DEFENDANT FAMILY LAW INFORMATION AND INSTRUCTIONS

CONFIDENTIALITY: If you have concerns about keeping information confidential, such as your address and/or social security number, please consult an attorney. You should also know that Domestic Violence Protection Orders or Stalking Orders are available free of charge at the circuit court clerks' offices. You may request assistance in obtaining Domestic Violence Protection or Stalking Orders from your local domestic violence or sexual assault program or you may call the Wyoming Coalition Against Domestic Violence & Sexual Assault (844) 264-8080 (toll free) or (307) 755-0992. There are also private attorneys who may be willing to assist clients in these matters. If you have ever obtained a Protection Order against the other party, this information should be indicated in the **Answer** or the **Counterclaim**.

Make sure to complete all the forms carefully. If any parts are left blank, the Judge may not accept them. Not all of the forms need to be completed at the same time. Read through the instructions for each step. There are some steps you must complete before moving on to the next step.

Information:

A divorce starts when a party files a Complaint for Divorce. This is a document asking the court for a divorce. The person who originally files for the divorce is called the **Plaintiff** and stays the Plaintiff throughout the case. The Plaintiff submits the Complaint for Divorce to the Clerk of the District Court, usually located in the county courthouse or a branch of it. This action opens an official court file, and a case number, or civil action number, is assigned. This process of submitting the Complaint for Divorce to the Clerk's office is known as filing a case.

The person the divorce is filed against is called the **Defendant** and stays the Defendant throughout the case. After a case has been filed, a copy must be formally given to (served on) the Defendant. Personal service of the Complaint for Divorce and Summons on the Defendant is required, unless the Defendant completes an Acknowledgment and Acceptance of Service. Formal service is required for the Complaint for Divorce so that the Court has proof that the Defendant received the papers. Other forms of service exist, but these are the easiest methods that meet the formal service requirement. The Defendant is expected to answer the Complaint for Divorce.

It is important for the Defendant to ensure that any changes in contact information, especially their mailing address, are promptly updated with the Clerk of District Court. This ensures that the Defendant receives all necessary court documents and notifications, preventing missed deadlines or court actions taken without their knowledge.

Instructions:

STEP 1: Answer or Answer and Counterclaim

If you have been served or have signed an **Acknowledgment and Acceptance of Service**, you should file an Answer to Complaint for Divorce with the Clerk of District Court where the Complaint for Divorce was filed.

An **Answer to Complaint for Divorce** is a written response where you tell the Court what parts of the divorce complaint you agree with and what parts you disagree with. **If you don't file an answer, the court might grant your spouse everything they asked for in the Complaint for Divorce without your input.**

You have two options for responding:

1. **Answer**: This is where you respond to each part of the **Complaint**, saying what you agree or disagree with.

2. **Answer and Counterclaim**: This includes your response to the **Complaint** and also lets you tell the court what you want. For example, you can ask for specific things like custody of the children, property, or support.

Tips: Here are some helpful hints in completing either the Answer or Answer and Counterclaim:

You must fill in the top section of either the Answer or Answer and Counterclaim with the names and case number. Don't forget to include the case number, which is found on the Summons or Complaint for Divorce.

Time Limits:
You have **20 days** to file if you were served in Wyoming, or **30 days** if you were served outside Wyoming. If you miss the deadline to file an answer, a default judgment may be entered against you, granting your spouse what they requested in the Complaint.

How Time is Calculated:
- When counting the days, don't include the day the papers were served.
- Include the last day of the time period, unless it falls on a Saturday, Sunday, or legal holiday. In that case, the deadline moves to the next business day.

NOTE: If you have any question or concerns about when the deadline is to file the Answer, you should consult an attorney.

Admit or Deny:
In the **Answer**, admit or deny each paragraph of the **Complaint**. For each paragraph in the Complaint that is correct or that you agree with, list that paragraph number in the first line of the Answer to admit it. For each paragraph in the Complaint that is not correct or that you do not agree with, list that paragraph number in the second line of the Answer to deny it. If you do not have enough information to admit or deny a paragraph, list that paragraph number in the third line of the Answer. If you don't agree with something in the Complaint, but you don't "deny" it in your Answer, the court may find that you admitted it.

Required Information for Children:
You must provide certain information under oath for each child unless you have a court order or law that lets you keep addresses or other details confidential. If you don't provide this information, the court may not allow the case to move forward until you do. The necessary information is included in the Answer and the Answer and Counterclaim forms.

Notarizing Signatures:
After you fill out either the Answer or Answer and Counterclaim, you need to sign and have it notarized. Do not sign the Answer or Answer and Counterclaim until you are in front of the Clerk of Court or a Notary. The Clerk or the Notary must witness you signing the form. Since each Clerk's office has its own rules, check with them first to see if they can notarize your signature before looking for a notary public elsewhere.

Certificate of Service:
Copies of all documents that you file in the case must be sent to the Plaintiff before the Judge will consider them. This certificate is included at the end of each document that requires it.

Make Copies and File Your Answer:
Take the original and two copies of each document to the Clerk's office. The Clerk will stamp all the copies with the date they were filed. This is called a "file stamp." The original document will be filed with the Clerk. You should keep one copy for your records. You must send the other copy to the Plaintiff on the date that you listed on the Certificate of Service.

Documents to Complete:

1. Fill out the **Answer to Complaint for Divorce.**

OR

2. Fill out the **Answer and Counterclaim for Divorce.**

NOTE: If you want to go back to a previous name that you used before the marriage, you should include that in the **Counterclaim**. This decision is up to you only; the Plaintiff cannot require you to change your name.

File Your Documents:
Bring the original and two copies of the following documents to the Clerk of District Court:

1. **Answer to Complaint for Divorce.**

OR

2. **Answer and Counterclaim for Divorce.**

Plaintiff's Reply to Your Counterclaim:

If you file a Counterclaim, the Plaintiff must reply to it. The Plaintiff has 20 days to respond by filing a Reply to Counterclaim. In this reply, the Plaintiff will admit or deny the points you made in your Counterclaim.

If the Plaintiff does not reply within 20 days, you may be able to file Default paperwork to request the relief you asked for in your Counterclaim.

STEP 2: Fill out a Confidential Financial Affidavit

Documents to Complete:

Confidential Financial Affidavit with all required documents attached.

Both parties must fill out and file a Confidential Financial Affidavit with the Court, along with any required documents. You must provide documents that prove your current and past earnings. For current earnings, include pay stubs, employer statements, or receipts and expenses if self-employed. Also, attach your most recent tax return to show your earnings over a longer period. Include income tax returns for the last two years and your latest pay stub(s) to show your current earnings. If you and the other party filed a joint tax return, and the other party has already submitted the required tax returns, you don't need to file them again. If you have health insurance, include copies of your insurance cards.

File Your Documents:

Bring the original and two copies of the Confidential Financial Affidavit to the Clerk of District Court to file.

NOTE: You must file the Confidential Financial Affidavit with the Clerk's office at the same time you file your Answer or Answer and Counterclaim.

STEP 3: Initial Disclosures

DO NOT FILE INITIAL DISCLOSURES WITH THE CLERK OF DISTRICT COURT

Send Initial Disclosures to the Other Party:

The law requires you to share certain information with the other party within **30 days after your Answer is due**. You need to provide a list of financial assets, non-financial assets, all debts (individual and joint), locations of any safety deposit boxes, employment details, information about other income and retirement accounts, and a summary of facts supporting your claim for custody (if child custody is involved). Both parties must provide this information to ensure full financial disclosure for calculating child support. **Be sure to keep a copy of your Initial Disclosures for your records.**

NOTE: You must share the information you currently have available to you. You cannot delay your disclosures because you think the other party's information is incomplete or because they haven't provided their information yet.

When to Provide:
You need to give your **Initial Disclosures** to the Plaintiff (or their lawyer) within 30 days after you are supposed to respond to the complaint. Here's how to figure out the date:

1. Start with the date you were served with the **Complaint**: _____
2. Next, figure out when you have to file an **Answer**: (Choose One)
    a) If you were served in Wyoming, add 20 days to the date in #1: _____

    OR

    b) If you signed an **Acknowledgment and Acceptance of Service**, add 20 days to the date in #1: _____

    OR

    c) If you were served out-of-state, add 30 days to the date in #1: _____
3. Add 30 days to the date in #2(a), (b), or (c): _____

The date in #3 is when you and the Plaintiff must send each other your completed Initial Disclosures.

NOTE: **DO NOT FILE THE INITIAL DISCLOSURES WITH THE COURT**. These forms are only given to the Plaintiff (or their lawyer).

STEP 4: Moving Your Case Forward

Once the time for the Plaintiff to respond to your Answer and Counterclaim has passed and you have sent your Initial Disclosures, there are several options to move your case forward to get a **Decree of Divorce**. Choose the option that fits your situation best:

Option A: If you and the Plaintiff both agree on everything, follow Option A.

Option B: If you and the Plaintiff don't agree on everything, follow Option B.

Tips: Here are some important laws and helpful hints in completing the Decree of Divorce for all cases:

<u>Custody and Visitation</u>
You and the Plaintiff should try to agree on a custody and visitation plan. It is not common for the Court to deny visitation or to require supervised visits for the non-custodial parent.

If you are worried that the other parent might harm your child physically or emotionally, get advice from someone who understands parenting and child development, or get help

from a domestic violence program. There may be local organizations that can help with visitation arrangements. You can also ask the leaders of parenting classes in your community for more ideas or resources (see below).

Considered Factors When Awarding Custody and Visitation:

The Decree of Divorce contains several options for custody and visitation arrangements. Ideally, both parents will work together to select the proper custody and visitation plan depending upon the family circumstances. In awarding custody and setting forth a visitation plan, Wyoming law requires that the Court consider the following factors:

1. The quality of the relationship each child has with each parent.
2. The ability of each parent to provide adequate care for each child throughout each period of responsibility, including arranging for each child's care by others as needed.
3. The relative competency and fitness of each parent.
4. Each parent's willingness to accept all responsibilities of parenting, including a willingness to accept care for each child at specified times and to relinquish care to the other parent at specified times.
5. How the parents and each child can best maintain and strengthen a relationship with each other.
6. How the parents and each child interact and communicate with each other and how such interaction and communication may be improved.
7. The ability and willingness of each parent to allow the other to provide care without intrusion, respect the other parent's rights and responsibilities, including the right to privacy.
8. Geographic distance between the parents' residences.
9. The current physical and mental ability of each parent to care for each child
10. Either parent had a conviction that would require them to register as a sex offender under W.S 7-19-301- 7-19-10.
11. Any other factors you want the court to consider necessary and relevant.

Children's Best Interests Should Dictate Schedule

Use a calendar to plan visitation. When creating a visitation plan, consider the parents' work schedules and the children's school and activities. This is especially important if parents don't have a traditional workweek. Visitation should be an enriching experience and is both an obligation and a responsibility, as well as a right and a privilege for both parents. Both parents must sincerely commit to creating and following a visitation plan. Focus on what schedule is in the children's best interest.

Parenting Classes

The Court may require parents to attend parenting classes, especially to help reduce the effects of divorce on children. Usually, both parents must attend these classes when ordered.

NOTE: If you are required to take a class, you **MUST** file a **Certificate of Completion** with the Clerk's office. The class instructor will provide this certificate.

Child Support Payments

You need to figure out how much child support is due based on the **Confidential Financial Affidavits** you and the Plaintiff completed. You can use the **Child Support Computation Form** to help you calculate the support due or contact your local child support enforcement agency for help.

Another option is to go online to https://childsupport.wyoming.gov/calculator/index.html and use the online tool to calculate child support.

Important Points to Remember:

a) **You can't agree to no support**: You CANNOT agree that no child support will be paid. (The only time the Court will not order child support is when the noncustodial parent's income is less than the self-support reserve.) Wyoming law allows for a reduced amount of support if you agree on joint physical custody, each parent keeps the children overnight for more than 25% of the year, **and** both parents contribute significantly to the children's expenses in addition to paying child support.

b) **Self-Support Reserve**: If the noncustodial parent's net income minus the self-support reserve is less than the support obligation calculated from the tables in W.S. § 20-2-304(a), the support obligation will be based on the difference between the noncustodial parent's net income and the self-support reserve. The "self-support reserve" is the current poverty line for one person and is updated annually in the Federal Register by the U.S. Department of Health and Human Services. See W.S. § 20-2-304(f). You can also find the current Self-Support Reserve on the Wyoming Judicial Branch website. https://www.wyocourts.gov/self-help-forms/#tabV3

c) **No Deviations Allowed**: There are NO DEVIATIONS from the presumed support amount unless the Court decides that the set amount is unjust or inappropriate in your specific case. The Court must include specific reasons for any deviation in the Decree of Divorce.

d) **Government or State Benefits**: NO AGREEMENTS for less than the presumed support can be approved if government or state benefits (such as Title 19, Kid Care, Food Stamps, POWER, etc.) are being provided on behalf of any child. This means the Court cannot lower the amount of child support calculated using the net income of you and the Defendant, even if both of you agree to a lower amount of support.

Medical Support

The law requires that medical support for the children be included in any child support order. The Court may order one or both parents to provide medical insurance if it is available at a reasonable cost and can be used for the children. This includes dental, vision, or other health care needs.

Additionally, the Court will decide who pays for medical expenses not covered by insurance and any deductibles. If both parents must pay for these expenses, the Court will

specify how much each parent is responsible for (for example, 50% to Plaintiff and 50% to Defendant).

Option A. <u>The following instructions apply if you both agree on all of the issues of your divorce.</u>

If you and the Plaintiff agree on all the terms in the Decree of Divorce, the Decree will need to be filled out completely, signed by both you and the Plaintiff and both of your signatures must be notarized. **In addition to signing the Decree, you should also initial each page of the Decree to verify that each page contains the terms you agreed upon.**

When will your divorce become final?
Your divorce is not final until the Judge signs the Decree of Divorce**,** and it is filed with the Clerk. This may take time if the Judge needs to make changes to the Decree. Check with the Clerk to make sure the Decree has been file-stamped before you can be sure your divorce is final. You should receive a copy of the Decree once it is final.

Option B. <u>If you and the Plaintiff do NOT agree on all issues of your divorce, you will need to have a trial</u>:

NOTE: If there is no agreement, your case will have to be heard and decided by a Judge at a trial.

CAUTION: It is strongly recommended that you hire or find an attorney to represent you at trial, though you may represent yourself. If you choose to represent yourself, you proceed at your own risk and will be expected to know the laws and court rules.

<u>Documents to Complete:</u>

1. If the Plaintiff has **NOT** done so, Complete the **Request for Setting**
   This form is a request to the court for a hearing. Write in "trial" where it asks the type of hearing. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually one to three hours).

2. Complete the **Order Setting Divorce Trial**
   Fill out the top section of page one of the Order Setting Divorce Trial. This includes: the county, the judicial district, the names of the Plaintiff and Defendant, and the civil action case number. The Clerk of District Court will complete the rest of the document.

3. Provide the Clerk with two addressed, stamped envelopes (one addressed to you and one addressed to the Plaintiff).

4. **Order for Income Withholding**. The Court is required by law to enter an Order for Income Withholding in every case where child support has been ordered.

5. **Income Withholding for Support**. Use this form if you want child support to be paid directly from the non-custodial parent's employer. If you need help filling out the form or collecting child support, contact the child support enforcement agency in your district. The Clerk can give you their contact information or you can find it online at https://childsupport.wyo.gov/.

NOTE: Any documents you file (except the Decree of Divorce) must be sent to the Plaintiff on the same day you put the date on the Certificate of Service on each document.

Due 30 Days Before Trial:

1. Complete **Pretrial Disclosures**
   Both parties must give their Pretrial Disclosures to each other and file them with the Court. These disclosures list the evidence that will be presented at trial. If you have questions, contact an attorney.

   Note: Unless the Court says otherwise, they must be made at least 30 days before the trial.

2. Take the original and two copies to the Clerk for filing. Keep one copy for your records and send the other copy to the Plaintiff (or his/her attorney).

Trial Information:

Settlement before trial:
If your case is settled before the trial, you must give the Court a completed and signed Decree of Divorce. The Court will only remove the trial from the schedule once this is done.

The trial date will not be changed or canceled based on phone calls. If you need to reschedule the trial, you must file a motion to continue or contact an attorney for assistance.

Court Reporter:

It is very difficult to appeal the Judge's decision if you do not get a court reporter to record everything that is said at the trial.

If you want a court reporter, you must notify the official court reporter as soon as possible, but no later than three working days before your hearing. You can do this by phone, email or by submitting a written request. If you send the request by mail, it must be received by the court reporter at least three working days before the hearing.

Contact information for each Court Reporter can be found on the Wyoming Judicial Branch website.

The Clerk can tell you which court reporter to contact. The Court will not waive the three-day notice requirement. This notice is required for all civil matters, including jury trials.

Evidence and Witnesses:
At the hearing, you will need to present your evidence and witnesses. If the **Order Setting Divorce Trial** is entered (signed by the Judge), you must follow the terms and provide the Court with the information requested in that document, including copies of exhibits you want to introduce at the trial and a list of your proposed witnesses and what their testimony is going to be about within the time frame ordered (usually three to five days prior to the trial). Under the law, the Judge cannot help you or assist you at trial. You are on your own without an attorney.

NOTE: If you choose to represent yourself and continue without an attorney, you proceed at your own risk and will be expected to know the laws

Final Decision:
After the trial, the Judge will make a decision or may need more time to think about it. If the Judge gives you instructions, you must type the decision into the Decree of Divorce.

When Will Your Divorce Become Final:
Your divorce is not final until the Judge signs the Decree of Divorce**,** and it is filed with the Clerk. This may take time if the Judge needs to make changes to the Decree. Check with the Clerk to make sure the Decree has been file-stamped before you can be sure your divorce is final. You should receive a copy of the Decree once it is final.