

DIVORCE

ANSWER PACKET

*** IMPORTANT INFORMATION ***

YOUR RIGHTS MAY BE BETTER PROTECTED WITH THE HELP OF AN ATTORNEY.

You can obtain a divorce without the assistance of an attorney, but if minor children will be involved in your divorce, if you and your spouse own a home or business, or if you or your spouse have a pension or retirement plan, your custody, property, and support rights may be better protected with the help of an attorney.

The staffs of the Circuit Clerk's Office and the Family Court are prohibited by law from providing legal advice.

TIME DEADLINES !

In a divorce case, the parties must meet certain deadlines, such as filing papers and documents by a specific date. The failure to meet deadlines can result in the Court imposing penalties. For example, if the parties are required to file information by a deadline, and one does, and the other doesn't, the Court can rely solely on the information filed on time. **FAILURE TO COMPLY WITH DEADLINES CAN HURT YOUR CASE!** These Instructions contain information on deadlines. Read the instructions carefully, and pay attention to the deadlines.

As the Respondent, the **FIRST DEADLINE** you must meet is the deadline for filing your Answer. You have **20 DAYS** from the date you were served with the divorce petition to serve your answer on the Petitioner; or **30 DAYS** if you were served by publication.

If you require any special arrangements to fully participate in court proceedings, for example, a language interpreter, hearing or visual aids, or accommodations for physical access, please notify the Circuit Clerk's Office by marking the appropriate space on the Case Information Statement.

Instructions for Divorce Answer Packet

The Divorce Answer Packet contains forms and instructions you will need to answer a Divorce Petition, and represent yourself in your divorce case, without an attorney. Your spouse, who filed the divorce, is the Petitioner. You are the Respondent. The meanings of these terms and others are explained in the Definitions of Legal Terms at the end of these instructions. You should take a few minutes to read these definitions before you continue with these instructions.

The first part of your Answer Packet contains the instructions you are now reading. The forms follow the instructions. Please read these instructions carefully, and please write clearly when you fill in the forms. The forms are very important to your case. If required forms are not properly completed, and filed on time, your case may be harmed, or delayed. You will file all of your forms and all other required documents in the Circuit Clerk's Office. Unless otherwise indicated, for every form and document you file, you will need an original that will be filed with the Circuit Clerk, a copy that will be served on the opposing party, and a copy for yourself. If the BCSE is a party, you will need a copy that will be served on that agency.

The forms in this packet require you to provide your name, address, and telephone number. **If you believe your safety, liberty, or health, or the safety, liberty, or health of your children would be put a risk by the disclosure of this information, you may file an affidavit to have the information withheld from all persons except court employees who require the information to carry out their duties.** The affidavit you need to file is the "Affidavit for Withholding Identifying Information." This affidavit is not included in the Answer Packet. If you need this affidavit, you can obtain one at the Circuit Clerk's Office. You can file this affidavit in the Circuit Clerk's Office at any time, or you can ask the Court to enter an order allowing you to withhold the information. If your identifying information is withheld, the Petitioner's court papers will be served through the Family Court, and not directly on you.

TO BEGIN, study the following list of forms included in your packet. The list contains the names of the forms, and important information about the forms and how they will be used in your case. The forms on the list are divided into three groups: Forms Required in All Divorces; Forms Required in Divorces Involving Minor Children; Other Forms You May Need. **Read the list of forms carefully to determine the forms you need to complete.**

Forms Required In: ALL DIVORCES.

1. **ANSWER**: The Answer is the Respondent's reply to the Petitioner's Divorce Petition. In the Answer, the Respondent replies to the Petitioner's allegations of the reasons the divorce should be granted, (the grounds), and to the Petitioner's requests on matters such as spousal support, allocation of custodial responsibility for the children, child support, and the division of property.
2. **CIVIL CASE INFORMATION STATEMENT FOR DOMESTIC RELATIONS CASES**: This form gives the Court important information about the case and the parties. When you file your Answer in the Circuit Clerk's Office, you also must file three copies of a completed Case Information Statement.
3. **FINANCIAL STATEMENT**: You and the Petitioner will use this form to list income, assets,

and liabilities. Each of you will complete one of these forms. In cases involving minor children and / or spousal support, each of you must file the additional information discussed in Step 1. **You and the Petitioner must file your completed Financial Statements and all additional information in the Circuit Clerk's Office no later than 5 days before the first hearing in your case. If one party files the financial information on time, and the other party doesn't, the Court can proceed without the missing financial information, can refuse to grant requested relief to the party who didn't file the information, and can base a decision solely on the information that was filed on time.**

Forms Required In: DIVORCES INVOLVING MINOR CHILDREN.

1. APPLICATION FOR CHILD SUPPORT AND INCOME WITHHOLDING SERVICES FROM THE BUREAU FOR CHILD SUPPORT ENFORCEMENT: If minor children are involved in the divorce, or spousal support is being requested by either party, you must complete this form, and file it in the Circuit Clerk's Office when you file your Answer. The Petitioner will have completed this form, and filed it in the Circuit Clerk's Office with the Divorce Petition.
2. PROPOSED PARENTING PLAN: If minor children are involved in the divorce, you and the Petitioner must attempt to agree on a Joint Proposed Parenting Plan. A Joint Proposed Parenting Plan tells the Court in detail how the parents think the responsibilities for raising the children should be shared after the divorce. If you and the Petitioner cannot agree on a Joint Plan, each of you must file Individual Proposed Parenting Plans. **In either event, the Joint or Individual plans should be filed prior to the first hearing / conference in the case. If one party files an Individual Plan on time, and the other party doesn't, the Court can go ahead without the missing plan, and rely solely on the plan that was filed on time.**
3. PARENT EDUCATION NOTICE: The notice explains that each parent must pay a \$25 Parent Education Fee, unless fees have been waived, and must complete a Parent Education Class conducted by specially trained persons approved by the Courts.

OTHER FORMS YOU MAY NEED.

1. SOLDIERS' AND SAILORS' RELIEF ACT WAIVER: The Soldiers and Sailors Relief Act permits persons serving in the armed forces to delay court cases. A party serving in the armed forces who signs this form agrees to allow the divorce to proceed despite the Soldiers and Sailors Relief Act.

Now that you've reviewed the list of forms, you next need to determine the correct forms for your case, and learn the deadlines for serving and filing those forms. These things are explained in Step 1.

**STEP 1. WHAT ARE THE CORRECT FORMS FOR YOUR CASE?
WHAT ARE THE DEADLINES FOR FILING THE FORMS?**

- A. EVERYONE who files an Answer **MUST** complete the following forms:

Answer - Deadlines: Must be filed in the Circuit Clerk's Office and served on the Petitioner within 20 days of the date the Answer was served, or within 30 days if service was by publication.

Civil Case Information Statement - Deadline: Must be filed with the Answer.

Financial Statement - Deadline: Must be served on the other party, or parties, and filed in the Circuit Clerk's office no later than 5 days before the first hearing or conference. AND, in cases involving minor children, and / or spousal support, the Financial Statement must be accompanied by the additional information explained in items B and C immediately below.

B. If MINOR CHILDREN are involved in the divorce, IN ADDITION to the forms in Group 1, you MUST also complete and file the following forms:

Application for Child Support Enforcement and Income Withholding Services - Deadline: Must be filed with the Answer.

Proposed Parenting Plan - Deadline: Before the first hearing.

AND

You MUST also file the following information WITH your Financial Statement:

1. A copy of your most recent wage or salary stub showing gross pay, deductions for taxes and other items, and net pay for a normal pay period, and for the year-to-date;
2. Copies of your and your spouse's complete income tax returns for the two years immediately preceding the date the petition was filed, together with copies of the federal Form W-2 for those years; and a copy of the Form W-2 for the most recent year for which that form is available, even if a tax return has not yet been filed for that year;
3. For self-employed persons and business owners, a copy of a current financial statement showing gross income, expenses, and net income;
4. Copies of any invoices or receipts showing the cost of any extraordinary medical expenses for the party or the children, of any child care expenses, and of any expenses necessitated by the special needs of the children.

AND

You MUST also complete a Parent Education Class. Deadlines: You must pay a Parent Education fee when you file your Answer, unless your fees have been waived. You should complete Parent Education before the first hearing. If you do not, your case may be delayed.

C. If you are requesting SPOUSAL SUPPORT; IN ADDITION to the Group 1 forms you MUST also complete and file:

Application for Child Support Enforcement and Income Withholding Services - Deadline: Must be filed with the Petition.

AND

You MUST file WITH your Financial Statement the additional information listed in

items B. 1 - 4 immediately above.

Now that you've determined the forms required for your divorce, go to Step 2 to learn about how to fill out the Answer form, and other required forms.

STEP 2. HOW TO FILL OUT THE ANSWER AND OTHER FORMS.

First, an Important Reminder: You have 20 DAYS from the date you were served with the Divorce Petition to serve the Petitioner with your Answer; or 30 DAYS if you were served by publication!

Before you begin, you may want to make several copies of each blank form. You can use the copies to practice on, and you'll have extra blank forms if you make an error completing a form.

Filling out the Answer form is a matter of checking the right boxes, and filling in blanks. How you complete your Answer depends on the particularities of your case, such as the grounds for divorce claimed in the Divorce Petition. Read the last section in this step for information about the grounds for divorce. The form is self-explanatory, but make certain you read everything carefully, and fully understand what you're doing when you check a box or fill in a blank. Complete the Answer form down to the Verification. Don't complete and sign the Verification until you are before a Notary Public. Deputy Circuit Clerks can also notarize your Verification. Don't fill in the Certificate of Service until you are ready to mail the Answer to your spouse.

Next, take a look at the other forms you must fill out. If necessary, return to Step 1 and review the list of forms to make certain you fill out all of the required forms. Some forms have a set of instructions accompanying them, the Parenting Plan, for example. Other forms have instructions built into the form. Read the instructions and forms carefully, and make certain you understand what you're doing when you check a box or fill in a blank.

Grounds for Divorce

The Divorce Petition form included in the Petitioner's Divorce Packet lists three common grounds for divorce. The most common ground is Irreconcilable Differences. This ground is Item 19 in the Divorce Petition. Item 19 does not require a check mark. In other words, when a person files the form Divorce Petition, Irreconcilable Differences is automatically claimed as a ground, unless the person filing the Petition cross it out. The other two grounds listed in the form Petition, Items 20 and 21 must be checked to be claimed. The grounds of Irreconcilable Differences and One Year Separation are briefly explained in the next two paragraphs.

Irreconcilable Differences

To obtain a divorce on the ground of Irreconcilable Differences:

1. The Divorce Petition must claim Irreconcilable Differences as a ground. Irreconcilable Differences is automatically claimed by filing the form Divorce Petition included with the Petitioner's Divorce Packet.
2. The Respondent must file an Answer, **and** the Answer must admit Irreconcilable Differences.

3. At least one of the parties to the divorce must attend the final hearing.

One Year Separation

To obtain a divorce on the ground of One Year Separation:

1. The Petitioner must check Item 20 on the Divorce Petition.
2. At least one witness must testify to the 1 year separation. (Neither of the parties count as this one witness.)
3. At least one of the parties to the divorce must attend the final hearing.

Now that you've gotten underway by completing your Answer and other required forms, go to Steps 3 to learn about how to serve your Answer on the Petitioner.

STEP 3. SERVING YOUR ANSWER AND OTHER PAPERS ON THE PETITIONER.

You have 20 DAYS from the date you were served with the Divorce Petition to serve the Petitioner with your Answer; or 30 DAYS if you were served by publication! It is your responsibility to serve your Answer on the Petitioner.

During the course of the case, depending on the nature of your case, you will be required to serve other papers on the Petitioner, and on the BCSE, if that agency is a party; for example, Financial Statement and accompanying records, Proposed Parenting Plan, and various motions. The most convenient and inexpensive way to serve these papers is by First Class United States Mail. When you serve these papers by first class mail, you will complete a Certificate of Service form to verify you served the papers on the date indicated. Some forms, such as motion forms, have a Certificate of Service built into the form, and your packet also contains a separate, generic Certificate of Service form. You should make several copies of this blank form.

Your Answer, and every other paper you are required to serve must be filed in the Circuit Clerk's Office. You are required to file these documents in the Clerk's Office within a reasonable time after you have served them. It's best to file them quickly so your court file is always up to date and contains timely documentation that you have served the papers required. Step 4 discusses filing papers in the Circuit Clerk's Office, and fees and court costs.

STEP 4. FILING PAPERS IN THE CIRCUIT CLERK'S OFFICE. FEES AND COURT COSTS.

You will file your Answer and all other papers you serve in the Circuit Clerk's Office in the county in which the divorce was filed.

When you file your Answer, you are also required to file three copies of a completed Case Information Statement, and a completed Application and Income Withholding Form from the West Virginia Bureau For Child Support Enforcement. **Everyone who files an Answer MUST file these forms.**

Important Note. - The law prohibits the Circuit Clerk and Deputy Clerks from providing legal advice. This means they cannot assist you in completing your forms, or “check” your forms to see if you’ve completed them correctly.

Fees and Court Costs.

You are not required to pay a fee to file an Answer. The Petitioner paid a \$135 filing fee when the Divorce Petition was filed, and paid a \$20 fee if the Petition was served on you by the Sheriff’s Department. After examining the financial circumstances of you and the Petitioner, the Court may require the two of you to share these fees, and other costs, or may require one of you to pay the entire amounts. Fees and costs are **not refundable** if you and the Petitioner change your minds about your divorce.

If you believe you cannot afford to pay fees and court costs, you should ask a Deputy Circuit Clerk for an affidavit to waive fees and costs. You can fill out the affidavit in the Clerk’s office. The affidavit requires you to list some basic information about your financial situation. A Deputy Clerk will review your completed affidavit, and tell you if you meet the legal requirements to have your fees and costs waived. If you meet these requirements, you will not have to pay fees and costs. If you don’t meet these requirements, you must pay fees and costs, but you can ask the Court to review your affidavit later.

After you have served the Petitioner with your Answer, and filed the Answer and the required forms in the Circuit Clerk’s Office, the Court will schedule a hearing or conference in your case. Step 5 explains how the hearings and conferences in your case will be conducted.

STEP 5. CONFERENCES & HEARINGS: WHAT TO EXPECT.

In Step 5, you’ll learn how the conferences and hearings in your case will be conducted. In Step 6, you’ll learn what you need to do to prepare for your first conference or hearing. Conferences are conducted by the Family Court’s Case Coordinator. Hearings are conducted by the Family Court Judge.

In Family Court, all hearings and conferences are set by Scheduling Orders. **It is very important that you attend all hearings, show up on time, and come prepared.** You risk hurting your case if you fail to attend hearings, show up late, or come unprepared. Find out where the hearings will be held and allow plenty of time to get there on time.

If you receive a Scheduling Order notifying you of a hearing or conference, and you will not be able to attend, you must send the Family Court a written request to reschedule, and you must state the reason you cannot attend the originally scheduled hearing. The Family Court must receive your request to reschedule not less than 7 days before the date of the hearing you want rescheduled.

Family Court hearings are not open to the public. Only the parties, attorneys for parties, and witnesses are allowed to attend hearings. All hearings are recorded on audio tape. Everyone who testifies must swear or affirm to tell the truth. Everyone is expected to behave in a

courteous and dignified manner. Courts will not tolerate improper conduct. The Rules of Court prohibit photographs, video taping, and sound recording in the courtroom, and in all public areas associated with the courtroom.

Some Family Court Judges question the parties and their witnesses. Others want the attorneys and self-represented parties to present evidence and question witnesses. If you are representing yourself, you will be expected to present your evidence and question witnesses. Ask a member of the Family Court staff how the judge will conduct your hearing.

Not all hearings produce an immediate decision. Sometimes, the issues in dispute just aren't ready for a decision. For instance, the judge may decide more evidence is needed on an issue. Sometimes, the judge will want to think things over before making a decision. Sometimes, the judge will announce a decision at the conclusion of a hearing. Whatever the circumstances, once made, all decisions are written down in the form of Orders, and filed in the Circuit Clerk's Office. If there's an attorney in the case, the judge may ask the attorney to draft an Order which will be sent to the judge and the other party for review. If neither party has an attorney, the judge will prepare the Orders.

Now that you've learned some things about the way hearings are conducted, move to Step 6, and learn what you need to do to prepare for the first hearing or conference in your case.

STEP 6. PREPARING FOR THE FIRST HEARING OR CONFERENCE.

In Step 6, we'll discuss what will happen at the first hearing or conference in your case, and what you need to do to prepare. To begin, review the following list of important reminders of things that must be done before the first hearing or conference.

THINGS YOU NEED TO DO BEFORE THE FIRST HEARING OR CONFERENCE.

Financial Statements: You and the Petitioner must file your completed Financial Statements and all additional information with the Circuit Clerk no later than 5 days before the first hearing / conference.

Parent Education: If minor children are involved in the divorce, both parents must complete an approved Parent Education Class, and file a Class Completion Certificate in the Circuit Clerk's Office. You need to complete Parent Education Class before the first conference / hearing. If you do not, your case may be delayed.

Proposed Parenting Plan: If minor children are involved in the divorce, before the first hearing / conference you and the other parent need to file a Joint Proposed Parenting Plan together, or each of you need to file Individual Proposed Parenting Plans.

Witness Subpoenas: If you think you will need witnesses to testify at a hearing, you need to make **certain** those witnesses will attend. If you are not certain a witness will show up, you need to obtain a subpoena. To arrange for a subpoena, go to the Circuit Clerk's office. You should do this at least 10 days before the hearing. To obtain witness subpoenas, you need to

provide the Deputy Clerk with the names and addresses of the witnesses, and pay a Clerk's Fee of 50¢ per subpoena, and a service fee of \$20 per subpoena, unless your fees have been waived.

THE FIRST CONFERENCE OR HEARING: WHAT TO EXPECT.

If a party makes a written motion for temporary relief, and the judge grants the motion, the first hearing may be a hearing on temporary relief. Temporary relief hearings deal with matters such as allocation of custodial responsibility, child support, medical support, spousal support, and possession of the marital residence.

This first hearing is called a case management conference / hearing. You will receive a Scheduling Order telling you the date, time, and place, and whether the proceeding will be a conference conducted by the Case Coordinator, or a hearing conducted by the Family Court Judge. The Scheduling Order also will tell you if you need to complete and file any additional forms, file any additional information, or take care of any other matters before you come to the hearing.

One of the purposes of the case management conference / hearing is to determine what issues are disputed in your case, and how many hearings and how much time your case will require. If your case has no disputed issues, the first hearing may be the only hearing necessary, and the Court may suggest making the first hearing the final hearing. This can only be done if there is a good reason to do it, all necessary papers have been filed, and you and the Petitioner agree to it.

In cases involving minor children, the most important subject discussed at the first conference / hearing will be the development of a Parenting Plan. Read the Parenting Plan Instructions to learn the things you need to know about Parenting Plans.

HOW TO PREPARE FOR HEARINGS.

The issues that will be the subject of hearings in your case depend on the nature of your case and the particular issues in dispute between you and the Petitioner. Issues frequently in dispute in divorce cases include, but are not limited to, allocation of custodial responsibility, child support, division and possession of marital property, spousal support, and the division of marital assets and debts. To prepare for a hearing, the first thing you need to do is make sure you understand what issues will be addressed at that hearing. The second thing you need to do is decide how you can prove your case on these issues. You can prove your case by your testimony, by documents, or by the testimony of witnesses. The opposing party will be given the same opportunities to testify and present evidence. Make a plan for how you will present your case. It's best to write things down. List the things you want to prove, and for each thing you want to prove, list how you will prove it, by witness testimony, or a document, for example.

As you have learned, in some cases the first hearing may be the only hearing necessary. In other cases, a number of hearings may be required before the case reaches a final hearing. What happens after the final hearing is discussed in Step 7.

STEP 7. WHAT HAPPENS AFTER THE FINAL HEARING?

The final hearing will result in a Final Order concluding the case and settling all issues in dispute. Both parties will receive copies of the Final Order. **You are NOT legally divorced**

until a Final Order has been signed by the Family Court Judge!

Any party may file a Motion for Reconsideration of a Final Order for one of the five types of reasons specified in chapter 51, article 2A, section 10 of the West Virginia Code. A Motion for Reconsideration can be filed only for one of these reasons. A Motion for Reconsideration is made to the Family Court, and must be filed with the Circuit Clerk within a reasonable time after the Final Order was entered, or within one year, depending on the reason for which the motion is filed.

Any party may appeal a Final Order of Family Court to the Circuit Court. An appeal to the Circuit Court is made by filing a Petition for Appeal with the Circuit Clerk. A Petition for Appeal must be filed within 30 days after the date the Final Order was entered. The Circuit Court may refuse to consider a Petition for Appeal. The other parties have a right to file a Reply to a Petition for Appeal, and file a Cross Petition; and the party filing the Petition for Appeal has a right to file a Reply to a Cross Petition. If the Circuit Court does not rule on the petition within the time required, all parties will receive a notice the appeal will be automatically transferred to the West Virginia Supreme Court of Appeals unless all parties file written objections to the transfer. If an appeal is transferred to the Supreme Court, the parties are not required to file any additional papers.

If the Circuit Court refuses to consider a Petition for Appeal, or if a party disagrees with the Circuit Court's ruling on a Petition for Appeal, an appeal may be made to the Supreme Court of Appeals.

Under some circumstances, a Final Order of Family Court may be appealed directly to the Supreme Court of Appeals. This may be done if all parties, together or separately, file a Notice of Intent to Appeal Directly to the Supreme Court. Filing this Notice requires a waiver of the right to file a Petition for Appeal to the Circuit Court. The Notice must be filed within 14 days after the date the Final Order was entered.

A party filing an appeal to the Circuit Court or Supreme Court may make a Motion for a Stay. A Motion for a Stay asks that the terms of a Final Order not be carried out until the appeal has been resolved. A Motion for a Stay is made in the Family Court. If the Family Court denies the motion, the motion may be made in the Circuit Court. The payment of spousal support and child support cannot be stayed. The payment of past due child support may be stayed.

Forms and instructions for appeals to the Circuit Court and Supreme Court are available in Family Court and Circuit Clerk offices.

DEFINITIONS OF LEGAL TERMS

Affidavit

A written statement of facts sworn to before a Notary Public.

Alimony

Money paid by a divorced person for the support of the ex-spouse. Alimony is now called "spousal support." Alimony is not the same as child support.

Allocation of custodial responsibility

The allocation of custodial responsibility determines how the parents will share custody of the children after the divorce. Formerly referred to as “child custody.”

Answer

The Respondent’s written response to the Petition for Divorce.

Application For Child Support Enforcement And Income Withholding Services

In cases involving minor children, both parents must fill out this form to request or decline child support enforcement and income withholding services from the Bureau For Child Support Enforcement.

Bureau For Child Support Enforcement (BCSE)

The state agency that enforces parents’ child support obligations and helps collect child support payments.

Case Coordinator

The Family Court staff person who keeps track of cases, and holds conferences with the parties.

Child support

The money paid by a divorced parent to help pay the expenses of raising the children. The Family Court Judge sets the amount of support by using West Virginia's child support formula.

Circuit Clerk

The court official who keeps all court files and documents. All papers filed in a court case are filed in the Circuit Clerk’s Office. Most service of process is arranged through the Circuit Clerk’s Office.

Circuit Court

The court of general jurisdiction for a county, or for several counties grouped together as a circuit.

Civil Case Information Statement

A form filed in the Circuit Clerk’s Office by all parties to all court cases at the beginning of the case to provide the Court with information about the case.

Divorce

The termination of a marriage by a Court based on proof provided by the parties.

Family Court

The Court that handles divorces, paternity cases, and other types of family cases.

Financial Statement

Forms that provide the Court with financial information about the income, assets, and liabilities of the parties.

Grounds

The reasons for a divorce. Two common grounds for divorce in West Virginia are irreconcilable differences and one year separation.

Irreconcilable differences

One of the grounds for a divorce. Irreconcilable differences means the parties cannot get along with each other, and don't think they ever will.

Mediation

A way of settling Parenting Plan disagreements. A neutral third party, the Mediator, helps the parties agree on a Parenting Plan.

Mediator

A person trained to help persons settle disagreements.

Order

A written document recording a Court decision.

Parent Education Class.

A class designed to help divorcing parents understand the negative effects of divorce and child custody disputes on children, and to teach parents ways to lessen those negative effects. Parent Education Classes are taught by specially trained persons approved by the Courts.

Parenting Plan

A document which states in detail how divorcing parents will share the responsibilities for raising their children after the divorce.

Party

In a divorce, the Petitioner is one party, and the Respondent is the other party.

Petition for Divorce

The Petition for Divorce is filed by the party who begins the divorce case, the Petitioner. The Petition states the grounds for divorce, and states what actions the Petitioner wants the Court to take on matters such as the allocation of custodial responsibility for children, child support, spousal support, and the division of marital property.

Petitioner

The person who begins the divorce by filing a Petition for Divorce.

Premediation Screening

In divorce cases involving minor children, a process in which a trained Premediation Screener meets separately with both parties to determine if a Mediator can help the parties agree on a Joint Parenting Plan.

Relief

What a party to a court case requests from the Court. For example, spousal support would be one type of relief a party might request.

Respondent

The person on the other side of the divorce case from the Petitioner.

Self-represented party

A person who acts as her / his own attorney in a court case. Persons who represent themselves are also referred to as *pro se* litigants, pronounced “pro say.”

Separation

In divorce cases, a situation in which husband and wife live in separate households and no longer have marital relations.

Service

The delivery by authorized methods of a court document.

Shared parenting

The sharing by divorced parents of their responsibilities for raising their children.

Spousal support

Money paid by a divorced person to the ex-spouse. Formerly called “alimony.”

Spouse

Husband or wife.

Summons

The court document that notifies the Respondent of the filing of the Petitioner’s case, and states the amount of time the Respondent has to serve an Answer.

The End

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA.

In Re:

The Marriage / Children of:

Civil Action No. _____

_____,
Petitioner

and

_____.
Respondent

Social Security Number

Social Security Number

Address

Address

Daytime phone

Daytime phone

ANSWER TO DIVORCE PETITION

Are you currently a party to a domestic violence proceeding? ☐ Yes ☐ No

In answer to the Petition for Divorce, the Respondent says the following:

1. The Respondent admits irreconcilable differences exist between the Petitioner and the Respondent.
2. The Respondent admits all of the allegations in the Petition except the matters contained in the items numbered: _____.
3. The Petitioner and Respondent are the parents of:

☐ No children born during this marriage, and none are expected.

☐ _____ children, whose names, dates of birth, and social security numbers

<u>Name</u>	<u>Date Of Birth</u>	<u>Social Security No.</u>
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_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

In the rest of this Answer, “the children” always means the children whose names you just listed.

☐ A child is currently expected, and the estimated date of delivery is _____

4. The children currently live with:

☐ Mother ☐ Father

☐ Another person, or persons, whose name(s) and address(es) are: _____

5. During the last five years, if any of the children have lived at addresses other than their current address, use the following space to list where they lived, and for how long. *If there is not enough room in the following space, use an additional sheet of paper.* I have attached ____ additional sheet(s).

Child's Name

Address

Dates of Residence

6. Who provides health insurance for the children?

☐ Mother ☐ Father ☐ Medicaid ☐ WV CHIP

☐ Another person, whose name and address are: _____

_____.

☐ The children DO NOT have health insurance coverage.

The West Virginia Children's Health Insurance Program (WV CHIP) can help parents obtain free or low cost health care for their children. For more information, call 1-877-982-2447, or ask the Family Court Staff about WV CHIP.

7. Answer all of the following questions.

- a. Has the Respondent been a party or witness in any other proceeding, in any state, concerning the allocation of custodial responsibility for the children? ☐ Yes ☐ No
- b. Is the Respondent aware of any other proceeding, past or present, in any state, concerning allocation of custodial responsibility for the children? ☐ Yes ☐ No
- c. Is the Respondent aware of any person, other than the Petitioner and Respondent, who has

physical custody of, or claims any custodial right concerning the children?

☐ Yes ☐ No

THEREFORE, the Respondent asks that the Court grant a divorce, and to grant such other relief as the Court considers proper, including the matters specifically stated below:

- ☐ Approve the Proposed Parenting Plan filed by the Respondent.
- ☐ Order the Petitioner to pay support for the minor children.
- ☐ Order the Petitioner to maintain health insurance coverage on the children, if reasonably available, and to assist with reasonable health care expenses not covered by insurance or by a government medical card.
- ☐ Order the Petitioner to pay spousal support.
- ☐ Make a fair and equitable division of marital property.
- ☐ Award _____ the exclusive use and possession of the marital home located at _____.
- ☐ Award _____ the exclusive use and possession of the following motor vehicles: _____.
- ☐ Award _____ the exclusive use and possession of the furniture, furnishings and appliances located in the marital home.
- ☐ Award the Respondent the exclusive use, possession and ownership of the following marital property:

Description of Property

Estimated Value

- ☐ Order that the Respondent be held solely responsible for the following debts:

Description of Debt

Amount Owed

- [] Order that the Petitioner be held solely responsible for the following debts:

Description of Debt

Amount Owed

- [] Prohibit the Petitioner from conveying or otherwise disposing of any marital property prior to the time the Court divides the property.

- [] Grant Respondent the right to resume using the previous name _____.

- [] Prohibit the Petitioner from annoying, abusing, threatening, or interfering with the personal liberty and safety of the Respondent.

- [] Grant this other relief:

Respondent's Signature

Date

You must sign the Verification on the next page before a Notary Public or Deputy Circuit Clerk.

VERIFICATION

I, _____, after making an oath or affirmation to tell the truth, say that the facts I have stated in this Petition are true of my personal knowledge; and if I have set forth matters upon information given to me by others, I believe that information to be true.

Signature

Date

This Verification was sworn to or affirmed before me on the ____ day of _____,
2_____.

Notary Public / Other official

My commission expires:_____.

CERTIFICATE of SERVICE

State of West Virginia

County of _____

I, _____, state that I mailed my Answer to Divorce Petition by first class United States Mail, postage paid, to _____, at the address of _____, on the ____ day of _____,
2_____.

Signature

Date

**CIVIL CASE INFORMATION STATEMENT
DOMESTIC RELATIONS CASES**

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA

I. CASE STYLE:

**IN RE
THE MARRIAGE/CHILDREN OF:**

PETITIONER

CASE No. _____

Street

Judge _____

City State Zip

Phone Number : () _____

Social Security #: _____

and

RESPONDENT

**Days to
Answer**

Type of Service

Street

City State Zip

Phone Number : () _____

Social Security #: _____

Original and _____ copies of petition enclosed/attached.

PETITIONER: RESPONDENT:	CASE NUMBER:
------------------------------------	---------------------

- I. ☐ PLEASE CHECK HERE IF EITHER PARTY SEEKS CHILD SUPPORT OR ALIMONY.
- II. ☐ PLEASE CHECK IF A FAMILY VIOLENCE PROTECTIVE ORDER IS NOW IN EFFECT.
- III. TYPE OF CASE OR RELIEF: (Check all that apply)

<input type="checkbox"/> Divorce w/o children <input type="checkbox"/> Divorce w/ children	<input type="checkbox"/> Grandparent Visitation
<input type="checkbox"/> Annulment <input type="checkbox"/> Separate Maintenance	<input type="checkbox"/> Paternity
<input type="checkbox"/> Child Support only	<input type="checkbox"/> Other (specify): _____ _____ _____
<input type="checkbox"/> Child Custody w/o Divorce	

- IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY? ☐ YES ☐ NO

IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Other: _____

- V. LIST ALL MINOR CHILDREN AFFECTED BY THIS ACTION:

Name	Date of Birth	SSN

Attorney Name: _____ Representing: ☐ Petitioner ☐ Respondent

Firm: _____

Address: _____

Telephone: _____ Dated: _____

☐ Proceeding Without An Attorney

Signature

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA.

In Re:

The Marriage / Children of:

Civil Action No. _____

_____, and _____
Petitioner Respondent

_____ Address _____ Address

_____ Daytime phone _____ Daytime phone

FINANCIAL STATEMENT

This form MUST be completed in ALL DIVORCE, CHILD SUPPORT, AND PATERNITY CASES.

The Petitioner and the Respondent must each complete one of these forms.

The completed form MUST be filed in the Circuit Clerk's Office and served on the opposing party AT LEAST 5 DAYS BEFORE THE FIRST HEARING. If the Bureau For Child Support Enforcement is a party, the completed form must also be served on their local office.

If your case involves minor children, or either party requests spousal support, you MUST file the following information WITH your completed Financial Statement.

1. A copy of your most recent wage or salary stub showing gross pay, deductions for taxes and other items, and net pay for a normal pay period, and for the year-to-date;
2. Copies of the your and your spouse's complete income tax returns for the two years immediately preceding the date the petition was filed, together with copies of the federal Form W-2 for those years; and a copy of the Form W-2 for the most recent year for which that form is available, even if a tax return has not yet been filed for that year;
3. For self-employed persons and business owners, a copy of a current financial statement showing gross income, expenses, and net income;
4. Copies of any invoices or receipts showing the cost of any extraordinary medical expenses for the party or the children, of any child care expenses, and of any expenses necessitated by the special needs of the children.

If the information you provide in this form, or file with this form changes after you file the form, you MUST immediately provide the new information.

The information you provide on this form is ONLY for the use in the judicial system, and is required by law and court rule to be kept CONFIDENTIAL.

Read each question carefully. Provide all requested information. Write or print clearly. After you have completed the form, you MUST sign the Verification on the last page before a Notary Public.

Full Name: _____ Social Security No: _____

Address: _____ Phone #: _____

Any physical or mental disability: _____

Age: _____ Education: _____

Employer: _____ Type of work: _____

Employment Address: _____ Phone #: _____

Date Employed: _____ Gross pay per pay period: _____

Paid: ☐ Weekly ☐ Every two weeks ☐ Twice a Month ☐ Monthly

Do you receive TANF benefits? ☐ If "Yes," list monthly amount: _____

YOUR INCOME: You MUST attach written documentation for all income. For wage earning employees who work fluctuating hours and/or overtime, provide wage history of at least six months, or length of most recent employment, whichever is less. Wage / salary history MUST be documented by W-2 forms, and/or year-to-date figures on the most recent pay stubs. For self-employed individuals, income MUST be verified by documents which show gross income and expenses.

Income Source	Monthly Amount
1. Salary	
2. Wages	
3. Commissions	
4. Bonuses	
5. Tips	
6. Payments from a pension plan	
7. Social Security, SSI	
8. Other: <u>explain</u>	

PROPERTY

List ALL property in which you, and / or your spouse have an interest. In the "Who owns?" column, put "M" for marital property; "H" if separate property of husband; "W" if separate property of wife.

Property Description	Market Value	Amount Owed	Who owns?
Marital Home	\$ _____	\$ _____	_____
Other Real Estate	\$ _____	\$ _____	_____
Mobile Home	\$ _____	\$ _____	_____
Motor Vehicles	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____
Household Goods	\$ _____	\$ _____	_____
Checking Accts.	\$ _____	\$ _____	_____
Savings Accts. / CDs	\$ _____	\$ _____	_____
Money Market Certificates	\$ _____	\$ _____	_____
Stocks	\$ _____	\$ _____	_____
Credit Union Accts.	\$ _____	\$ _____	_____
Profit Sharing Plans	\$ _____	\$ _____	_____
Trusts	\$ _____	\$ _____	_____
Stocks / Mutual Funds	\$ _____	\$ _____	_____
Bonds	\$ _____	\$ _____	_____
Pension Plans	\$ _____	\$ _____	_____
IRA / SEP Accts.	\$ _____	\$ _____	_____
Severance Pay; Unemployment	\$ _____	\$ _____	_____
Worker's Comp.	\$ _____	\$ _____	_____
Whole life Insurance	\$ _____	\$ _____	_____

Property Description	Market Value	Amount Owed	Who owns?
Annuities	\$ _____	\$ _____	_____
Guns	\$ _____	\$ _____	_____
Tools	\$ _____	\$ _____	_____
Jewelry	\$ _____	\$ _____	_____
Personal Property not located in Marital Home	\$ _____	\$ _____	_____
Other*; _____	\$ _____	\$ _____	_____
_____	\$ _____	\$ _____	_____

*Other includes, but is not limited to: coin collections; art; state and federal tax refunds; money owed to you or your spouse; business interests; money expected from a lawsuit or settlement; education benefits; patents; copyrights; royalties; contents of safe deposit boxes; and anything else of value.

PROPERTY CONVEYED TO OTHERS

List all real or personal property with a value of \$500.00 or more that was sold, given away, or otherwise transferred by you and / or your spouse within the last 5 years. Describe each such item; list market value when transferred; list type of transfer; provide name of the person to whom property was transferred; list amount received.

DEBTS

List all debts owed by you, and / or your spouse. In the "Whose debt?" column, put "M" for marital debt; "H" if separate debt of husband; "W" if separate debt of wife.

Owed to Whom?	Amount Owed	For what?	Secured by?	Whose debt?
1 _____	\$ _____	_____	_____	_____
2 _____	\$ _____	_____	_____	_____
3 _____	\$ _____	_____	_____	_____
4 _____	\$ _____	_____	_____	_____
5 _____	\$ _____	_____	_____	_____
Total owed: \$ _____	Total of all monthly payments: \$ _____			

CHILDREN

List the names; ages; birth dates; and social security numbers of all minor children involved in this case. Then, answer the list of questions about the children.

Do your children receive social security benefits? ____ If “Yes,” list amount per month: \$ ____

Do your children receive income or wages? ____ If “Yes,” list amount per month: \$ ____

Do your children have any special needs that result in extraordinary expenses that should be taken into account when the court sets the amount of child support? ____ If “Yes,” explain:

Are child care expenses currently being paid so that the parent who takes care of the children can work or seek work? ____ If “Yes,” how much per month? \$ ____ You MUST attach receipts.

Are you the parent of minor children OTHER than the minor children involved in this case? ____

Do you provide support for any disabled adult children? ____ If “Yes,” list these children’s names, ages, the nature of their disability, and the amount of support you provide each month. You must attach receipts or other documentation for the support you provide.

HEALTH INSURANCE

Is health insurance available to you through your employment? ____ If you answered “No,” you MUST provide written verification from your employer that health insurance is not available to you. If you have health insurance from ANY source, you MUST complete the following table.

Insurance company name	
Address	
Policy number	

Group number	
Any other ID numbers	
Persons covered	
Restrictions	
Amount of children's portion of premium	
Deductibles	

Do you have recurring, out of pocket health expenses for yourself or your children that are not covered by insurance? _____ If "Yes," you MUST attach documents that verify these expenses.

CHILD SUPPORT PAYMENTS

Do you currently pay court ordered child support payments for any children OTHER than the children involved in this case? _____ If "Yes," you MUST attach a copy of the Support Order, and records showing your payment history; and you must list the following information for each child: full name; birth date; social security number; monthly payment for that child.

SPOUSAL SUPPORT

If **you** are requesting spousal support, you MUST complete the following list of monthly expenses. These are the amounts you now pay if you are living separate from you spouse. If you have not yet separated, list the amounts you estimate you will have to pay when you do separate.

MONTHLY EXPENSES

Credit card payments; other payments on unsecured debts: \$ _____ Car payments: \$ _____
 Rent or mortgage: \$ _____ Electric: \$ _____ Gas: \$ _____ Water / Sewer: \$ _____
 Trash: \$ _____ Telephone: \$ _____ TV Cable: \$ _____ Food: \$ _____
 Clothing: \$ _____ Gasoline: \$ _____ Car repairs: \$ _____ Car insurance: \$ _____

Health insurance: \$ _____ Other insurance: \$ _____ Explain: _____

Home repair and maintenance: \$ _____ Child care: \$ _____

Entertainment & recreation: \$ _____

Medical & health not covered by insurance: \$ _____ Explain: _____

Other: \$ _____ Explain: _____

TOTAL MONTHLY EXPENSES: \$ _____

**IF EITHER YOU OR YOUR SPOUSE IS REQUESTING SPOUSAL SUPPORT, YOU MUST
COMPLETE THE REST OF THIS FORM.**

Wife's Education

Graduate from high school? ____ If "Yes," what year? ____ If "No," receive a GED? ____ If
GED, year? _____

Graduate from technical or trade school? ____ If "Yes," list type of training or degree and year
received. _____.

Graduate from college? ____ If "Yes," list degree and year received. _____

Receive a post-graduate degree? ____ If "Yes," list degree and year received. _____

Wife's Employment History

List last four jobs. List employer; position held; dates employment began and ended; monthly salary.

Husband's Education

Graduate from high school? ____ If "Yes," what year? ____ If "No," receive a GED? ____ If
GED, year? _____

Graduate from technical or trade school? ____ If "Yes," list type of training or degree and year
received. _____.

Graduate from college? ____ If "Yes," list degree and year received. _____

Receive a post-graduate degree? ____ If "Yes," list degree and year received. _____

Husband's Employment History

List last four jobs. List employer; position held; dates employment began and ended; monthly salary.

Wife's Health

Wife's age: _____

Wife's physical health is: _____ Excellent _____ Good _____ Poor If "Poor," explain: _____

Wife's mental and emotional health is: _____ Excellent _____ Good _____ Poor If "Poor," explain: _____

Husband's Health

Husband's age: _____

Husband's physical health is: _____ Excellent _____ Good _____ Poor If "Poor," explain: _____

Husband's mental and emotional health is: _____ Excellent _____ Good _____ Poor If "Poor," explain: _____

Obtaining Additional Education or Training

Would additional training and / or education help the party seeking spousal support to increase earning ability within a reasonable time? _____ If "Yes," explain what type of training or education; the estimated yearly cost of such training or education; and the length of time it would take to complete this training or education: _____

Additional Information

Explain why you think spousal support should be awarded, or denied: _____

VERIFICATION

I, _____, after making an oath of affirmation to tell the truth, say that the facts I have stated in this Financial Statement are true of my personal knowledge; and if I provided information from other persons, I believe that information to be true. **I understand that deliberately failing to provide complete disclosure, and knowingly providing incorrect information constitute the crime of false swearing.**

Signature

This Verification was sworn to or affirmed before me on the ____ day of _____,
_____.

Notary Public / Other Official

My commission expires:_____.

CERTIFICATE of SERVICE

State of West Virginia

County of _____

I, _____, the person completing this Financial Statement, mailed copies the Financial Statement and all attached documents, by first class mail, postage paid, to:

_____, at the address of _____

_____, at the address of _____

on the ____ day of _____, _____.

Signature

Date

IN THE FAMILY COURT OF MONROE COUNTY, WEST VIRGINIA

In Re:

The Marriage/Children of:

Civil Action No. _____

_____,
Petitioner

and

Respondent

Address

Address

Daytime Phone

Daytime Phone

PROPERTY AGREEMENT

The Petitioner and Respondent agree to the following division of all of their marital property, separate property, and debts.

The Petitioner, _____, shall receive the following property and debts:

The Respondent, _____, shall receive the following property and debts:

By signing this agreement I am representing to the court that:

1. I have entered into the agreement voluntarily.
2. I have full and complete knowledge of all property and debts my spouse and I required during our marriage and all separate property owned by each of us during the marriage.
3. I understand this agreement and believe it to be fair and in my best interest.

Petitioner

Date

Respondent

Date

ACKNOWLEDGEMENTS

State of West Virginia
County of _____

I, _____, a Notary Public in the county and state aforesaid do
certify that _____, whose name is signed to the writing above has
acknowledged the same before me in the aforesaid county and state on _____

Notary Public

My commission expires: _____

State of West Virginia
County of _____

I, _____, a Notary Public in the county and state aforesaid
do hereby certify that _____, whose name is signed to the writing above
has acknowledged the same before me in the aforesaid county and state on _____.

Notary Public

My commission expires: _____

PARENTING PLAN INSTRUCTIONS

The Family Court requires a Parenting Plan in all cases involving minor children. As a case begins, if parents can agree on a Parenting Plan, they can submit a Joint Proposed Parenting Plan to the court, and request that the court make a temporary order on parenting based on the Joint Plan. If the parents cannot agree on a Joint Plan, either parent can submit an Individual Proposed Parenting Plan, and ask the court to enter a temporary order on parenting based on that Individual Plan. If one parent wants to contest the other parent's Individual Plan, the contesting parent must submit an Individual Plan. All Individual Plans must be accompanied by a completed Worksheet form.

If a Joint Plan is submitted, the court may accept the plan as submitted, unless the court determines the plan would be harmful to the children in some way, or that one parent did not agree to the plan voluntarily, or did not fully understand what they were agreeing to. A Joint Parenting Plan accepted by the court at the beginning of a case may become the Permanent Parenting Plan that will be placed in effect when the case is concluded; although the plan can and will be modified as necessary during the course of the case. If no Joint Plan is submitted, the procedure is more complicated. What happens in these cases is discussed later in these instructions.

These instructions, the Parenting Plan form, and the Worksheet form used with Individual Plans are designed to assist parents in developing Parenting Plans. The following steps explain the importance of the Parenting Plan, and provide the information needed to complete the Parenting Plan and Worksheet forms. Read all of the instructions before you start filling out any of the forms.

STEP 1. WHY IS THE PARENTING PLAN IMPORTANT?

The Proposed Parenting Plan is probably the most important document you will file in your divorce case. The Family Court will rely on the Proposed Parenting Plan to allocate custodial responsibility and time spent with the children, and decide how the parents will share the responsibility for making the decisions that guide their children's lives. So, as you begin developing your Parenting Plan, put in the time and effort to do it right, because your children's welfare depends on you doing a good job.

STEP 2. COMPLETING THE PARENTING PLAN FORM.

There is only one type of Parenting Plan form, and it is used for the preparation of both the Joint and Individual Plans. At the beginning of this form, on page 1, the first two items are used to indicate if the plan is being developed and submitted jointly, or individually. Be certain to complete the item that applies to your plan. Before you begin filling out the Parenting Plan, you may want to make some copies of the blank form. You can use these extra copies to practice on, or you can use portions of the extra copies if you need additional space for some responses.

The Parenting Plan form is divided into sections. Some sections are self-explanatory, and some contain brief directions. You may be required to make a choice by placing a check mark or “x” in a space, or you may be required to write in information. It is important that you pay close attention to these instructions and the directions in the form so you can fill out the Parenting Plan correctly and completely. Type, or print clearly so your information can be read and understood by the court.

The Parenting Plan form is designed to provide a reasonable amount of space for responses, and to accommodate information for families with as many as three children. If you need additional space for some responses, or you require additional space because you have more than three children, you can write the information on a blank piece of paper, or you can use a page from one of the extra copies you made before you started filling out the form. If you use a blank sheet of paper, at the top of the sheet, write your name, case number, and the name of the section of the form the information relates to.

STEP 3. COMPLETING THE WORKSHEET FORM.

A Worksheet form must be completed and attached to all Individual Parenting Plans. If you and the other parent have agreed on a Joint Plan, you don't need to read the rest of this step, you can go directly to Step 4. If you and the other parent have not agreed on a Joint Plan, continue reading. Before you begin filling out the Worksheet, you may want to make some extra copies of the blank form.

If you and the other parent cannot agree on a Joint Parenting Plan, the Family Court will have to make the decisions the two of you couldn't make together. To make these decisions, the court needs information about your family life in the twelve months before your divorce case began. This is where the Worksheet comes in. Each parent who submits an Individual Parenting Plan must submit an accompanying Worksheet.

The Worksheet sections are either self-explanatory, or they have some brief instructions included. The Parenting Responsibilities, Making Major Decisions, and Parents' Work Schedules sections must be completed on all Worksheets. The directions accompanying the other sections will explain who needs to complete those sections.

Like the Parenting Plan form, the Worksheet form is designed to fit most situations and provide an adequate amount of space for the average response. If you need more room for a response, follow the extra sheet procedure explained in the last paragraph of Step 2, or use a page from one of the extra copies you made before you started filling out the form.

STEP 4. SUBMITTING A JOINT PLAN TO THE COURT.

If you and the other parent have developed a Joint Plan, all you need to do to submit the plan to the court is file the original of the completed Parenting Plan form in the Circuit Clerk's Office, keep copies for yourselves, and wait for the court to schedule a hearing.

STEP 5. SUBMITTING AN INDIVIDUAL PLAN TO THE COURT.

To submit an Individual Plan to the Court, you must do three things. (1.) Fill out the Motion to Adopt Individual Proposed Parenting Plan. You will find this form in the Petitioner's Divorce Packet, and the Divorce Answer Packet. (2.) Serve copies of your Motion, and your Individual Plan and Worksheet on the other parent. How to do this is explained later in this step. (3.) File the originals of your Motion, and your Individual Plan and Worksheet in the Circuit Clerk's Office, together with the original of a completed Certificate of Service. The Certificate of Service is explained later in this step. Keep copies of every document you file and serve.

You should try to file and serve your Individual Plan before the first hearing in the case. At that first hearing, the court will want to make a temporary order relating to parenting. If one parent has submitted an Individual Plan, and the other hasn't, the court may base the temporary order on the plan that has been filed. By failing to file your Individual Plan before the first hearing you can lose an important opportunity to have a full say in this important decision.

It is your responsibility to make certain the other parent is properly served with your Individual Plan. First class mail is the easiest and cheapest method to serve your Plan. To do this, mail copies of your Motion, Plan, and Worksheet to the other parent by first class mail, complete a Certificate of Service form, and file the originals of all of these documents in the Circuit Clerk's Office. The Certificate of Service verifies that you mailed these documents to the other parent. A Certificate of Service form is included in the Petitioner's Divorce Packet and the Divorce Answer Packet.

Before we leave Step 5, here's something to think about. After reading Steps 3, 4, and 5, you will have noticed the Joint Plan is the easiest and simplest way to go; and agreeing on a Joint Plan is better for your children too, because parents know more about their children than the court will be able to learn during a divorce case. So, it's fair to say it's in everyone's best interest for the parents to agree on a Joint Plan. Don't agree just to please the other parent, but if you think there is any reasonable possibility you and the other parent *can* agree on a fair and balanced plan, it's worth some extra effort from both of you.

STEP 6. WHAT HAPPENS AFTER SUBMITTING A JOINT PLAN?

If you and the other parent submitted a Joint Plan, the court will hold a hearing and review the plan to determine if it could be harmful to the children in any way, and to make certain both parents agreed to the plan without being pressured, and understood everything they were agreeing to. The court may accept the plan as proposed, or accept it with whatever modifications the court determines necessary to create a complete, fair, and balanced plan that is best for the children.

STEP 7. WHAT HAPPENS AFTER SUBMITTING AN INDIVIDUAL PLAN?

At the first hearing in your case, the court is going to ask you and the other parent about your efforts to agree on a Joint Plan. The court is going to ask this even if one or both of you have submitted Individual Plans, because West Virginia law favors the Joint Parenting Plan. The law wants parents to agree on a Joint Parenting Plan because it's better for the children. So, if you and the other parent tell the court you have not tried to agree on a Joint Plan, or have tried and failed, the law requires the court to refer the two of you to a person called a Premediation

Screenener.

The Premediation Screenener will interview you and the other parent separately, and determine if a Mediator can help the two of you come to an agreement on a Joint Plan. If the screenener determines a Mediator may be able to help you agree, the court will refer the two of you to mediation. A Mediator is a neutral third person trained to help people settle disagreements. The Mediator will meet with you and the other parent together, listen to everything both of you have to say, and help you explore ways to agree on a Joint Plan. Mediation has an excellent success rate, and there is a good possibility the two of you can come out of mediation with a Joint Parenting Plan.

If mediation results in agreement on a Joint Plan, the Mediator will send that plan to the court, and the case will proceed as described in Step 6, just as if you and the other parent had agreed on a Joint Plan to begin with.

If mediation does not produce an agreement, you and the other parent will return to court for a hearing, or a series of hearings at which both of you will present evidence and arguments in support of your Individual Plans. In other words, both of you will have a chance to prove to the court why your Individual Plan should be accepted by the court. It is the court's job to determine what's best for your children. To do this, the court will look at the way the two of you shared parenting responsibilities in the last twelve months before your divorce was filed. The way you have shared parenting responsibilities in the past will be one of the most important factors the court will consider in determining how you will share these responsibilities in the future. The court will also listen to any reasons one parent may not be fit or suitable to share parenting responsibilities in the future. After hearing all of the evidence, the court will reach a decision. The court may announce its decision at the hearing, or later. The court may accept parts of one or both Individual Plans, and will make whatever modifications or additions are necessary to create a Parenting Plan that is best for the children.

To learn about what to expect at the hearing, and how to prepare, review Steps 6 and 7 in the Petitioner's Divorce Packet Instructions, or Steps 5 and 6 in the Divorce Answer Packet Instructions.

The End.

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA.

In Re:

The Marriage / Children of:

Civil Action No. _____

_____,
Petitioner

and

_____.
Respondent

Address

Address

Daytime phone

Daytime phone

Worksheet for Individual Proposed Parenting Plan

This Worksheet completed by: _____ Date: _____
(Print your name.)

PARENTING RESPONSIBILITIES

Complete the following list which shows how you and the other parent have shared parenting responsibilities in the last twelve months before your divorce was filed. Do not provide information for any time after the filing of the divorce.

This list is for the children named: _____.

(A) Daily physical needs and care.

Examples: feeding; bedtime and wake-up routines; care when child is sick or hurt; bathing, grooming, personal hygiene, dressing; recreation and play; physical safety; transportation.

Mother ____% Father ____%

(B) Developmental needs.

Examples: learning to walk, talk, and use eating utensils; toilet training; development of self-confidence and maturity.

Mother ____% Father ____%

(C) Development of proper behavior.

Examples: discipline; instruction in manners; assignment and supervision of chores.

Mother ____% Father ____%

(D) Educational matters.

Examples: making school arrangements; communicating with teachers and counselors; supervision of homework; monitoring grades and discussing school related matters.

Mother ____% Father ____%

- (E) Development of social skills.
Examples: teaching the child how to develop proper personal relationships with friends, brothers and sisters, and adults.
Mother ____% Father ____%
- (F) Health care.
Examples: Making arrangements and appointments for health care; accompanying child to doctor's and dentist's appointments; discussing child's health care needs with doctors, dentists, and other health care providers; providing care in the home when child is ill.
Mother ____% Father ____%
- (G) Moral and religious matters.
Examples: Discussing moral and religious matters with the child; providing moral and religious guidance; accompanying the child to church.
Mother ____% Father ____%
- (H) Child care matters.
Examples: Making arrangements for child care by family members, baby-sitters, or child care facilities; supervising and communicating with these child care providers.
Mother ____% Father ____%

MAKING MAJOR DECISIONS FOR THE CHILDREN

Explain how you and your spouse have shared the responsibilities for making major decisions for your children. This information is for only the last twelve months before your divorce was filed. Do not provide information for any time after the filing of the divorce.

1. First, review the types of decisions in the list, then answer the following question.
Did you and your spouse always make the types of major decisions on the list by talking the decision over, and coming to an agreement on what the decision should be?
____ Yes ____ No
If you answered "Yes," you don't need to complete the list; you're finished with this section. If you answered "No," read item 2.
2. Complete the list by indicating the percentage of time each type of decision was shared, which means you and your spouse talked the decision over and came to an agreement on the decision; or the percentage of time each type of decision was made Mother, or Father, alone, without talking it over. For each type of decision, the numbers in all of the blanks should always add up to 100. In items (F) and (G), you may write in other types of major decisions, and complete those items just as you completed the first part of the list.

This list is for the children named: _____.

- (A) Education. Shared ____% Mother ____% Father ____%
- (B) Non-emergency health care. Shared ____% Mother ____% Father ____%
- (C) Religion. Shared ____% Mother ____% Father ____%
- (D) Child care. Shared ____% Mother ____% Father ____%

(E) School related activities. Shared ____% Mother ____% Father ____%

(F) _____ Shared ____% Mother ____% Father ____%

(G) _____ Shared ____% Mother ____% Father ____%

PARENTS' CURRENT WORK SCHEDULES

List your current work schedule. Complete only the part on your work schedule.

Mother's Work Schedule

Father's Work Schedule

CHILDREN'S SCHOOL, AFTER SCHOOL & SPORTS ACTIVITIES

List your children's current school, after school activity, and sports schedules. School includes pre-school and kindergarten programs. Explain when and how the children go to school and other activities, and when and how they come home.

___ None of our children attend school, pre-school, or kindergarten.

This list is for the children named: _____.

CHILD CARE

Explain the arrangements for child care currently provided to your children by persons other than the parents. Explain who provides child care, and explain the child care schedule.

___ None of our children receive child care from any person other than the parents.

This list is for the children named: _____.

OTHER INFORMATION

Provide any other information you think the court should know concerning how you and the other parent take care of the children.

VERIFICATION

I, _____, after making an oath of affirmation to tell the truth, say that the facts I have stated in this Proposed Parenting Plan Worksheet are true of my personal knowledge; and if I have set forth certain matters stated to be upon information given to me by others, I believe that information to be true.

Parent's Signature

Date

This Verification was sworn to or affirmed before me on the ____ day of _____,
_____.

Notary Public / Other Official

Commission expires:_____

IN THE FAMILY COURT OF _____ COUNTY, WEST VIRGINIA.

In Re: The Marriage / Children of:

Civil Action No. _____

_____,
Petitioner

and

_____.
Respondent

Current address

Current address

Daytime phone

Daytime phone

PARENTING PLAN

This Parenting Plan is proposed:

' Individually by _____, the ' Mother ' Father.

* Every Individual Plan must be accompanied by a completed Worksheet.

' Jointly by _____, and _____

This plan is proposed for use: ' Temporarily ' Permanently ' Both.

CHILDREN

(List the name, date of birth, and social security number of all children subject to this Parenting Plan.) _____

DECISION MAKING

Two decision-making rules apply to all cases, and all Parenting Plans.

1. The parent with whom a child is residing makes all day-to-day decisions about the care and control of the child.

2. Either parent may make emergency decisions affecting the health or safety of the children, at any time, regardless of the parent with whom the children are residing at the time.

Major Decisions (Use the following list to propose whom you think should make each type of decision.)

Education ' Mother ' Father ' Shared

Medical, dental, eye care ' Mother ' Father ' Shared

Religious matters ' Mother ' Father ' Shared

Child care ' Mother ' Father ' Shared

<u>Children's Employment</u>	' Mother	' Father	' Shared
<u>Motor Vehicle Use</u>	' Mother	' Father	' Shared
<u>School and after school activities</u>	' Mother	' Father	' Shared
<u>Sports</u>	' Mother	' Father	' Shared
<u>Other:</u> _____	' Mother	' Father	' Shared

HOW WILL THE CHILDREN'S TIME BE SHARED BY THE PARENTS

In this section you will propose, from this day forward, how much time you think the children should spend with their mother, and with their father. The first part of this section covers preschool children, the second part covers children in school, and the third part covers holidays for all of the children.

Detailed and accurate proposals of how the children's time will be shared are very important. When a schedule for sharing the children's time is adopted by the Court and made part of a Court Order, that schedule will be the basis for the Court's calculation of child support. For this reason, it is very important for the schedule to show the real number of days the children will spend with each parent.

For example, do not make a 50/50 schedule just to make one parent feel good if you know the children will actually spend 80% of their time with one parent, because if you do, the parent with whom the children spend 80% of the time will end up with child support payments based on a 50/50 schedule, and those payments will be too small to cover the real number of days the children spend with that parent.

When you fill out these schedules, make certain you account for every day of the week, and all of the hours in the day. Make certain you account for the times parents will be on vacation from their jobs. Remember, holidays are covered separately in the third part of this section.

CHILDREN NOT IN SCHOOL.

Children's names: _____.

These children will reside with Mother and Father according to the following schedule.

Mother.

Weekdays: (Mark the day if the children will reside with Mother some or all of that day, then check "all day" if that applies, or fill in the times if all day doesn't apply.)

' Monday:	' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Tuesday:	' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Wednesday:	' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Thursday:	' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Friday:	' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.

Weekends: (Mark the weekends of the month the children will reside with Mother all or part of the weekend, then fill in the time and day blanks.)

' First:	From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Second:	From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Third:	From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Fourth:	From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Fifth:	From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.

Father

Weekdays: (Mark the day if the children will reside with Father some or all of that day, then check “all day” if that applies, or fill in the times if all day doesn’t apply.)

- ' Monday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Tuesday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Wednesday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Thursday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Friday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.

Weekends: (Mark the weekends of the month the children will reside with Father all or part of the weekend, then fill in the time and day blanks.)

- ' First: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Second: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Third: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Fourth: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Fifth: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.

CHILDREN IN SCHOOL.

Children’s names: _____.

These children will reside with Mother and Father according to the following schedule.

Mother.

Weekdays: (Mark the day if the children will reside with Mother some or all of that day, then check “all day” if that applies, or fill in the times if all day doesn’t apply.)

- ' Monday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Tuesday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Wednesday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Thursday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Friday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.

Weekends: (Mark the weekends of the month the children will reside with Mother all or part of the weekend, then fill in the time and day blanks.)

- ' First: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Second: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Third: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Fourth: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.
' Fifth: From ____ a.m./p.m. on _____ to ____ a.m./p.m. on _____.

Father

Weekdays: (Mark the day if the children will reside with Father some or all of that day, then check “all day” if that applies, or fill in the times if all day doesn’t apply.)

- ' Monday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Tuesday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Wednesday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Thursday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.
' Friday: ' All day. (or) From _____ a.m. / p.m. to _____ a.m. / p.m.

Weekends: (Mark the weekends of the month the children will reside with Father all or part of the weekend, then fill in the time and day blanks.)

- ' First: From ___ a.m./p.m. on _____ to ___ a.m./p.m. on _____.
- ' Second: From ___ a.m./p.m. on _____ to ___ a.m./p.m. on _____.
- ' Third: From ___ a.m./p.m. on _____ to ___ a.m./p.m. on _____.
- ' Fourth: From ___ a.m./p.m. on _____ to ___ a.m./p.m. on _____.
- ' Fifth: From ___ a.m./p.m. on _____ to ___ a.m./p.m. on _____.

HOLIDAYS

(The following chart lists nationally recognized holidays, family occasions such as birthdays, and provides space for you to write in other special family occasions. For each holiday or occasion, in the columns "Even Years," and "Odd Years," use an "M" or "F" to indicate the parent with whom the children will spend each holiday or other occasion. Then, indicate the exact times the holiday period with the parent will begin and end. If a child will spend part of a holiday with one parent, and part with the other, put a check mark or "x" in the "Split Day" column, and in the "Exchange Time" column indicate when one parent's time with the child ends, and the other parent's time begins.)

Holiday	Even Years	Odd Years	Time with the Parent: From To		Split Day	Exchange Time
New Year's Eve			a.m./p.m.	a.m./p.m.		a.m./p.m.
New Year's Day			a.m./p.m.	a.m./p.m.		a.m./p.m.
Martin Luther King Day			a.m./p.m.	a.m./p.m.		a.m./p.m.
President's Day			a.m./p.m.	a.m./p.m.		a.m./p.m.
Easter			a.m./p.m.	a.m./p.m.		a.m./p.m.
Memorial Day			a.m./p.m.	a.m./p.m.		a.m./p.m.
July 4 th			a.m./p.m.	a.m./p.m.		a.m./p.m.
Labor Day			a.m./p.m.	a.m./p.m.		a.m./p.m.
Thanksgiving			a.m./p.m.	a.m./p.m.		a.m./p.m.
Christmas Eve			a.m./p.m.	a.m./p.m.		a.m./p.m.
Christmas Day			a.m./p.m.	a.m./p.m.		a.m./p.m.
Hanukkah			a.m./p.m.	a.m./p.m.		a.m./p.m.
Kwanza			a.m./p.m.	a.m./p.m.		a.m./p.m.
			a.m./p.m.	a.m./p.m.		a.m./p.m.
			a.m./p.m.	a.m./p.m.		a.m./p.m.
			a.m./p.m.	a.m./p.m.		a.m./p.m.

Other Occasions					
Mother's Day			a.m./p.m.	a.m./p.m.	a.m./p.m.
Father's Day			a.m./p.m.	a.m./p.m.	a.m./p.m.
Mother's Birthday			a.m./p.m.	a.m./p.m.	a.m./p.m.
Father's Birthday			a.m./p.m.	a.m./p.m.	a.m./p.m.
Child's Birthday			a.m./p.m.	a.m./p.m.	a.m./p.m.
Halloween			a.m./p.m.	a.m./p.m.	a.m./p.m.
			a.m./p.m.	a.m./p.m.	a.m./p.m.
			a.m./p.m.	a.m./p.m.	a.m./p.m.
			a.m./p.m.	a.m./p.m.	a.m./p.m.

SUMMER AND OTHER VACATION TIMES:

This plan proposes that in addition to the residential and holiday scheduling listed above, the parents will vary these schedules to divide school/work vacations as described in this section.

The parents will work together to make arrangements for specific dates and times for vacation no later than one month in advance of the time requested for vacation.

The child(ren) shall spend (how many?) _____ vacation ' days ' weeks with mother and (how many?) _____ vacation ' days ' weeks with father.

Dates: _____

DESIGNATION OF LEGAL CUSTODIAN

Federal and state laws require that the parent with whom the children spend the majority of time be designated as the children's legal custodian. You may choose to alternate the legal custodian between the even and odd years.

Under this Parenting Plan, the designated legal custodian is the:

- ' Mother
- ' Father
- ' Alternates yearly between Mother and Father- *designate a schedule below*
 During evenly numbered years the legal custodian is: ' Mother or ' Father:
 During oddly numbered years the legal custodian is: ' Mother or ' Father.

If the parent with whom the children spend the majority of time is not the same for all of the children, you must make separate legal custodian designations.

_____ Legal Custodian: ' Mother ' Father ' Alternating
 Child's name

_____ Legal Custodian: ' Mother ' Father ' Alternating
 Child's name

Child's name

Legal Custodian: ' Mother ' Father ' Alternating

TRANSFERS OF THE CHILDREN FROM PARENT TO PARENT

When a child's time with one parent ends, and time with the other parent begins, the Parenting Plan must provide standard arrangements for transferring your child. Propose those arrangements in this section. Part 1 is for weekdays; part 2 is for weekends. *One transfer arrangement is the same in all Parenting Plans. The parent waiting for the children shall always allow the parent bringing the children a 30 minute grace period.*

1. Weekday transfers occur at the:

' Mother's residence. ' Father's Residence. ' Child's School.

' Other location: (Specific address.) _____

Time of transfer: _____ a.m./p.m.

Other arrangements: (Be specific.) _____

2. Weekend transfers occur at the:

' Mother's residence ' Father's Residence ' Child's School

' Other location: (Specific address.) _____

Time of transfer: _____ a.m./p.m.

Other arrangements: (Be specific.) _____

TRANSPORTATION ARRANGEMENTS FOR THE CHILDREN

' The arrangements for, and costs of everyday transportation will be the responsibility of the parent with whom the child is residing

or

' The following arrangements will apply: _____

Special Travel

' The arrangements for, and costs of special or unusual travel will be the responsibility of: ' Mother ' Father. (Examples: trips by airplane, bus, or train to visit a distant parent, or travel by these methods for school trips.)

or

' The following arrangements will apply: _____

TELEPHONE CONTACT BETWEEN PARENTS AND CHILDREN

The parent with whom a child is not residing needs to make special efforts to stay in touch with the child; and the parent with whom a child is residing needs to encourage the child to stay in touch with the other parent. In this section you will propose the arrangements for these communications.

Child calling a parent.

A child may call the parent with whom the child is not residing:

- ' At any time.
- ' Weekdays between the times of: _____ a.m. / p.m. and _____ a.m. / p.m.
- ' Weekends and holidays between the times of: _____ a.m. / p.m. and _____ a.m. / p.m.

Long distance calls from child to the parent will be paid for by:_____.

Parent calling child.

A parent with whom a child is not residing may call the child:

- ' At any time.
- ' Weekdays between the times of: _____ a.m. / p.m. and _____ a.m. / p.m.
- ' Weekends and holidays between the times of: _____ a.m. / p.m. and _____ a.m. / p.m.
- ' Long distance calls from parent to the child will be paid for by the parent making the call.

COMMUNICATION BETWEEN PARENTS

Divorced parents need to regularly communicate with each other to provide the best possible care for their children, and to reduce the stress of divorce on the children. In this section you will propose the arrangements for these parent-to-parent communications.

FIVE REQUIREMENTS APPLY IN ALL CASES. Read each of these five requirements, and check the blanks to show you have read the requirements.

1. ' The parents will inform each other as soon as possible about all of the children's school, sports, and other activity schedules to ensure nothing interferes with the children's participation.
2. ' The parents will always let each other know their current residence addresses, mailing addresses, home, work, and emergency telephone numbers, and will notify each other within 24 hours of any changes in these matters. BUT, this requirement does not apply in cases in which the Family Court has allowed the withholding of identifying information.
3. ' The parents will never say anything in the children's presence that would reduce the children's love or affection for either parent.
4. ' The parents will never allow any person in the children's presence to speak poorly of an absent parent.
5. ' The parents will never discuss divorce disagreements or financial matters in the children's presence.

The next requirement is optional. *To propose it as a part of your Parenting Plan, check the box.*

- ' A parent will not schedule activities for the children during the other parent's scheduled parenting time, unless the parent with the parenting time agrees in advance. The only exceptions are:

_____.

* Use the following space to propose any other communications arrangements you want as part of your Parenting Plan _____

CHANGES IN PARENTING PLAN ARRANGEMENTS

As the children grow, their lives, activities, and schedules will change. In the short term, parents and children will have occasional, unavoidable changes in their schedules. From time to time, such changes will require changes in Parenting Plan arrangements. By agreeing ahead of time how these changes in the Parenting Plan will be handled, you can avoid the time and expense of going back to Family Court.

Two rules always apply to changes.

- 1. If one parent requests a non-emergency change in the Parenting Plan arrangements, the parent receiving the request will decide whether to permit the change.*
- 2. If a change in Parenting Plan arrangement is required because of an emergency, the parent with custody of the children at the time of the emergency does not require advance agreement of the other parent to make the change, but must notify the other parent of the emergency as soon as possible.*

Proposals for handling non-emergency changes in Parenting Plan arrangements.

- ' A parent receiving a request for a change will never use a request for a change as a bargaining chip, or as a way to punish the parent making the request.
 - ' A parent making a request for a change will make the request:
 - ' In person. ' By phone. ' In writing. ' By E-mail.
 - ' A parent making a request for a change will make the request as soon as possible, but in any event, no less than _____ before the change is to occur.
 - ' A parent receiving a request for a change will respond as soon as possible, but in any event, must respond within _____ after receiving the request.
 - ' A parent receiving a request for a change will respond:
 - ' In person. ' By phone. ' In writing. ' By E-mail.
 - ' A parent requesting a change will be responsible for any additional child care or transportation costs caused by the change.
 - ' Other arrangements: _____
-

RESTRICTIONS

The Family Court can restrict a parent's contact with her or his children if the parent has engaged in certain kinds of conduct harmful to the children. To begin, you *must* read the following list of the types of conduct that can require restrictions, and then you *must* read the rest of the Restrictions section and complete the items that apply to your situation.

CONDUCT THAT CAN REQUIRE PARENTAL RESTRICTIONS.

The parent has abused, neglected, or abandoned a child.

The parent has sexually assaulted or abused a child.

The parent has committed acts of domestic violence.

The parent has repeatedly interfered with the other parent's rights to contact or visit the children. BUT, this situation does not justify restrictions if the parent interfered with the other parent's access to protect a child's safety.

The parent has repeatedly made unfounded reports of domestic violence, child abuse or neglect, or sexual abuse.

A Court has issued a restraining order against the parent for domestic or family violence.

The parent has neglected his / her responsibilities for caring for his / her children.

The parent has engaged in alcohol, drug, or other substance abuse that has resulted in that parent neglecting his / her responsibilities for caring for his / her children.

The parent does not have a loving emotional relationship with his / her children.

The parent habitually starts arguments with the other parent, or the children.

NEXT, read the rest of the section, and complete the items you want to propose for your Parenting Plan.

- ' NO RESTRICTIONS should be included in the Parenting Plan, because neither parent has engaged in any conduct harmful to the children.
- ' RESTRICTIONS should be included in the Parenting Plan, and these restrictions should be placed on: ' Mother; ' Father. These restrictions should be included in the Parenting Plan because he or she has engaged in conduct harmful to the children. If you checked the "Restrictions" blank, you *must* complete the following section by listing the reasons you think restrictions should be included in the Parenting Plan. (Describe the conduct you think requires restrictions. You may describe the kinds of conduct on the preceding list, or other conduct you think is harmful, even if that conduct is not on the list. If the issuance of a restraining order is the reason for restrictions, you must list the court in which the restraining order was issued, and the case number.)

Reasons for Restrictions: _____

-

If you checked the "Restrictions" blank, you *must* complete the following items to propose the types of restrictions you want included in the plan.

Supervised Visitation.

- ' Visitation with the children should be supervised. (If you checked this blank, you must complete the next item.)

Visitation should be supervised by: _____, at the following location: _____.

(You can propose any person you trust, a professional person such as a counselor or psychologist, a minister, or an agency or organization such as a mental health or social services agency or organization. Provide a telephone number for the person or organization you propose; make certain that person or organization has agreed to act as the supervisor, and will attend the hearing at which these arrangements are discussed.)

Supervised Transfers.

- ' Transfers of the children from one parent to another should be supervised. (If you checked this blank, you must complete the next item.)

Transfers should be supervised by: _____, at the following location: _____.

(You can propose any person you trust, a professional person such as a counselor or psychologist, a minister, or an agency or organization such as a mental health or social services agency or organization. Provide a telephone

number for the person or organization you propose; make certain that person or organization has agreed to act as the supervisor, and will attend the hearing at which these arrangements are discussed.)

Other Proposed Restrictions: _____

—

—

—

ADDITIONAL TERMS AND CONDITIONS

The Parenting Plan form is designed to cover most, if not all, necessary matters. However, if you want the plan to address subjects not covered by this form, you need to write a detailed description of the additional terms and conditions you want included in the plan. If you have no additional terms and conditions to include, you must check the following line.

' NO additional terms and conditions.

' Additional terms and conditions are: _____

SETTLING DISAGREEMENTS

Despite a good Parenting Plan, and the best intentions of the parents, disagreements may still arise from time to time. These disagreements will be harmful to the children, and to the parents. By agreeing in advance on a way to settle disagreements, you can avoid the time and expense of going back to Family Court. In this section you can propose how you want to settle any disagreements that may arise.

Disagreements about the Parenting Plan should be handled in the following manner:

' Counseling. Conducted by: _____.

' Mediation. Conducted by: _____.

' Other means: _____

_____.

Costs of settling disagreements should be handled as follows:

Mother pays ____% of the costs. Father pays ____% of the costs.

' The person settling the disagreement will decide how the costs are shared.

Parents should notify each other of disagreements in the following manner:

' In writing. ' In person. ' By telephone. ' By certified mail.

' Other: _____.

THE FAMILY COURT'S POWER TO ENFORCE PARENTING PLANS.

Once the Family Court accepts and adopts a Parenting Plan proposed by the parties jointly or individually by one party, the plan becomes a Court Order, and must be obeyed. This means

both parents must abide by all of the terms and conditions of the Parenting Plan. Even if one parent violates the Parenting Plan, the other parent does NOT have right to violate the plan in retaliation.

WAYS IN WHICH THE FAMILY COURT CAN ENFORCE A PARENTING PLAN

If the Parenting Plan provides a remedy for a violation of the plan, the Court can use its power to enforce that remedy. If the Court thinks that remedy is inadequate, the Court can enforce another remedy of the Court's choosing.

If a parent interferes with the other parent's rights to custody or visitation, the Court can order make-up time to compensate for time missed with the children.

If a parent wrongly caused the other parent to miss time with the children, the Court can award monetary compensation for the missed time, and can award child care costs and other expenses caused by the missed time.

If a parent violates the Parenting Plan, the Court can modify the plan in favor of the parent who did not violate the plan. The Court can change custodial responsibility to favor the non-violating parent, or the Court can grant exclusive custodial responsibility to the non-violating parent.

The Court can order a parent violating a Parenting Plan to submit to counseling.

The Court can order a parent violating a Parenting Plan to pay a civil penalty up to \$100 for a first violation, up to \$500 for a second violation, or up to \$1,000 for a third violation.

The Court can order a parent violating a Parenting Plan to pay the other parent's court costs, attorney's fees, and any other expenses that parent incurred to return to Family Court to enforce the Parenting Plan.

You must sign the plan, and the Verification, which appears on this page following the signature lines.

Signatures: *(Mother and father both sign only if submitting a Joint Proposed Parenting Plan.)*

Mother	(Print name)	Signature	Date
Father	(Print name)	Signature	Date

VERIFICATION

(One parent signs Verification for Individual Proposed Plan. Both Parents sign Verification for Joint Proposed Plan)

I / we, _____, after making an oath of affirmation to tell the truth, say that the facts I / we have stated in this Proposed Parenting Plan are true of my / our personal knowledge; and if I / we have set forth certain matters stated to be upon information given to me / us by others, I / we believe that information to be true.

Parent's Signature

Date

Parent's Signature

Date

This Verification was sworn to or affirmed before me on the ____ day of _____, 20____.

Notary Public

My commission expires:_____.

For Court's Use.

- ' Accepted as proposed.
- ' Accepted as modified.
- ' Not accepted.

Family Court Judge

Date

BUREAU FOR CHILD SUPPORT ENFORCEMENT

APPLICATION AND INCOME WITHHOLDING FORM

This Form MUST Be Completed In All Cases Involving Minor Children or Spousal Support!

County: _____ Civil Action No. _____

Withholding services will begin immediately when the Bureau for Child Support Enforcement receives this completed application, which MUST be accompanied by a copy of the current Support Order IF one is now in effect.

 Check this blank if a Support Order is NOW in effect.

Petitioner Full Name: _____ Birth date: _____ SSN: _____

Sex: _____ Relationship to children involved in this case: _____

Residence Address: _____

(List complete physical address: county; city; street #; apt. #; zip code.)

Mailing Address: _____

(List mailing address ONLY if different from physical address.)

Daytime phone #: _____ Driver's License #: _____

Respondent Full Name: _____ Birth date: _____ SSN: _____

Sex: _____ Relationship to children involved in this case: _____

Residence Address: _____

(List complete physical address: county; city; street #; apt. #; zip code.)

Mailing Address: _____

(List mailing address ONLY if different from physical address.)

Daytime phone #: _____ Driver's License #: _____

Dependents (List full name; sex; birth date; social security #; and custodian for each dependent.)

Income Withholding (List complete address of the employer or other source of income to which an Income Withholding Notice should be sent.)

 Check this blank if YOU WOULD FEAR FOR YOUR SAFETY, or THE SAFETY OF YOUR CHILDREN if your address and telephone number are disclosed.

 Check this blank if you currently receive TANF benefits.

CONTINUE ON NEXT PAGE

___ Check this blank if you or one of your children currently receives a DHHS Medical Card.

___ Check this blank if you currently receive, or have applied for DHHS Child Support Services.

IF YOU CHECKED any of the four items immediately above, skip to the end of the form, SIGN on the line provided, and you are done.

IF YOU DID NOT CHECK any of the four items immediately above, YOU MUST CONTINUE!

___ I understand that unless otherwise directed by the court, any court ordered support MUST be collected by the BCSE through Income Withholding.

YOU MUST CHOOSE ONE OF THE THREE FOLLOWING OPTIONS!

OPTION # 1.

___ I am applying for FULL SERVICES from the BCSE. I understand that full services include, but are not limited to the following: *Collection and distribution of support payments. *Collection and enforcement of support by income withholding. *Establishment and enforcement of Support Orders. *Establishment of paternity. *Enforcement of Support Orders through Federal and State Tax offsets, unemployment compensation intercepts, and workers' compensation intercepts. *Location of parent(s). *Interstate services.

___ As an applicant for FULL SERVICES, I AGREE to comply with the following requirements:

1. I understand I MUST assist the BCSE to establish and enforce paternity, child support, and medical support, and to collect child and spousal support. I understand this assistance may include providing information about the non-custodial parent, and responding promptly and completely to requests from the BCSE. I understand I may be required to testify as a witness in court, or in other proceedings.
2. I understand that I am free to pursue legal actions through a private lawyer, but that I must inform the BCSE if I do this.
3. I understand that I MUST repay all money received in error to which I am not entitled.

OPTION # 2.

___ I am applying for Income Withholding Services ONLY.

OPTION # 3.

___ I DID NOT CHECK Option #1 or Option #2. I do not want services from the BCSE at this time.

___ I understand that even though I have not requested services at this time, I can request services at any time by applying at the BCSE office in the county in which I live.

I CERTIFY that I have read and understand all statements on this application, and that all information I have provided is TRUE and ACCURATE to the best of my knowledge.

Signature: _____ Date: _____

IN THE FAMILY COURT OF MONROE COUNTY, WEST VIRGINIA

PETITIONER

VS: CIVIL ACTION NUMBER _____

RESPONDENT

NOTICE OF HEARING

TO: _____
Name

Address

City State Zip Code

Parenting Education Class
Date: _____
Time: 2:00 P.M.
Monroe County Courthouse

You are hereby given notice that the undersigned will bring the above-styled action on for final hearing before the FAMILY COURT JUDGE. The hearing will be on the _____ day of _____, 2011, at _____ a.m./p.m., or as soon thereafter as may be heard. Hearings before the Family Law Master shall be held at the following location: THE FAMILY COURT HEARING ROOM, FIRE HALL BASEMENT, GREEN HILL ROAD, UNION, WEST VIRGINIA .
You may be present to protect your interest.

CERTIFICATE OF SERVICE

I, _____, Petitioner/Respondent in the foregoing action hereby certify that I have sent a copy of this Notice of Hearing to the Petitioner/Respondent at the above address by depositing a true copy of the same in the U. S. Mail, postage prepaid, this the _____ day of _____, 2011.

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