can be very complicated and may have long-term effects.

# ***Child Support***



Child support is where one parent makes payments to the other for the needs of the child. The parent getting child support does not have to tell the parent who pays the child support how the money is spent.

Child support orders apply to any child under the age of 18, as well as a child up to 19 if the child is attending high school or an equivalency program. You can get child support for a child older than 18, if a child is mentally or physically disabled.

## **CHILD SUPPORT GUIDELINES**

The judge will use guidelines to figure out the child support that should be paid. You should read the Child Support Guidelines, which are available at the Self-Service Center or online at [www.supreme.state.az.us](http://www.supreme.state.az.us). They can help you understand how child support might be determined for you. The guidelines also explain how the parent who is paying child support is given credit for time spent with the children.

The Arizona Supreme Court website has a calculator for figuring out child support. You can also access the calculator through the Pima County Superior Court website or at the Pima County Law Library. The final amount of child support does not have to be decided until near the end of the divorce process. The court may order that child support payments be made from the time that the parents separated or when the divorce process began.

## **MEDICAL INSURANCE**

Medical insurance is part of child support. The child support guidelines help figure out who will pay for medical insurance, copays, and deductibles.

See Packet #8 *Child Support* for further information and necessary forms.

# ***Legal Decision-Making and Parenting Time***

If each parent feels safe and comfortable, you should try to work together to write a legal decision-making and parenting time plan for the judge. This is called a Parenting Plan and is included in Packet #9 *Legal Decision-Making & Parenting Time*.

The plan will include how the parents will act in the best interest of the children.

Your disagreements or emotional situations should not get in the way of caring for your children. The children should always come first.



If you and your spouse cannot agree on the details of the plan, or you do not feel comfortable discussing these things on your own with each other, then you can use Packet #15 *Mediation* to request free mediation services through the Conciliation Court.

If, after mediation, you and your spouse cannot agree on a parenting plan, then you both will have to make your own parenting plans and give them to the judge. You may need to consult an attorney. The judge will choose which parenting plan will be final or will create a revised plan for you.

## **THE COURT'S MAIN CONCERN**

The court will always base decisions on what is in the children's best interest. Packet #9 *Legal Decision-Making & Parenting Time* gives details about the different things the court will consider when making decisions about the care of your children.

## TYPES OF PARENTING ARRANGEMENTS

**Joint Legal Decision-Making** means that both parents share decision-making and neither parent's rights or responsibilities are greater than the other parent's. Parents can agree or the court can order that one parent can make certain decisions in a specific area. Examples of legal decisions include health care decisions, education, religion and personal care.

**Sole Legal Decision-Making** means that only one parent has the right and responsibility to make legal decisions about the children.

Joint or sole legal decision-making does not take away the responsibility of either parent to provide financial support for the children. Parents are always expected to support their children financially. Even when parenting time is equal, one parent can still be responsible for paying child support to the other parent. This could happen when one parent makes more money than the other parent. For more information, you may download a copy of the child support guidelines at [www.sc.pima.gov](http://www.sc.pima.gov).

**Parenting Time** is the schedule of time your children will spend with each parent. This includes holiday and vacation time as well as when the children normally spend time at each parent's residence.

## DOMESTIC VIOLENCE



Joint legal decision-making is usually not allowed when one parent has been convicted of domestic violence, or if there is evidence of domestic violence. If one or both parents have a history of domestic violence, you should get advice from an attorney.

## CRIMINAL OFFENSES

If a parent has been convicted of a drug charge or a DUI, then the court may assume that placing a child with that parent is not in the best interest of the child.



## FOR MORE HELP

For further details on Legal Decision-Making and Parenting Time, please see Packet #9 *Legal Decision-Making and Parenting Time*.

You can also read the Planning for Parenting Time: Arizona's Guide for Parents Living Apart to learn more about this subject. This guide is online at:

[www.azcourts.gov/portals/31/ParentingTime/PPWguidelines.pdf](http://www.azcourts.gov/portals/31/ParentingTime/PPWguidelines.pdf)

You will receive a copy of the guide when you attend the parent education class.



## ***When you have to go to trial***

If your spouse responded to your petition, and you two are not able to come to agreement on the terms of the divorce, the case will need to go to trial. At the trial, the judge will hear from both sides and then make a decision.

For more information about going to trial, see Packet #14 *Trial Preparation*. This packet has forms to help you ask for a trial.



If you have minor children and disagree on how legal decisions will be made for your children or when the children will spend time with each of you, you cannot go to trial until you and your spouse have had at least one mediation session through the Conciliation Court. Preparing for a trial can be confusing. We recommend that you seek the help of a lawyer.