

## THE STEPS OF A DIVORCE

Generally, a spouse may obtain a divorce in Nevada if that spouse has a statutory cause for divorce and has lived in Nevada for at least six weeks prior to filing for divorce.

### **Statutory Causes for Divorce in Nevada:**

- Incompatibility;
- Insanity for two years prior to the action;
- Spouses living separate and apart for more than one year.

There are two methods to get a divorce in Nevada: (1) a Complaint for Divorce and (2) a Joint Petition for Divorce. A Complaint for Divorce is the method used when the spouses do not agree on all issues. A Joint Petition is the method used when the spouses agree on all issues.

### **Potential Issues in Divorce:**

- The desire to get divorced
- Parent/child issues
- Division of property and debt
- Alimony

## COMPLAINT

A Complaint for Divorce is a document that is filed by only one spouse in order to start the divorce process. The spouse that files the Complaint is called the Plaintiff. There is a fee of \$274.00 to file. Once the Complaint is filed, the Clerk's Office will assign a case number and judge to the divorce case.

## SERVICE OF PROCESS

Nevada law requires Plaintiff spouses to notify Defendant spouses when they file a divorce case. The method of notification is called "service of process". Usually, proper service requires Plaintiffs to have a third party personally deliver filed copies of the (1) Complaint; (2) Summons; and (3) Joint Preliminary Injunction to the Defendant within 120 days of filing the divorce case.

The third party who served the Defendant must complete an Affidavit of Service. It is the Plaintiff's duty to file the Affidavit.

It is important to file the Affidavit of Service because it informs the court when and where the Defendant was served and is used for time calculation when a Default is requested.

The duty to serve documents is ongoing and applies to both Plaintiffs and Defendants. All filed documents must be served. Each time a document is served an Affidavit of Service or Certificate of Mailing must be filed; depending on the type of service performed.

## ANSWER/DEFAULT

After the Defendant is served, he/she has 20 days to file an Answer with the Clerk of the Court. If the Defendant wants to ask the judge for additional or different relief the Defendant may also file an Answer and Counterclaim. There is a fee of \$187.00 to file.

If the Defendant does not file an Answer, the Plaintiff may obtain a Default and will most likely be granted what he/she asked for in the Complaint for Divorce.

Defaults are issued by the Clerk's Office. In order to obtain a Default, take the Default paperwork which is included in the Self-Help Center's Decree Packets, to the Legal Filing Counter of the Clerk's Office. After the clerk verifies that it has been 20 days since the Defendant was properly served, the clerk will issue a Default.

Once a Default is obtained, there are two methods a Plaintiff can use to complete the divorce process: (1) Summary Disposition or (2) Prove-up Hearing.

**NOTICE:** Each party is responsible for informing the court of his/her current address and telephone number. Failure to do so may result in your failure to receive important information regarding your case. If your address changes, at any time (even after the decree is filed), you must file a Notice of Change of Address with the court. These Notices can be obtained from the Self- Help Center free of charge.

## SUMMARY DISPOSITION

Summary Disposition is a method of obtaining a divorce without a court hearing. In order to obtain a divorce by summary disposition, filed copies of all required documents must be submitted to the judge for approval. If all requirements have been met, the judge will sign the Decree of Divorce. If there is a deficiency, the Decree will be returned for correction.

### **Required Documents for Summary Disposition**

- ❖ Complaint for Divorce
- ❖ Proof of Service
- ❖ Default or Answer
- ❖ Affidavit of Resident Witness
- ❖ Request for Summary Disposition
- ❖ Decree of Divorce (original and 3 copies)

If the spouses have a minor child together: Child Welfare and Identification Sheet

All required documents should be mailed or delivered to the Clerk's Office in your area.

Once the judge signs the Decree, it will be filed by the Clerk's Office and the filed copies will be returned to the Plaintiff by mail, as long as a self addressed stamped envelope is provided.

The Plaintiff must notify the Defendant of the Decree by having the Defendant served with filed copies of the Notice of Entry of Order and the Decree of Divorce.

## PROVE-UP HEARING

A prove-up hearing is a court hearing where a party appears before a judge and requests an order on an uncontested issue.

At a prove-up hearing for divorce, the Plaintiff is requesting that the judge grant him/her a divorce and must prove to the judge that all of the divorce requirements have been met.