

Serving Papers

When you have filed for a divorce, you must have all of the papers (except the Confidential Petition Addendum) served on your spouse. This means that a person (not you) must actually hand the documents directly to your spouse. The deadline for serving the other spouse is 90 days from the date that you filed the divorce paperwork. Remember that you do not need to serve the divorce papers if you are filing a joint petition with your spouse. There is a [Service Instructions guide](#) available at the state forms website.

Last updated on January 12, 2025.

What does service mean?

Serving means that the other person named in the divorce is personally given, by another adult (not you), all of the documents that you filed. It can be a friend, relative, a process server, or a sheriff.

What documents do I need to serve on the other party?

See Article [Starting a Divorce](#) for an explanation of these documents.

- [Summons With Minor Children](#)
OR
- [Summons Without Minor Children](#)

- [Joint Petition With Minor Children](#)
OR
- [Joint Petition Without Minor Children](#)
OR
- [Petition With Minor Children](#)
OR

- [Petition Without Minor Children](#)
- Notice of Administrative Dismissal Date
- A [blank financial disclosure statement](#) (if possible)

Optional:

- If you have kids under 18 with your spouse: [Order to Show Cause & Affidavit to Show Cause and Request for Hearing for Temporary Order](#)
OR
- If you don't have kids under 18 with your spouse: [Order to Show Cause & Affidavit to Show Cause and Request for Hearing for Temporary Order](#)

How do I serve the other party?

1. Service through the Sheriff's Department

Most sheriff's departments will serve your spouse but they need to be provided with an address and other identifying information; they will not try to find your spouse on their own. The sheriff will charge a fee for serving the papers. You can find the fee on the sheriff's department website in your county. You can get the fee waived if you file fee waiver forms and the court grants the waiver of fees. The forms are: [Affidavit of Indigency](#) and [Order](#) (aka: a Fee Waiver).

You will need to give the sheriff's department 2 copies of each document that you filed, not including the fee waiver. The sheriff will return one copy of each document to you along with the affidavit of service that shows the papers were served on your spouse. If the sheriff can't serve your spouse, they should send you an Affidavit/Proof of Non-Service or another signed paper documenting their failed attempts at service.

2. Private Process Server

A private process server is a person or company you hire to serve your spouse. If you don't have an address, they might do some digging to figure out where your spouse lives, works, or spends time. Private process servers may range from \$50 to \$150 or more. Unlike the sheriff, they are a private business and do not accept the Fee Waiver.

Like the sheriff, you will need to give the private process server 2 copies of each document that you filed. The process server will return one copy of each document to you along with the affidavit of service that shows the papers were served on your spouse (or the Affidavit/Proof of Non-Service explaining the failed attempts at service).

3. Admission of Service

You can simply give the papers to your spouse and ask that they voluntarily accept the divorce papers. Your spouse must sign the bottom of the [Admission of Service form](#) after you fill out the top (caption) You must file the Admission of Service with the Clerk of Courts. Without the signed form, simply handing your spouse the documents is insufficient.

Note: Some court officials are concerned with this type of service, and may not accept it as proper service, especially if your spouse does not end up attending the hearing. If the court official doesn't accept the service as proper, you may have to start the entire process over from the beginning.

4. Service by an Unrelated Third Party

Any adult (older than 18) can serve your spouse. However, that person must complete a form called the Affidavit of Service. The Affidavit should be mostly filled out before service occurs, and the friend, relative, or other adult completes the date/time/location portion after giving your spouse a copy of the paperwork. The person who served the papers must sign the [Affidavit of Service](#) in front of a notary, and return it to you to file it with the Clerk of Courts.

Note: Similar to the Admission of Service, the concern with this process is that not every court official will accept this type of service from self-represented litigants. Using this option could cause your case to be delayed or dismissed.

What if I don't know where the other person lives?

You need to try to find the person. You have a responsibility to make personal service possible, which includes gathering reasonably available information from family and friends to try to find your spouse's address, where they work, and where they spend time outside of work. You can try contacting your spouse and asking them directly, searching on the internet, asking family or friends, or looking at CCAP for other court records involving your spouse.

If, despite your best efforts, you can't find the other person, you must try to have them served at the last address you know they had, even if you know they no longer live at that address. When the sheriff's office or process service is unable to serve them at that address, they will send you an "Affidavit of Non-Service." Once you get an "Affidavit of Non-Service", you can serve your spouse by publishing in the newspaper where the person last lived. This is a very involved process that still must be completed within the 90 day deadline, and you may need a lawyer to help. See below for more details.

What if I don't get the other person served within the 90 day period?

You can ask for more time to serve BUT you must make a written request to the judge assigned to your case (look at CCAP) before the 90 days is up. The Milwaukee Justice Center has created an [extension of time to serve form](#) for Milwaukee County. If you live outside of Milwaukee, you can write a letter to the judge asking for an extension.

Do I still need to have my spouse served if we live together?

Yes. If you filed separately, rather than jointly, you still must have your spouse served within 90 days even if you are still living together. You may not accept service on your spouse's behalf if the process server or sheriff comes to the home to serve your spouse.

I am responding to a divorce filed by my spouse. Do I have to serve my spouse with the Response and Counterclaim?

Yes. You should have your spouse personally served with the Response and Counterclaim if you are also requesting a temporary order by filing an Order to Show Cause and Affidavit for Temporary Order. If you are not requesting a temporary order, you may serve your spouse the Response and Counterclaim by mail. At the post office, you may mail a copy to your spouse and their attorney (if applicable) by Certified Mail, Return Receipt Requested. Keep your receipt and bring it to your court date.

Out of County Service

If your spouse lives in a different county or a different state, you will need to contact the Sheriff's office in that county. Tell them that you are calling from your county in Wisconsin and that you need to have divorce papers personally served on a person who lives in their county. Here are some questions you could ask.

- How much does it cost?
- If you have an approved fee waiver (affidavit of indigency) ask if they will accept that as proof that you are unable to pay for the cost of service
- What do you need to send (Number of copies? A brief letter explaining what is being served? To whom do you send it?)
- How many attempts will the cost for service cover? (If it's less than 3 attempts, ask how much at least 3 attempts will cost)
- How will you be contacted once your spouse is served or if they can't serve your spouse?
- How will you provide proof of either service or non-service? Will they send an affidavit, and how long should that take to receive?
- Can you send it to them by email or does it need to be paper copies by mail?

Out of Country Service

This can be difficult. Ultimately, you may need to hire a lawyer to help because service has to be done in person.

The process server must complete an Affidavit of Service with a notarized signature. This is difficult, as the form is only available in English. Any documents not in English must be officially translated to English.

It may be possible for your spouse to sign an Admission of Service if they are out of the country, but this is challenging if they are not going to attend the hearing.

Service by Publication

If no other option has worked, you may serve by publication. ***Before trying to serve by publication, you must have tried service through the County Sheriff or a Private Process Server.***

1. Prepare a cover letter like the following example.

[Date]

Spouse's Name

Last Known Address

City, State ZIP

RE: Case Title [Jane Doe v. John Doe]

Case No.: Court Case Number [07FA123]

Dear [Spouse]:

Enclosed please find a [name the documents enclosed], which I have filed in the _____ County Circuit Court.

Sincerely,

Your name

2. Make a copy of the cover letter for your records.
3. Mail the original cover letter and a copy of the summons and petition to your spouse at their last known address by both regular and certified mail (keep

receipts). Even if you know your spouse is no longer at this address or it is the same address where you are living, you still have to mail it to that address. If the mailing is returned to you, keep it for your court hearing.

4. Complete these forms:

- a. [Publication Summons](#)
- b. [Publication Affidavit of Mailing](#)

Important: Do not sign and date this document until you are in front of a notary

5. File the Publication Summons with the court.

6. Give a copy of the Publication Summons to the newspaper in the county where your spouse lives or lived.

- o The Clerk of Court of the county in which the notice needs to be published can tell you the best newspaper for legal notices.
- o The newspaper must run the Publication Summons once a week for 3 weeks. It is considered “served” on the first day of publication.
- o Publishing can be expensive, and the cost is not covered by a fee waiver. Prices are likely to be more than \$100.

7. The newspaper will send proof of publication in the mail, after the 3 weeks have passed.

8. File the following documents with the court. Keep a copy for your records.

- a. [Publication Affidavit of Efforts to Serve Respondent](#)

Important: Do not sign and date this document until you are in front of a notary

- b. Affidavit of Due Diligence/Not Found/Attempt Service (provided by the sheriff’s office or private process server)
- c. Proof of the Service by Publication from the newspaper
- d. Publication Affidavit of Mailing
- e. Your cover letter

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