

# **UNCONTESTED DIVORCE:**

Advice for Persons Who Want to Represent Themselves

*Read this booklet before completing any forms!*

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# INTRODUCTION

## The Purpose of This Booklet

This booklet is written to assist the persons whose start cases and whose spouses are not expected to contest the granting of divorces. A separate booklet describes how contested cases work.

## Should You Hire a Lawyer?

You are not required to have a lawyer to dissolve your marriage. The decision to proceed with or without a lawyer is up to you. Many people find that the paperwork required is complex. If you decide not to use a lawyer, your spouse may still use a lawyer and you may be at a disadvantage if you proceed without a lawyer. **If you do not have a lawyer you will be expected to know all the laws and court rules that apply to your case as if you were a lawyer.**

The court may make decisions that could have a significant impact on you, such as requiring you to pay money to your spouse, garnishing your wages, or limiting when you can see your child. Free legal advice may be available to you through a volunteer program organized by the bar association in your county. If you are the victim of domestic violence, there may be an additional program to help you obtain free legal advice.

To find out more about hiring a lawyer or obtaining free legal assistance, consult:

- your **local** bar association
- the **Tennessee Bar Association** at [www.tba.org/LawBytes/findalawyer.html](http://www.tba.org/LawBytes/findalawyer.html)
- the **Tennessee Alliance for Legal Services** at [www.tals.org](http://www.tals.org)

You may be able to hire a lawyer for a **portion** of a case – such as a hearing before a judge or a review of papers you propose to file – under rules of the Tennessee Supreme Court.

**JUDGES AND CLERKS MAY NOT GIVE YOU LEGAL ADVICE OR ASSIST YOU WITH YOUR PAPERWORK.**

# GETTING STARTED

## General Information

In Tennessee a person may get a divorce without having to prove any wrongdoing. This is when “irreconcilable differences” exist. There are also a number of specific reasons that can be cited by either party. These include “inappropriate marital conduct.”

*Choosing the Court*

Cases can usually be filed in either CIRCUIT or CHANCERY courts. (In a few counties, there are other courts in which you may file.) *There is no legal advantage in filing in one type of court or another.*

### *Starting the Case*

A divorce case is started by filing a **Complaint for Divorce** with the clerk of the court and by serving it with a **Summons** on the other spouse. (Forms for filing with the court are in bold.) The spouse filing the Complaint is the plaintiff. The Complaint asks the court to dissolve the marriage. The Complaint also tells the court what the plaintiff would like the court to do concerning the parties' children, property, and debts.

### *Filing Fees*

There is a filing fee for filing the Complaint, unless the court decides the plaintiff is unable to pay the fee. The amount of the fee is usually about \$250, depending on the county and what kind of legal process must be served. The cost is about \$20 greater if process is served in another county or by the Secretary of State.

If the plaintiff believes he or she qualifies for financial relief, he or she should file an **Affidavit of Indigency**. The court will decide whether to defer – *but not forgive* – the filing fee. (At the conclusion of the case, the judge will decide who must pay the court costs.)

If the court decides the fee must be paid when the case begins, the plaintiff must also file a Cash Bond (an advance payment of an amount, usually \$500, that is refundable if court costs are not imposed on the plaintiff) or a Surety Bond (where an insurer guarantees payment of court costs on a form it prepares). If the plaintiff has an attorney, a Cost Bond may be filed, and by signing this document the attorney guarantees payment of court costs.

### *How Long Does It Take?*

When you and your spouse seek a divorce because of irreconcilable differences, you can file a Marital Dissolution Agreement and complete the process as soon as 60 days (90 days if there is a minor child) after the filing. In other cases where the defendant does not contest the divorce, it usually takes longer than 90 days. Judges are apprehensive about the fairness of granting divorces by default in as few as 30 days – the minimum -- after legal papers are served on a defendant. Note: if your spouse does file an Answer and does contest the divorce after all, it usually will take several months, perhaps a year or more, and the procedures discussed in another booklet concerning contested divorces will apply.

*Are the Papers that are Filed Available to the Public? Yes.*

### *Note to Persons Receiving Families First*

If you receive assistance from the State of Tennessee on behalf of a child, you have assigned your right to child support to the State, and you need to notify your local Child Support

Office of your filing for divorce. It might intervene so as to protect the State's interest and to make sure that payments are made consistently with the State guidelines for child support.

### **The Forms for Divorce**

We offer legal forms that you may use in divorce cases. We strongly urge non-lawyers to use these forms to represent themselves. These are the instructions to help you fill out the forms.

Be sure to make extra copies of all the documents you file with the court and serve on your spouse. When you file documents at the court clerk's office, be sure to stamp a copy of the document you retain with the clerk's office stamp "Received (date)" to prove you actually filed the document. Keep an organized file of all court papers, especially proof of service of process of all documents, and letters concerning your case.

These instructions are for cases where there is a dependent child. But we do not discuss parenting plans, the subject of a separate booklet. They can also be used if you and your spouse don't have a child.

Note: make an extra copy of the forms before you start so that, if you make a mistake and need to start over, you won't have to get another form.

#### *Forms Needed if Your Spouse WILL Sign a Marital Dissolution Agreement*

If your spouse will sign a **Marital Dissolution Agreement**, you should have the following forms:

- **Civil Case Cover Sheet**
- **Complaint for Divorce**
- **Divorce Certificate (Form PH1682** from the Department of Health but usually available at the court clerk's office where your case is filed)
- **Affidavit of Indigency** if you cannot afford the filing fee
- **Marital Dissolution Agreement**
- **Permanent Parenting Plan** if there is a dependent child from the marriage
- Parenting Class Certificate (no form required) showing both of you attended the required classes
- **Notice Regarding Insurance Coverage** to be filled out by the spouse with health insurance to inform the other spouse about its termination
- **Wage Assignment Order** if the Permanent Parenting Plan provides for this form of payment of child support, as it often does
- **Final Decree**
- **Title IV-D Information** that is needed if a parent of child is receiving assistance from the State of Tennessee

#### *Forms Needed if Your Spouse Will NOT Sign a Marital Dissolution Agreement*

If your spouse will not sign a Marital Dissolution Agreement, BUT you do not expect him or her to contest the divorce, you should have the following forms to start your case:

- **Civil Case Cover Sheet**
- **Summons**, whether the legal papers are to be served by a deputy sheriff or instead by someone on your behalf. We recommend service by a deputy sheriff.
- **Complaint for Divorce**
- **Divorce Certificate (Form PH1682** from the Department of Health but usually available at the court clerk's office where your case is filed)
- **Affidavit of Indigency** if you cannot afford the filing fee
- **Statutory Injunction against Both Parties**
- **Motion for Default Judgment**
- **Order Granting Default Judgment**
- **Permanent Parenting Plan** if there is a dependent child from the marriage
- Parenting class certificate (no form required) showing both of you attended the required classes
- **Notice Regarding Insurance Coverage** to be filled out by the spouse with health insurance to inform the other spouse about its termination
- **Wage Assignment Order** if the Permanent Parenting Plan provides for this form of payment of child support, as it often does
- **Final Decree**
- **Title IV-D Information** that is needed if a parent of child is receiving assistance from the State of Tennessee

### *The Heading in Each Form*

**It is easy to overlook this portion of each form.** You must fill in the county in which the court sits and the court you have selected. (*Reminder:* There is no legal advantage in being in Circuit Court instead of Chancery or another court.) The clerk will assign the case number, so leave this portion of the form blank in the Complaint, but fill it in the other forms. In some counties, there are multiple "divisions" or "parts" because there is more than one judge in the same court. The clerk will complete this part in the Complaint, if it is necessary, and you must complete it thereafter in other forms.

### *Filing the Forms*

Clerks deserve your respect and can make your life easier by pointing out, for example, if you have overlooked a document. Also, if you file documents in person, as usually is desirable, try to avoid busy times like the last 45 minutes of the day.

## **The Complaint**

The Complaint asks the court to dissolve your marriage and gives the court general information about your marriage. The Complaint also tells the court how you would like to have your property and debts divided and what you would like the court to do concerning your child.

Most of the Complaint is self-explanatory, and this discussion concentrates on what may not be clear. The words in CAPITAL LETTERS are the titles of sections of the document or the pertinent parts of a section.

**NAME OF WIFE.** A statute requires that a wife's *maiden* name be included in this part of the Complaint. Her *married* name can be used in all other places of the forms, such as the heading.

**ADDRESSES.** If you do not want your address (or that of a child) to be given because you are a victim of domestic violence, you can put in a post office box number if you have one. If you think this may not prevent your spouse from finding out where you live, ask a domestic violence agency for assistance.

**DATE AND PLACE OF THE MARRIAGE.** The county and state are preferable. Use the city if you don't know the county. If married outside the United States, list the city (or province) and country.

**SEPARATION.** Indicate the date as nearly as is possible.

**CHILDREN.** Children of other marriages are not to be listed. A child of this marriage should be listed if he or she is under 18. A child 18 or over may be dependent if the child is physically or mentally disabled. If so, he or she should also be listed.

**PREGNANCY.** If the wife is pregnant, you must later advise the court whether the husband is the father of the child and whether paternity is contested.

**COURT ORDERS CONCERNING A CHILD.** The court must be sure that it can lawfully make a decision affecting a child. Ask for legal assistance if there is any doubt about how to complete this portion of the Complaint. Include information, for example, about juvenile proceedings involving custody or child support. Court orders in other states must be disclosed, as well as those of Tennessee courts.

**ORDERS OF PROTECTION.** If one is in effect, it may already contain directions about alimony or child support, and the judge or chancellor needs to know this.

**THE COURT.** This section enables the judge or chancellor to determine whether he or she has the power to grant the divorce *and* to give the relief that is requested. Generally you or your spouse must live in Tennessee for six months before you are allowed to file for divorce. However, if grounds for divorce arose during the time you were a resident of Tennessee, you do not have to wait six months before filing. The court also wants to know what county you or your spouse lived in at the time of the separation or live in now.

**GROUND FOR DIVORCE.** You may state one or more grounds for the divorce. It is usually better to list two grounds for divorce – not just irreconcilable differences – because the other spouse may change his or her mind about a Marital Dissolution Agreement.

**PROPERTY.** State whether you would like the court to divide assets. You may need legal assistance in dividing property. Mistakes are common, especially with real estate and pensions. It is often better to ask the court to review your proposed division if you do not have a lawyer. See the discussion below regarding “marital property” and “separate property.” *Tip:* be sure you have a copy of all titles to vehicles and boats.

**DEBTS.** State whether you would like the court to divide your debts. Legal advice can be important here too. It is often better to ask the court to review your proposed division if you do not have a lawyer.

**ALIMONY.** You may need legal assistance in reaching a decision about whether to ask for alimony.

**INJUNCTIONS.** First, state whether an Injunction is needed because of the defendant’s behavior. Then, state whether a Statutory Injunction against Both spouses will be in effect because of Tennessee law applying unless irreconcilable differences are the only ground for the divorce.

**OTHER MATTERS.** This is the place for statements about matters not specifically covered anywhere else. One example might be a claim that one spouse has against the other arising out of an automobile accident.

### *Relief Requested*

This section summarizes your requests. You must indicate what you are asking the court to do. If you do not ask, you will not receive.

### *Signature and Verification*

Once the preceding parts are completed, sign and date the Complaint. You must also complete and sign the verification at the end of the Complaint before a notary public. You can usually find a notary public at a bank near you. *Remember:* if you are attaching a Marital Dissolution Agreement or a Proposed Parenting Plan, it must also be verified in front of a notary public. You and your spouse may sign the Marital Dissolution Agreement or Parenting Plan at different times.

## **The Civil Case Cover Sheet**

It lists the information required by Tennessee courts. We will discuss here the portions of the form that may need explanation. The words in CAPITAL LETTERS are the titles of sections of the document.

**ORIGIN.** The plaintiff will usually specify that the case is an “original proceeding” but it might be a “case reopened” if the case was dismissed earlier.



TYPE OF ACTION. Answer either “divorce with minor children” or “divorce without minor children.”

AFFIDAVIT TO PROCEED IN FORMA PAUPERIS OR COST BOND. Specify whether you will file n **Affidavit of Indigency** (if you cannot pay court costs), a Cost Bond (if you have an attorney who will furnish it), a Cash Bond (if you will leave a cash deposit), or a Surety Bond (if an insurance company will guarantee payment of costs).

JURY DEMAND. Leave blank.

RELATED CASES. Generally not applicable. However, an Order of Protection may be pending or have been granted in another case. Proceedings in Juvenile or Family Court in your county (or involving a child custody dispute in another county or state) might be related because they affect the power of the court to decide the case. In case of doubt, list the other case.

TYPE OF SERVICE REQUIRED. The answer will usually be either the “local sheriff” or “other.” In the latter case, specify that you will use another adult to serve process.

### **The Divorce Certificate**

Use **Form PH-1682** from the Tennessee Department of Health. (No substitutions for it are currently permitted, even if they have been created by scanning the government form.) It lists information required by Tennessee law. Answer all of the questions except those that cannot be completed until the case is over and the court clerk will answer them. These exceptions are Item 11c (unless there are no children) and Items 14a through 14h.

### **The Summons**

The Summons gives your spouse written notice that you have started a divorce case. Print or type the name of the **CIRCUIT, CHANCERY OR OTHER COURT** where you are filing for divorce, along with the case number and the name of the county. Fill in the address of your spouse (the defendant) as well as your own (the plaintiff). Show that the Summons is to be served on your spouse at the address shown in the Complaint. *Remember:* if you are filing a signed Marital Dissolution Agreement, no Summons is needed.

In the Summons, you may use either a home address or a work address for the defendant. If you know the defendant’s phone number or a time of day that the defendant will most likely be at that address, put that in the Summons as well. Any information you can give the Sheriff will be helpful in serving him or her.

About two weeks after the date the Complaint is filed, you should call the court clerk and ask if it has been served on the defendant. (You must give the clerk your case number!) If the deputy sheriff is successful in serving the Complaint on the defendant, he or she will fill in the back of the Summons with the date that it was served on the defendant. If the deputy is unable to locate the defendant and serve the Complaint, he or she will send the Summons back to the clerk and on the back of the Summons will indicate that the defendant is not to be found in that county.

If you know of a new address where the defendant might be found, you may send a new Summons to the clerk. Write on the top of the summons “ALIAS” which means that this is the second Summons issued in your case. Be sure and put the case number on the Summons!

The form calls for you to give your own address. Use the one you listed in the Complaint. If you are a victim of domestic violence and do not want your spouse to know your address, you can put in a post office box number if you have one. If you think this may not prevent your spouse from finding out where you live, ask a domestic violence agency for assistance.

### **Private Service of Process**

A copy of the Summons and the Complaint usually must be personally delivered to your spouse. (However, service of the documents is not needed if your spouse signs the Marital Dissolution Agreement.) There are many ways to serve legal papers and, for this reason, you may want to consult our separate booklet on this subject. Service by a deputy sheriff is not required though we do recommend it. One of the other methods is delivery by a person who is 18 years of age or older. We will discuss this alternative here.

You may not serve the Summons and Complaint on your spouse yourself. The person serving your papers should leave the papers with your spouse. If your spouse is not at home when the papers are delivered, the papers may also be served by leaving them with any other responsible person who resides with your spouse.

Once your papers have been served, the person serving them must complete the **Return of Service** that is part of the Summons. To complete this form, that person should:

- Fill in the date, time and place of service.
- Sign and date the Return of Service and *have the form verified by personally appearing before a notary public or the court clerk.*

After finishing these steps, file the original Summons with the clerk of the court and keep a copy for your records.

### **Service by Publication**

If your spouse cannot be found in order to serve him or her personally, you may serve him or her by publication. This type of service, which is essentially publishing notice of your Complaint in a newspaper, is only useful in obtaining the actual divorce. You must get personal service if you want to dispose of debts, set child support or alimony. More information on this type of service is found in a separate booklet.

## **AFTER THE COMPLAINT IS FILED**

### **Parent Education Class**

Both parents must attend, within thirty 30 days of service of process, a parent education seminar sanctioned by the court of at least four hours duration. Each parent must furnish the court with a certificate of attendance. The fee for the class is usually about \$45, payable directly to the host of the seminar. If you cannot afford the fee, your fee may be waived or reduced if the court so orders. You must contact a seminar host for scheduling your class. It is not necessary that you attend the same class with your spouse. To find a list of court-approved hosts for parenting classes, contact the court clerk. It is possible, though not desirable, to obtain a divorce without attending a parent education class.

### **Temporary Relief**

You may request temporary relief commencing the day you file your Complaint up until the time a Final Decree is entered. To do so, you file a **Motion for Temporary Relief**. Requests for temporary relief involve, but are not limited to, alimony and child support. Motions for Temporary Relief and **Temporary Orders** are seldom used in uncontested cases because they usually are of short duration. They are not discussed further in this booklet. See our other booklet on contested divorces.

### **Alternative 1: Obtaining Judgment by Default**

If your spouse fails to respond to your Complaint within 30 days after being served with the Complaint and Summons, and does not otherwise appear before the Court, your spouse is in default. You may then ask the court to enter a default judgment against your spouse. (There are two ways your spouse can appear in the case -- by personally attending a hearing or by filing an Answer.)

To get a default judgment, you must fill out a **Motion for Default Judgment** and an **Order Granting Default Judgment**. Write the date of service in both the Motion for Default and the Order Granting Default Judgment. Complete the rest of both forms. Sign and date the Motion for Default Judgment. File the original Motion with the court clerk and take a copy of the Motion and the original Order to the hearing before the judge. The judge will sign and date the Order. You should sign the Order on the line indicating that you are the party who obtained the Order. (*Note:* This is usually a two-appearance process, though some courts may collapse it into one. First, you appear before the judge so as to obtain the Order and to set a date for a later appearance. Second, you appear again before the judge for a final hearing – see below – and present the Final Decree.)

You are obligated to use your best efforts to notify your spouse in writing of the default proceedings if your spouse has not appeared in the case. You can notify your spouse of the hearing by delivering a copy of the Motion for Default Judgment personally or by mail.

Regardless of the method used, your notice must be given at least five days before the hearing date. Your court's local rules may prescribe a longer period before the judge or chancellor will hold a hearing. You may examine them at the clerk's office or on the Internet at <http://www.tsc.state.tn.us/opinions/tsc/rules/TNrulesofcourt/rulesindex.htm>.

## Alternative 2: The Marital Dissolution Agreement

This document applies when both spouses are in agreement on all pertinent points. This discussion follows the format of the Complaint and the Final Decree. The words in CAPITAL LETTERS are the titles of sections of the document.

**PROPERTY AWARDED TO THE HUSBAND AND WIFE.** Indicate how the spouses have agreed. Be sure to use complete descriptions and, where possible, title numbers for property that is titled. The general rule is that property (and debts) are divided *fairly*. Sometimes, the division is *not equal* because of other considerations, such as a higher future earning power of one spouse, or because one spouse may have devoted time raising a child instead of pursuing a career.

Be especially aware of the distinction between “marital property” and “separate property.” Marital property is subject to division; separate property is not. Marital property includes:

- real or personal property acquired during the marriage by *either* or *both* spouses.
- income from separate property during the marriage, or an *increase in its value* during the marriage, if each spouse substantially contributed to the preservation and appreciation of the property. This can involve, for examples, the increase in value of a home or investment.
- pension and other fringe benefits acquired during the marriage by *either spouse*.
- the amounts awarded to *either spouse* in legal proceedings for wages lost during marriage, medical bills paid with marital property, and damage to marital property. A workers’ compensation award is one example.

Separate property is anything else, chiefly property owned before marriage and that which is acquired through gift or inheritance.

**DEBTS TO BE PAID BY THE HUSBAND AND WIFE.** Indicate how the spouses have agreed. Bear in mind that, as far as a creditor is concerned, both of you may still be liable. That means the Hold Harmless Provision can be important. That means the **HOLD HARMLESS PROVISION** is important. It says that each spouse will agree to repay the other for a debt that he or she was supposed to pay (but did not) under the preceding parts of this document.

**ALIMONY.** Alimony may be awarded for rehabilitative purposes or for other reasons. There are four different types, and they have different consequences. You may want to consult a lawyer or tax adviser or both about spousal support.

**PENSION PLAN OR ACCOUNT.** This provision is important, and you should consult a lawyer about this subject. Federal law requires court orders about pension plans to follow rules that state judges cannot alter.

**OTHER CLAIMS.** These can involve everything from automobile accidents to prenuptial, postnuptial, or separation agreements.

ATTORNEYS. It is not uncommon for one spouse to have an attorney and the other to be representing herself or himself.

*Note:* The Marital Dissolution Agreement cannot be more than 180 days old when the judge or chancellor is to sign the Final Decree.

### **Alternative 3: Your Spouse Appears in Court or Hires an Attorney**

DON'T PANIC, even if your spouse has an attorney. (In a separate booklet, we explain what happens in a contested case.) It is entirely possible and quite frequent that the divorce will still be agreed upon without difficulty. Sometimes, the other spouse merely thinks he or she must be present because notice has been given of a pending court date, such as the date when your Motion for Default Judgment will be heard. Sometimes, only modest changes are needed in documents in order for there to be an agreement.

## **THE FINAL DECREE**

You are divorced when the judge signs the Final Decree of Divorce. (Sometimes the judge or chancellor will declare the divorce effective during the hearing and later sign a decree that is retroactive to the date of the hearing.) If the case has turned into a contested one, it is preferable to wait an additional 30 days to remarry because the case may be appealed during this period.

Unless you and your spouse are obtaining a divorce on the ground of irreconcilable differences and filing a Marital Dissolution Agreement, you or your spouse must appear in person before a judge with a witness to say that the basis for the divorce is what you or your spouse say it is.

If your spouse has not answered or appeared, you may obtain a Final Decree by default, but you can only get the things you asked for in the Complaint. (You will need a witness.)

Either of two documents can be used – one where there is a default judgment or another where a Marital Dissolution Agreement has been signed. Most of the pertinent sections of the Final Decree are discussed above under “Marital Dissolution Agreement” except as noted below **IN CAPITAL LETTERS**.

**DISSOLUTION OF THE MARRIAGE.** Unless the divorce is being obtained by agreement, the grounds for divorce must be stated. Usually, it is preferable to say that the defendant engaged in inappropriate marital conduct.

**CHILD SUPPORT.** The child support provisions are generally stated in a Permanent Parenting Plan. If a parent or child is receiving assistance from the State of Tennessee, it has the right to collect child support payments. Thus, “Title IV-D” information must be included on a separate form. Also, if payments are overdue, even in a case where the State is not involved, the arrearage should be stated in the Final Decree in order to facilitate collection.

**NAME CHANGES.** Fill in any changes in the name of the husband or wife.

**ORDERS OF PROTECTION AND INJUNCTIONS.** In some instances, a judge will enter an Order of Protection as a part of the divorce case and continue it in effect after the Final Decree is signed. (Usually, these are separate cases.) Occasionally, a judge will order or forbid something else, and the Final Decree will contain these directions in this part of the document.

**FEES AND COSTS.** Be careful not to overlook this part.

Do not fill in the DATE.

**PRESENTED BY.** Finish the form by signing it on the left side below the place for the signature of the judge or chancellor. Your spouse need not sign the Final Decree unless he or she has answered or appeared at the hearing.

## **THE HEARING BEFORE THE JUDGE**

If you and your spouse have agreed on the terms of the divorce, you can follow these instructions for presenting your Marital Dissolution Agreement to the court for final approval. These instructions also apply if your spouse has defaulted by failing to respond.

*Step 1: Get a Date.*

If you are filing a Marital Dissolution Agreement, call the clerk's office to determine when the judge or chancellor can hear your case. (The clerk may tell you to call the judge's secretary because the clerk does not maintain the schedule of the judge.) Tell them that you and your spouse have reached agreement and there is a need only for a brief and final hearing. *Ask what is the procedure for fixing the date of the hearing and whether your attendance is required.* In some places, you can schedule the hearing by telephone. In others, it is necessary to file a motion. In both these cases, you must still appear before the judge. However, in still other counties, it is not necessary for either spouse to appear before the court if one spouse notifies the other in writing that the Marital Dissolution Agreement will be presented to the Court on a specified date.

If your spouse has been served with the Complaint but has not responded, the date for the final hearing will usually have been set at the time the judge or chancellor enters the Order Granting Default Judgment. See the discussion above about the procedure for default judgments.

*Step 2: Go to the Hearing.*

On the scheduled date, go to the hearing at the county courthouse with the completed paperwork. Unless you are seeking a divorce on the grounds of irreconcilable differences, bring a witness with you to testify that the grounds for divorce exist. (*Remember:* in a few counties you do not have to appear at the hearing if you are filing a Marital Dissolution Agreement.) You should have the following completed documents with you or they should be in the court's file:

- **Permanent Parenting Plan** if there is one or more dependent children.
- Certificate stating that you have completed the parenting class.

- **Wage Assignment Order** if you are seeking this method of payment for child support or spousal support.
- **Marital Dissolution Agreement** if you and your spouse are in agreement on all matters and have asked for a divorce because of irreconcilable differences.
- **Qualified Domestic Relations Order** if one spouse is seeking benefits from the other's pension. *Remember:* You may need a lawyer's advice on this matter. It is not discussed in this booklet.
- **Title IV-D Information** that is needed if a parent of child is receiving assistance from the State of Tennessee
- **Final Decree of Divorce** (*Remember:* two documents are used – one where there is a default judgment and another where a Marital Dissolution Agreement has been signed.)

Only one spouse needs to go to the court hearing, but if both spouses attend you may save time. With both of you present, any changes the judge requires can be done immediately. At the hearing, the judge will review your legal papers carefully. If a judge spots a problem with the forms, both of you will have to initial the change to the form. No child is required to attend the hearing, but children are welcome in the courtroom when properly supervised.

*Step 3: Wait Your Turn.*

At the court hearing, let the courtroom clerk know that you are ready to present your agreed orders or say that your spouse has defaulted. The clerk will call your name when the judge is ready to complete your paperwork. The hearing will only take about ten minutes but you may have to wait if there are cases ahead of you.

*Step 4: Present Your Case.*

The judge or an official of the court will have you raise your right hand and swear an oath to tell the truth. Make the following statements:

- My name is \_\_\_\_\_. I am the plaintiff (or the defendant) in this case. I am here to present a Final Decree of Divorce.
- If you are filing a Marital Dissolution Agreement, say so.
- If your spouse has not responded, say: My spouse has been served with process and has not responded to the Complaint. I filed a Motion for Default Judgment, and the Court has granted it.
- The Complaint was filed with the court on \_\_\_\_\_ (date).
- I was married to \_\_\_\_\_ (name of spouse) on \_\_\_\_\_ (date of marriage) at \_\_\_\_\_ (place of marriage).
- State the reason that the divorce may be granted. (Examples: irreconcilable differences or inappropriate marital conduct.)
- If there is a child or children, say: There are \_\_\_\_ (number) children from this marriage. The amount of child support was determined from the state's schedule. I am presenting a Permanent Parenting Plan that provides for the children and is in their best interests. *Note:* you must justify any deviation for the state's schedule, and the court must approve the deviation.

- The property and debts from the marriage are fairly divided.
- The wife is not pregnant.
- The wife does *or* does not wish to change her name. Occasionally, a husband also requests a change of name.
- Neither husband nor wife is on active duty in the United States armed forces. (*Note:* There are special rules for members of the military.)
- If there is no agreement, ask: Could the court please make the other spouse pay court costs?

## **AFTER THE HEARING**

When you have completed the hearing, both spouses should obtain a certified copy of the **Final Decree**. (If you use these documents, you may also need certified copies of the **Marital Dissolution Agreement**, the **Permanent Parenting Plan**, the **Wage Assignment Order**, the **Qualified Domestic Relations Order**, and the **Title IV-D Information**.) The certified copies are used for various reasons, such as to show you have changed your name and need a new driver's license, or to show a law enforcement officer if a question arises about the custody of your child. When you file the documents, include self-addressed and stamped envelopes for both you and your spouse so the clerk can send each of you signed copies. Finally, if you are receiving assistance from the State on behalf of a child, don't forget to send copies of the Final Decree, Permanent Parenting Plan, Wage Assignment Order, and Title IV-D Information to the Child Support Office.

## **MODIFYING OR ENFORCING THE FINAL DECREE**

If you later want to modify or enforce the Final Decree, you may be able to represent yourself but will need one or more of the following:

- **Enforcement Petition**
- **Child Support Petition**
- **Visitation Petition**
- **Order of Modification or Enforcement**
- **Order**

*Adapted from a publication of the Northwest Justice Project.*