

IMPORTANT INFORMATION REGARDING THE DIVORCE PROCESS

Ending a marriage is a stressful and trying time, especially if you have children. It is a difficult step but once the decision has been made, we're here to guide you through the legal process of a Vermont divorce.

You're not alone. In Vermont, over two thousand divorces happen each year. Many people represent themselves without a lawyer. We're here to show you some of the ins and outs of representing yourself.

Before we talk about the process, here are some questions you may have.

Finding a Lawyer and Other Resources

First, "Do I need a lawyer?" We recommend that you talk with a lawyer. Some lawyers charge only a small fee for their first meeting. Even if you don't hire a lawyer, you can learn a lot by talking with one early in the divorce process. Talking to a lawyer is especially important if you have complex property issues, pensions or retirement accounts, disagreements about children, or a history of domestic abuse.

If there has been abuse during the marriage, you may want to seek support from a Domestic Violence Program. For the one nearest you, call 1-800-228-7395, or visit www.vtnetwork.org. If you need a lawyer but can't afford one, you can call the Law Line/Vermont Legal Aid intake number at 1-800-889-2047. You may be able to get free or discounted legal services or over-the-phone legal help. To find out if you qualify for free or reduced-cost legal services, you can also link [VTLawHelp](#). The availability of free services is very limited.

Some lawyers are willing to help you with *parts* of your divorce for a lower fee. This is called "unbundling" or "limited representation." If you think you can pay SOMETHING for limited legal help, try the Vermont Bar Association's Lawyer Referral Service at 1-800-639-7036 or you can connect to the [VBA's online lawyer referral service](#). You may also be able to get help with child support issues by contacting the [Office of Child Support web site](#). In any event, you have the right to represent yourself in court.

Costs, Timeline, and Overview

Even if you don't end up with a lawyer's bill there are still costs to getting a divorce. You will have to pay a filing fee, a fee for the court to "serve" documents on your spouse, and, if you have children, a fee for the parenting in divorce course you will be required to take. You can ask the court to waive the fees IF you have low income and cannot afford them.

People often ask how long it will take. To find out, let's walk through the divorce process.

To file for divorce you or your spouse must be a resident of Vermont for six months; one of you must have resided continuously in Vermont for at least a year before the final divorce hearing.

Vermont law allows a “no fault” divorce if the spouses have lived separate and apart for at least six consecutive months. You can file for divorce before you separate, as you are separating, or after you separate, but you can’t have a final divorce hearing until you have been separated for six months.

Living separate and apart means not living as a couple. Couples who live in the same residence, but sleep in separate bedrooms and keep separate households, may sometimes be considered to be living “separate and apart.” If you are considering living in the same home during the divorce process, you should talk to a lawyer. Living together while you are going through a divorce can be very difficult, and it is better to err on the side of safety and the well-being of yourself and your children.

If you have minor children, the court usually won’t schedule a final divorce hearing until 6 months after the divorce papers were first served. Sometimes you can show the judge that you have a stable and effective parenting agreement and have been using it for at least 6 months and the judge may allow a final divorce in a shorter time.

The 6 month separation period for a “no fault” divorce and the 6 month parenting period for couples with kids can run at the same time, and often do.

People often assume that after the final hearing they will be divorced. There is a 3 month waiting period after the final hearing before the divorce is final. The judge may shorten or waive the nisi period if you both agree to do that. At the end of the *nisi* period your divorce will become final without any additional orders or communications from the court.

So, if you have children, from filing and service of the first papers to the final hearing your divorce will take at least 6 months. If you don’t have minor children, and you separated before you filed, it’s possible to get through the process more quickly. The most important thing to keep in mind is that if the two of you can agree on parenting, support, debt payment, property division and other issues, things will go more quickly. If you ask a judge to decide these issues for you, it will likely take much longer.

Step One: Get and Fill Out the Court Forms

Let’s get started. First you will need to get the court forms and fill them out. There are three ways to do this. You can use the online interactive interview tool, [CourtFormPrep](#) to fill out the forms you need to get started. CourtFormPrep is an interview-style program that walks you through a series of questions and generates the forms you need to start your divorce. You can go through the interview at your own pace, save a form and get back to it later, or add more information or explanation as you go through the interview. Once the online interview is complete, you will need to print out the forms you created, sign them, and have them notarized before filing them with the court.

You can also get instructions for “[How to fill out the paperwork required to start a divorce](#),” specific instructions for [filing for divorce with children](#) , specific instructions for [filing for divorce without children](#) and [packets of forms](#), online. Print the appropriate forms out and fill them out manually before filing them with the court. If you need help accessing these forms, you can call or go to [your local family court](#).

If you and your spouse have minor children, you should fill out a combined summons, complaint for divorce, notice of appearance, and affidavit of child custody ([Form 836](#)). If you do not have minor children, you should fill out a combined summons, complaint for divorce, and notice of appearance ([Form 835](#)). If you have minor children, you must also complete an income and expense affidavit ([Form 813A](#)) and property and a property and assets affidavit ([Form 813B](#)). (If you do not have minor children, you are still required to fill out these forms if your spouse requests, or the court may order you to complete them.)

The complaint asks for information about you, your spouse, your children, and your marriage. The financial affidavits take longer. Plan to spend some time with the forms—it’s important to fill them out accurately. You will need financial records such as bank and credit card statements, income tax returns and paycheck stubs. You and your spouse must each fill out your own set, but you should share family financial records such as investments, monthly bills, car loan papers, tax returns and credit card debt so that you can each have an accurate picture of your family’s finances. You can find more [instructions](#) for filling out the financial affidavits online, or you can use [CourtFormPrep](#) to fill them out.

You will also need to fill out:

- An information sheet ([Form 800](#)) with basic information about yourself,
- [a notice that you are representing yourself](#),
- a [form for the Vermont Health Department](#), and,
- if you have children, the first page of the child support order form. ([Form 802](#))
- If you are afraid for your safety, you can file a [motion](#) asking the court to keep your address confidential from your spouse. Your motion must be accompanied by an [affidavit](#), describing the facts or events that support your request.

If you run into trouble filling out the forms you may ask the family court clerk questions, but remember—people who work at the court have to stay neutral. They can’t give you legal advice. You may also be able to find help at your local library. Libraries may have books, videos and other resources, as well as trained staff who are happy to help. Many public libraries now have computers and internet access. If you are not very good with computers, a librarian may be able to help you find the divorce forms on-line and fill them out, keeping your

information private. Then you can print the completed forms. Remember, like court clerks, librarians cannot give you legal advice.

Step 2: Filing and Serving the Forms

Once you have finished filling out your forms, it's time to serve and file them. "Filing" means giving the completed forms to the court. "Serving" means delivering a copy of your completed forms to your spouse.

Take or mail your completed forms to [the family court in your county](#). Be sure you have a copy of what you file. If you are starting the divorce, you are called the "plaintiff" and you will file the "complaint." The plaintiff pays the filing fee. If you and your spouse have children under 18, the court staff will serve the papers on your spouse by mail. The spouse who receives the papers is the "defendant." The defendant needs to file an answer to the complaint. If you and your spouse don't have minor children, you may serve the papers on your spouse yourself, or the court will serve the papers for a fee.

Follow the [online instructions for serving your spouse](#). If your spouse refuses to sign for them, you can have the sheriff serve the papers. This means a sheriff will go to your spouse's home or work place and deliver the papers in person. This will cost more, but you may be able to get the Judge to order your spouse to pay the service fee. You can find more detailed information about service online at [Vermont Law Help](#).

If your spouse started the divorce, you can avoid service by the Sheriff if you sign the "[acknowledgement of service](#)" or "[acceptance of service](#)" form and send it back. Doing that doesn't mean that you agree with everything in the complaint. Don't forget to fill out your "entry of appearance" and an answer to the complaint with the court. And remember to send a copy of everything you file to your spouse. You can forms for filing an answer in cases with children ([Form 837](#)) and without children ([Form 837 No Kids](#)), as well as at the family court, or you can use the [CourtFormPrep](#) program to fill out your answer. You can find [more information](#) about preparing an answer and counterclaim online.

Whenever you file anything with the court, you must send a copy to your spouse or his or her lawyer if there is one. Keep your own copy of all court papers as well, and take them with you when you go to court. It is also a good idea to keep dated notes about what is happening with your case.

Step Three: The Court Sends Orders and Notices

Once the complaint is filed, you and your spouse will start getting notices and orders from the court. Read these carefully and follow the instructions. Notices and court orders cannot be ignored.

If you and your spouse have minor children together, you both must attend a program called "[Helping Children Cope with Separation and Divorce](#)." You can select a time and place that fits your schedule. The COPE

course gives you information to help you and your kids get through the changes to your family relationships, so the sooner you attend the course, the better.

If you represent yourself, you must also attend a [Pro Se Litigants' Education Course](#), a one and a half hour program to help you represent yourself more effectively.

After one spouse files for divorce, both will receive an interim domestic order signed by the Judge. The order prohibits both of you from relocating your children outside Vermont. It makes it clear that you may not encourage your children to take sides in the divorce. It prohibits you both from harassing the other; from selling, borrowing against or hiding property or investments; and from cancelling or changing beneficiaries on insurance without the other's written permission. The order requires you both to keep paying bills and not run up unreasonable debt, and requires that you forward personal mail and share joint mail.

You will also receive a notice to attend a case manager conference, which is a meeting with your spouse and a case manager at the courthouse. This conference is usually held 4-8 weeks after the divorce is filed. Use the time before that to fill out your financial forms and gather the financial records that you are required to bring to the conference. If you have children, you should also consider what parenting plan is best for your children. The court may send you a "parenting plan" form, or you can find one online.

Step 4: Case Management, Mediation and Child Support

The next step will be a case manager conference. The judge won't be there. A case manager will run the conference. The most important goal is to try to reach an agreement that will meet your child's needs. Your child's best interests are critically important. If you and your spouse haven't reached an agreement before the conference, you should use that time to try to come up with a plan that is best for your child. In particular, you will need to reach an agreement on the following matters:

- Given your child's needs and where each of you lives, what's the best schedule for your child in terms of the time your child spends with each of you?
- How should vacations and holidays be handled?
- Should the schedule change as your child gets older?
- How will the child get back and forth between you?
- Who should have responsibility for the day to day care of and decisions about your child – what the law in Vermont refers to as "physical parental rights and responsibilities"?
- Who should have responsibility for the major decisions about things like medical care, religious upbringing or education – what Vermont law refers to as "legal parental rights and responsibilities"?
- Should these responsibilities be shared, or primarily held by one parent? Parents can agree to share legal rights and responsibilities, physical rights and responsibilities, or both. And they can come up with a schedule for the children to spend time with both parents that best meets the children's needs.

If you cannot agree to these things on your own, you should consider mediation. In mediation, parties work with a mediator to define their differences, explore their interests, evaluate possible solutions, and create written agreements. It provides a structure for communicating at a time when working together is often difficult. It is a less formal process than a public hearing in court. The [Vermont Superior Court Family Mediation Program](#) provides subsidized mediation services to qualifying people. You can find [more information](#) about family court mediation, including a list of family court mediators, online. If you cannot agree on these issues on your own, or with the help of a mediator, the court will decide for you.

The case manager will also address child support and health insurance for the children. Your child support is based upon a computer model that uses each parent's gross monthly income or earning capacity, what each of you pays for health insurance and day care for the children, how many nights the children spend with each of you, and whether the children have special needs and expenses. The computer generates a child support "guideline" amount to be paid by one of you, usually the parent who has less time with the children or who makes more money. This "guideline amount" is presumed by the court to be the amount to be paid. You and your spouse can't just pick a figure and hope the court will agree. Only in exceptional cases will the court "deviate" from this amount and order support at a different level. You can find more [information about child support](#) online, or can contact the Vermont [Office of Child Support](#).

After these issues are decided, or where there are no minor children, the case manager may talk with you about who will live in the home during (or even after) the divorce, whether either spouse will pay the other temporary (or longer term) spousal support, how you will divide your property, and how you will divide debts and bills. The case manager will help you write up your agreements about such issues. If you run out of time but think you may be able to agree on more issues, the court can schedule a second case manager conference.

If you have any questions or concerns, you should bring them up with the case manager. If there is a history of domestic abuse in the relationship, tell the case manager before the first conference. The case manager can help come up with a way to communicate—such as texting or using a third party—to keep you safe.

At this first conference, the more prepared you are, the more progress you can make. Sometimes, people just can't talk to each other. But if you can, try to talk with each other before the conference, to see if you can work out at least some issues. You don't need to work everything out. If you disagree about something just make a note of it and let the case manager know. Be sure to bring your financial information, particularly information about bank accounts, income, child care costs, and health insurance.

Decisions about your children are critically important. They can be difficult, even painful. One of the most important things is for each parent to be respectful of the other parent. Whatever your disagreements, try to keep your children out of them. Children need to know, especially during this period, that both of you care about them and want what's best for them. Remember, although you will no longer be married to each other, you will still have a partnership raising your children together.

Step 5: Temporary Hearing

Most divorcing couples are able to work out parenting schedules and child support with the help of the case manager. When that happens, the court reviews the parenting and child support agreements within a few days and signs them, turning your agreements into orders. These orders remain in effect unless and until new orders are issued by the court. If spouses don't agree to keep these arrangements after the divorce, the court can review them at the final divorce hearing. Similarly, if a parent is going through a job change, or is uncertain of future income, spouses can enter into a temporary child support order until review at the final divorce hearing.

In a small share of cases, parents can't agree on where the children will live, how much child support will be paid, or who lives in the house until the final divorce hearing. When that occurs, the case manager refers the dispute to either the child support magistrate or the family court judge, or both, for hearings at a later date.

Step 6: Preparing for Final Agreement or Hearing

Once you have a parenting order and child support order, whether by agreement or after a hearing before the magistrate or judge, your next step will be a status conference with the judge or another case manager conference. Once the Court figures out whether you have agreed on all issues or have some issues still to be worked out before the final divorce hearing, the Court will decide what further steps are needed. This might be another case manager conference or mediation. When there is conflict about time with the children, the Court may refer you to a parent coordinator for help.

Last Step: Final Hearing

The final step is a court hearing in front of a judge. In some cases, one or two assistant judges may also participate. If you agree on all of the terms of your divorce, you put them in a written document called a stipulation. You can get a form for this online or at the courthouse. If the parenting agreement and child support agreement you have previously made are working well, you can use those in your final divorce stipulation. You must also add agreements about who will live in the home, whether it will be sold, how the proceeds will be split, who will pay off which credit cards, and whether spousal support will be paid by one of you to the other, and in what amount. When everything has been worked out the court will schedule an uncontested final hearing.

If you still disagree about some issues – such as child support, parent-child contact, or division of property - then you will need a longer, contested hearing. The Judge will listen to both of you and any witnesses you have, consider any exhibits admitted and make a final decision on issues you have not been able to agree on. For this hearing, the Court must follow legal rules of procedure and evidence. It is best to have a lawyer for this step, if you can. But, if you have no other choice, you can do the hearing on your own. Be prepared and stay calm.

But if you have agreed on all matters, the final “uncontested” court hearing will be simple.

Divorces are tough, but with legal support and support from your family and friends, you CAN do this. We hope that this information will help you get started. Take one step at a time, ask questions, and remember you are not alone.

For additional forms, and answers to frequently asked questions concerning divorce or civil union dissolution in Vermont, link [here](#).

Source: www.vermontjudiciary.org

<https://www.vermontjudiciary.org/SRL/Shared%20Documents/Script%20for%20Divorce%20Video%20112614.htm>