

Desk Divorce With No Dependent Children

# Court of Queen's Bench

Desk Divorce With No Dependent Children



**Resolution Services**



*Alberta*  
Government

**These instructions have been prepared for you by  
Resolution Services. Contact us at:**

**Calgary**

7<sup>th</sup> floor, Calgary Courts Centre  
601 - 5 Street SW  
Phone 403-297-6981

**Edmonton**

8<sup>th</sup> floor, Brownlee Building  
10365 - 97 Street  
Phone 780-415-0404

**Grande Prairie**

Main Floor, Court House  
10260 - 99 St.  
Phone: 780-833-4234

**Lethbridge**

1<sup>st</sup> Floor, Court House  
320 - 4 St. S  
Lethbridge AB T1J 1Z8  
Phone: 403-388-3102

**Red Deer**

Main Floor, Court House  
4909 - 48 Ave  
Phone: 403-340-7187

**Medicine Hat**

Court House  
460 First Street SE  
Medicine Hat, AB T1A 0A8  
Phone 403-529-8716

**Outside these centres, call the  
Resolution Services Contact Centre at 1-855-738-4747**

***Resolution Services and Court Staff cannot give you legal  
advice, or predict the outcome of your case.***

***This booklet provides general information only. You should  
speak to a lawyer for legal advice about your own situation.***

# **DESK DIVORCE – NO DEPENDENT CHILDREN**

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# **INSTRUCTIONS: UNCONTESTED DIVORCE WITH NO CHILDREN**

## **BEFORE YOU BEGIN**

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### **Disclaimer:**

These are meant to be simple, straightforward instructions for completing a divorce on your own. There may be other ways of completing the divorce. If you want to find out if there is a different way than what is written here, or if you want any more information than what has been given, talk to a lawyer.

In these instructions, we often tell you to ask questions or get forms from Resolution Services. If there is no Resolution Services office near you, ask the Queen's Bench clerks for information or forms.

### **Were you married?**

If you were living "common law", then you do not need to do anything through the courts to end your relationship. It is only if you went through an official wedding ceremony that you need to get a divorce. This may have been in Canada or outside of Canada.

### **Do you know where your spouse is?**

Your spouse will have to be served with the initial divorce documents. If you can't find them to serve them, you should think about hiring a lawyer to do your divorce.

### **Do you have the correct marriage certificate?**

If you were married in Canada, you need the marriage certificate that was issued by the Province after your marriage. If you have a hand-written certificate that was given to you at the time of your wedding, that is likely not the right one. If you were married in Alberta, you can order a marriage certificate from any registry office. If you were married in another province, search "marriage certificate" on the government home page for that province.



**Tip:**

Most people do not receive a marriage certificate from the government unless they go through the process of ordering one. It is not sent automatically after the marriage ceremony.

If you were married outside Canada, an official marriage certificate is helpful, but not required.

**Have you and/or your spouse lived in Alberta for at least a year?**

If not, you can't file for divorce in Alberta. You will be able to file once you (or your spouse) have lived in Alberta for a year.

**Do you have grounds for divorce?**

The grounds for divorce in Canada are:

- Living separate and apart for one year
- Adultery - i.e. your spouse had sexual intercourse with a person other than you. In most cases, your spouse must be willing to sign an Affidavit admitting adultery.
- Mental or Physical cruelty of such a nature as to make it impossible to continue living together.



**Tips:**

If you are using one year separation as your ground, you can start the divorce before the year of separation is up, but you can't ask for the Divorce Judgment until after the year is up.

Use the Divorce Checksheet at the end of these instructions for a handy summary of the forms and photocopies you will need.

## **COMPLETING THE STATEMENT OF CLAIM FOR DIVORCE**

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### **Court File number**

Leave this blank for now. When you file the Statement of Claim, the clerk will give you a number

### **Judicial Centre**

This is the Court of Queen's Bench location where you will be filing your documents (eg: Calgary, Edmonton, Medicine Hat, etc.).

### **Plaintiff and Defendant**

You are the Plaintiff. Your spouse is the Defendant

Look at your marriage certificate. Use the names exactly as they are on the marriage certificate except that if the wife has taken the husband's last name, you can use her married last name.

For example, the marriage certificate lists you as John Edward Kerry and Jane Amanda Fraser. Jane goes by Jane Kerry. You will list yourselves as John Edward Kerry and Jane Amanda Kerry.



### ***Tip:***

Whenever there is a space to write in any names on any of the forms, write in the full name.

### **Address for Service and Contact Information**

The address that you enter here is called your "address for service" because by listing this address, you are saying to the other person that you can be served with court documents at this location. If the Defendant wants to serve you with documents responding to your Statement of Claim, they can serve you by leaving the documents at this address – they do not have to personally serve you.

Most self represented parties will use their home address as their address for service. If you want to use another address, make sure the person who lives at that address knows that documents may be left there for you.

Write in your name, the complete address for service, including postal code and daytime phone number.

### **#1: The Parties**

Make sure the date and place of the marriage are the same as on your marriage certificate.

1(3) and 1(4)

- Address means the complete address, including postal code.
- Surname at birth means the last name at the time of birth.
- Surname at the time of marriage means the last name just before your marriage took place.
- Gender at the time of marriage would be one of "male", "female", or "another gender".
- Marital status of the parties at the time of the marriage would be one of "single", "divorced", or "widowed".

### **#2: Residence**

You and/or your spouse **MUST** have lived in Alberta for one full year before you file the Statement of Claim. If you have not, you must wait. Choose either Plaintiff or Defendant here.

### **#3: Grounds**

Choose your grounds for divorce. You can choose more than one.

### **#4: Reconciliation**

Do not write anything in here. If you believe there IS a possibility of reconciliation, then you should not file for divorce.

### **#5: Bars to Divorce**

If you are using grounds of one year separation only, use paragraph 5(1) only. If you are using grounds of adultery or cruelty, include both paragraphs 5(1) and 5(2).



#### ***Tips:***

"Collusion" means agreeing with your spouse to make up facts so that you can get your divorce, or get divorced sooner.

"Connived" means tricking your spouse into committing adultery or cruelty.

"Condoned" means forgiving your spouse for committing adultery or cruelty.

### **#6: Children**

6(1) In the line for the first child, write in "There are no children of the marriage" or if there are children, but they are all grown, write "There are no dependant children of the marriage". Do not fill in any more of #6

### **#7: Agreements**

If you have an agreement regarding spousal support, provide the type of agreement (e.g. Separation Agreement) and the date it was signed. If there is no agreement, say "none".

### **#8: Court Proceedings**

8(1) If you have been to court to deal with spousal support, state the type of order that was made and the Court and date (e.g. Spousal Support Order made by the Provincial Court of Alberta on March 15, 2021). If you have not been to court, say "none".

8(2) If either party is involved in any court proceedings for a restraining order or protection order (e.g. EPOs), court proceedings related to child protection, or proceedings, undertakings or recognizances relating to a criminal matter, list the details here (e.g. Emergency Protection Order granted by the Provincial Court of Alberta on March 5, 2021 between John Edward Kerry and Jane Amanda Fraser). If there are no proceedings, say "none".



### ***Tip:***

If you have questions about how criminal proceedings, child protection proceedings, or protection orders may affect your divorce, you should talk to a lawyer before going any further

### **#9: Spousal Support**

Choose one of the three options, and fill in the reasons.

### **#10: Remedy Sought**

This is a summary of what you are asking for. Check off all of the things you are requesting, and make sure to include "divorce judgment".



**Statement of Plaintiff**

Fill in your name. This statement outlines your duties under sections 7.1 to 7.5 of the *Divorce Act*. You must certify that you will comply with these duties prior to filing your Statement of Claim for Divorce.

**Statement of Lawyer**

You do not have to fill this in if you are representing yourself

## **FILING THE STATEMENT OF CLAIM**

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Print out the form.

Make 2 copies (original + 2 copies)



***Tip:***

Make sure all of your pages have print only on one side (no double sided printing or copying!)

Bring all of your copies, plus \$260 (cash, Interac, Visa or Mastercard) to the Court of Queen's Bench. In larger centres, there will be a specific registry counter for filing divorce documents.

The clerk will keep your original Statement of Claim, and will show you how to stamp and write the file number on your copies. Take the 2 filed copies with you.

## **SERVING THE STATEMENT OF CLAIM**

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The Statement of Claim must be personally served (i.e. handed to the Defendant) by someone over the age of 18. You cannot serve the Defendant yourself.

If it will be difficult or impossible to serve the Defendant personally, you can ask the court for an Order for Substitutional Service. Ask the staff at Resolution Services for the forms and instructions to apply for this kind of order.

If the Defendant lives outside Canada, you must ask the court for an Order allowing you to serve them outside Canada. Ask the staff at Resolution Services for the forms and instructions to apply for this kind of order.



### ***Tip:***

We strongly recommend that you hire a process server to serve your Statement of Claim on your spouse. The process server will ensure that service is done properly, and will give you a completed, sworn Affidavit of Service. You can find a list of process servers in your yellow pages or by searching "process server alberta" on the internet.

### **Give the process server:**

- One filed copy of the Statement of Claim.
- A photograph of the Defendant. Put an "X" on the photo to identify the Defendant.
- Information about how to find the Defendant.

### **If you are not hiring a process server, here are important points to remember:**

- Give the person who will be serving one filed copy of the Statement of Claim and the photograph of the Defendant.
- The person serving must ask the Defendant if they are the person named (e.g. "Are you John Dennis Barker?") and use the photo to make sure they are serving the right person.
- To serve, the Statement of Claim must be HANDED TO the Defendant.
- The person who serves should make a note of the **date** that they served and the **address** where the Defendant was served.
- The person who serves must go to the Commissioner for Oaths to have the Affidavit of Service sworn.

## **COMPLETING THE AFFIDAVIT OF SERVICE**

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If you have hired a process server, they will complete the Affidavit of Service for you. If not, follow these instructions.

**Court File Number**  
**Judicial Centre**  
**Plaintiff**  
**Defendant**



These are all the same as  
in the Statement of Claim

### **Sworn / Affirmed by**

Fill in the name of the person who served.

### **Sworn / Affirmed on**

Fill in the date that the Affidavit of Service is sworn/affirmed.

### **Address for Service and Contact Information**

Write in your name, complete address, including postal code and daytime phone number (not that of the person who served).

### **Introductory paragraph of Affidavit**

Fill in the name and city/town of residence of the person who served the Statement of Claim.

**#2:** Fill in the date that the Statement of Claim was served, the Defendant's name, the date the Statement of Claim was filed, and the address where the documents were served.

**#3:** Fill in name of the Defendant. A photograph of the Defendant will be attached as Exhibit "A".

Print off the form. Put the document together like this:

- The Affidavit of Service
- The photograph, taped on to a plain piece of paper. The photograph is marked as Exhibit "A".

The Clerks and Resolution Services staff have stamps to mark exhibits. If you are having the Affidavit sworn elsewhere, mark it like this:

This is Exhibit "\_\_\_\_" in the Affidavit of \_\_\_\_ sworn before me this \_\_\_\_

\_\_\_\_\_  
A Commissioner for Oaths in and for the Province of Alberta

Fill in the first blank with the exhibit letter, the second with the name of the person who served and the third with the date sworn.

The person who served must have the Affidavit of Service sworn before a Commissioner for Oaths.

Make one copy of the complete Affidavit of Service, including the photograph. Copy it AFTER it has been sworn.



**Tips:**

- If the Defendant was served in Alberta, they have 20 days to respond to the divorce if they do not agree with the relief you are asking for.
  - If they were served elsewhere in Canada, they have one month.
  - If they were served outside Canada, they have two months.
- If they have not responded within the time period, you can go ahead with the other court forms.
- If they do respond by filing a Statement of Defence or Demand of Notice, you can still go ahead with the other court forms, but you will have to have the Defendant sign their consent on the forms. If they are not willing to consent, you should talk to a lawyer.

## **COMPLETING THE NOTING IN DEFAULT**

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Wait the number of days set out above to allow the Defendant to respond to the divorce, if they want to. If they do not respond, then you can proceed with a Noting in Default.

**Court File Number**  
**Judicial Centre**  
**Plaintiff**  
**Defendant**



These are all the same as  
in the Statement of Claim

### **Document**

Beside the words "Noting in Default of", fill in the Defendant's name, and the word "Defendant".

### **Address for Service and Contact Information**

Write in your name, complete address, including postal code and daytime phone number.

In the body of the form, on the first line, type in your name and the word "Plaintiff", then on the third line, type in the Defendant's name and the word "Defendant".

In the first spot with a drop down menu, select the words, "has not" and in the second spot, select the word, "is".

Print out the form and make one copy.

## **COMPLETING THE REQUEST FOR DIVORCE**

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**Court File Number**  
**Judicial Centre**  
**Plaintiff**  
**Defendant**



These are all the same as  
in the Statement of Claim

### **Address for Service and Contact Information**

Write in your name, complete address, including postal code and daytime phone number.

**#1:**

Fill in your name

**#2:**

Fill in the name of the person who served the Statement of Claim, and the date that the Statement of Claim was served.

**#4:**

Check off the boxes that apply to you. You may check off more than one box (e.g. if the Defendant has filed a response to the divorce and is now consenting).

**#5:**

Fill in the DEFENDANT's complete address, including postal code.

**#6:**

Fill in the Defendant's lawyer's complete address. If the Defendant has no lawyer, fill in "none".

**#7:**

Fill in YOUR lawyer's complete address. If you have no lawyer, fill in "none"

Print out the form and make one copy.

# COMPLETING THE AFFIDAVIT OF APPLICANT FOR DIVORCE

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## ***Tips:***

- This form is quite complex, and you may need to add information that does not fit in the spaces provided. If that happens, you may want to use the Word version of Form FL-23, on the Queen's Bench section of the [albertacourts.ca](http://albertacourts.ca) website.
- Fill out all of the parts of this form, unless the instructions tell you otherwise.

**Court File Number**  
**Judicial Centre**  
**Plaintiff**  
**Defendant**



These are all the same as  
in the Statement of Claim

## **Address for Service and Contact Information**

Write in your name, complete address, including postal code and daytime phone number.

## **Affidavit of**

Fill in your name.

## **Sworn on**

Fill this in after you swear the Affidavit of Applicant.

## **Introductory paragraph of Affidavit:**

Fill in your name and city/town of residence.

## **# 1: Parties**

Check off your role in the proceedings (usually "Plaintiff").

## **#2: Claim for Divorce**

Check off the document that you have filed and are relying on to complete the divorce (usually "Statement of Claim for Divorce").

Go back and read over your Statement of Claim. If there are no mistakes, check off the first box

If there are any mistakes in it, check off the second box and check the appropriate box(es) to specify the changes that are required.



### **#3: Service**

If the Statement of Claim was served personally on the Defendant, check the first box. Check the Affidavit of Service to see what exhibit letter was used for the Defendant's photograph and put that exhibit letter in the blank.

If you are proceeding by counterclaim or if you obtained an order allowing service other than through a process server, check the second or third box and fill in the details.

### **#4: Marriage**

Enter in the date and place of your marriage.

There are two checkboxes. If you were married in Canada, use the first checkbox. If you were married outside Canada, use the second checkbox.

#### ***First Checkbox*** (marriage in Canada)

- The marriage certificate will be Exhibit "A".
- Beside the words "issued by", fill in the Province or Territory where you were married.
- If there are errors in your marriage certificate, please specify. Otherwise check "none".



#### ***Tips:***

- If you were married in Canada, you must have a marriage certificate to complete this step.
- You must attach the original marriage certificate (as you received it from the provincial government office), not a photocopy.

#### ***Second Checkbox*** (marriage outside Canada)

- Fill in the name and title of the person who conducted your marriage ceremony.
- Fill in the names of the people who witnessed your marriage ceremony.
- You may make changes to this statement to reflect the details of your marriage ceremony. You will probably need to use the Word version of the FL-23 form to do this, and may want to speak to a lawyer about this.

- If you have a marriage certificate, or some other document proving your marriage, you may attach it as Exhibit "A". You will probably need to use the Word version of the FL-23 form to do this.



***Tips:***

- If you cannot remember the name of the person who conducted your marriage ceremony, say "unknown", but it is helpful to describe the person (e.g. "a government official who we believed to have the authority to conduct marriages").
- If your marriage certificate is not in English or French, you will have to have it translated by a person who will swear before a Commissioner for Oaths that they have properly translated it into English. Attach the translation of the marriage certificate as Exhibit "B".

**#5: Residence**

Choose either you or your spouse to show which of you had lived in Alberta for at least one year before the Statement of Claim was filed. This must match #2 of the Statement of Claim.

**#6: Grounds**

Check the one box that applies. The grounds must match those in #3 of the Statement of Claim.

**First box** – separation of one year. Fill in the date that you separated (must be more than one year ago!) and the place that you were living at the time that you separated.

**Second box** – adultery. In most cases, the Defendant must be willing to sign an Affidavit admitting the adultery. If they are not willing to admit, you should talk to a lawyer.

**Third box** – mental or physical cruelty. Explain what the Defendant did that was cruel, how that affected you, when you separated, and how you have felt since the separation.

### **#7 – 9: Bars to Divorce**

If your grounds are one year separation, leave the boxes in #8 and #9 blank.

If your grounds are adultery or cruelty, check off all the boxes in 7 and 8.



#### ***Tips:***

- Read the bars to divorce in #7 - 9 carefully to ensure that they are true. If they are not true for you, then you should talk to a lawyer before going any further.
- #7 talks about making an agreement to deceive the court. An example of this would be if you and your spouse had only recently separated, but agreed to lie to the court and say that you had been separated for a year.
- #8 talks about encouraging your spouse to commit adultery or cruelty.
- #9 talks about forgiving your spouse for committing adultery or cruelty.

### **#10: Reconciliation**

Read the statement and ensure that it is true for you.

### **#11: Corollary Relief**

Leave both the checkboxes blank if you are only asking for a Divorce Judgment and there is no claim for spousal support.

If you are including spousal support in your Divorce Judgment and Corollary Relief Order, then you will check the first box.

If there is no spousal support in your Divorce Judgment, but that issue has been severed from the divorce by an order, check the second box and enter the details of the order.

## **#12: Protection Orders, Child Protection Orders or Criminal Proceedings**

12(a) List the details of any current criminal charges against you, the details of any conditions you are required to follow in relation to a criminal proceeding, and any criminal charges or conditions against your spouse.

12(b) List the details of any current involvement of you or your spouse in the child protection system.

12(c) List the details of any protection orders (eg: EPOs) or restraining orders involving you or your spouse.



### ***Tip:***

If you have questions about how criminal proceedings, child protection proceedings, or protection orders may affect your divorce, you should talk to a lawyer before going any further.

## **#13 Children**

Check off the box that says there are no children of the marriage. If you are using the PDF form, this may delete #14 - 17 and re-number the remaining paragraphs of the Affidavit.

## **#18 (#14) Spousal Support**

If you and your spouse do not have a written agreement for support, check off the first box. Select the appropriate check box for your situation. If you are claiming or proposing to pay a specific amount of support (check box 3 or 4), specify the amount, whether that amount is a lump sum or a monthly amount, and the reasons for why that amount is to be paid.

If you and your spouse have a written agreement, and you received independent legal advice on the agreement, check off the second box and indicate whether spousal support is waived or whether spousal support is payable. If spousal support is payable, specify how much support is payable, and whether it is lump sum or monthly support.

### **#19 (#15) Relief Requested**

Check off the items that you are wanting in the Divorce Judgment. If you requested permission to amend the Statement of Claim in #2, you must check of the fifth box.

Print off the form.

Put the Affidavit of Applicant together as follows:

- All pages of the Affidavit
- Your marriage certificate, taped onto a plain piece of paper
- The English translation of the marriage certificate (if applicable)

The marriage certificate (and translation) will be marked as Exhibits.

Sign your Affidavit in front of a Commissioner for Oaths. The Clerk at the Court of Queen's Bench Divorce Counter or the staff at Resolution Services can act as a Commissioner for Oaths for you.

Make one copy of the Affidavit of Applicant and all exhibits AFTER it is sworn.

## **COMPLETING THE DIVORCE JUDGMENT**

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### ***Tip:***

- This form is designed for the simple divorce. If you need to add clauses, you will have to use the Word versions of Form FL-25 on the Queen's Bench section of the albertacourts.ca website.
- If you are including a Corollary Relief Order for Spousal Support in your Divorce Judgment, then refer to the "Desk Divorce with Dependent Children" instruction booklet for information on how to complete your Divorce Judgment and Corollary Relief Order.

**Court File Number**  
**Judicial Centre**  
**Plaintiff**  
**Defendant**



These are all the same as  
in the Statement of Claim

### **Address for Service and Contact Information**

Write in your name, complete address, including postal code and daytime phone number.

**Date on which Judgment is granted**  
**Location of Adjudication**  
**Name of Judge who granted...**



Leave all of these  
blank

### **Introductory paragraphs (also called the Preamble)**

Fill in your name.

### **IT IS HEREBY ADJUDGED**

Fill in the date of your marriage and the place (city and province / country)



### ***Tip:***

If there were mistakes in the Statement of Claim as set out in #2 of the Affidavit of Applicant for Divorce, you must include clauses granting leave to amend the Statement of Claim. (e.g. "It is Ordered That leave is granted to amend paragraph 1(1)(a) of the Statement of Claim to show the marriage date as August 23, 1997")

**Signatures**

Both parties must sign the Divorce Judgment and Corollary Relief Order in front of a witness, and the witness must sign an Affidavit of Execution before a Commissioner for Oaths. The staff at Resolution Services or the Queen's Bench clerks will be able to assist with this.

If the Defendant was noted in default, then they do not have to sign, and their signature line can be removed.

**"THE SPOUSES ARE NOT FREE TO REMARRY"**

Do not remove this paragraph.

Make 1 copy of the Judgment for your own records.

## **FILE THE REQUEST FOR DIVORCE AND SUPPORTING DOCUMENTS**

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Bring to the court house:

- Affidavit of Service (+ 1 copy)
- Noting in Default (+ 1 copy)
- Request for Divorce (+ 1 copy)
- Affidavit of Applicant (+ 1 copy)
- Divorce Judgment
- 9 x 12 inch envelope addressed to you with sufficient postage.
- Business size envelope addressed to the Defendant with sufficient postage

The clerks will return filed copies of all of the documents, except the Divorce Judgment to you.

Your divorce will then be reviewed. This may take a day or two in smaller centres, and up to several weeks in larger centres.

If you have made mistakes, your divorce will be rejected, and you will be told what to correct. You will have to correct the mistakes, then re-submit the corrected documents. Do not feel badly if your documents are rejected, as it happens frequently.

If the paperwork is all correct, a Justice will sign the Divorce Judgment.

You will then receive the Divorce Judgment in the mail. A copy will also be mailed to the Defendant.



## **THE REQUEST FOR THE CERTIFICATE OF DIVORCE**

Wait 31 days from when the Divorce Judgment was signed, then you may request the Certificate of Divorce using the following web-based form: <https://albertacourts.ca/qb/areas-of-law/family/divorce-forms/request-for-certificate>

**Court File Number**  
**Court Location**  
**Names of Both Parties**



These are all the same as  
in the Statement of Claim

### **Your Name, Address, Phone and Email**

Write in your name, complete address (including postal code), daytime phone number, and email address.

Fill in the number of copies required

Indicate why you need the Certificate of Divorce using the checkboxes beside A, B, and C.

Click "Request Certificate of Divorce"



### ***Tips:***

- You will need this Certificate if you want to re-marry.
- If you are unable to complete the online request form, you may be able to get a paper request from the Queen's Bench clerks

**YOU ARE FINISHED!**

# **DIVORCE CHECKSHEET**

## **FIRST TRIP TO THE COURT HOUSE**

- STATEMENT OF CLAIM FOR DIVORCE.....ORIGINAL & 2 Copies  
(\$260 filing fee)
- 

## **SECOND TRIP TO THE COURT HOUSE**

- AFFIDAVIT OF SERVICE.....ORIGINAL AND 1 COPY
- NOTING IN DEFAULT.....ORIGINAL AND 1 COPY
- REQUEST FOR DIVORCE.....ORIGINAL AND 1 COPY
- AFFIDAVIT OF APPLICANT.....ORIGINAL AND 1 COPY
- DIVORCE JUDGMENT w/o children.....ORIGINAL
- TWO STAMPED, SELF ADDRESSED ENVELOPES  
9 x 12 inch envelope addressed to you  
Business size envelope addressed to your spouse
- 

**ONLINE FORM** - REQUEST FOR CERTIFICATE OF DIVORCE