

DISSOLUTION OF MARRIAGE INSTRUCTIONS
FOR ONE SPOUSE FILING ALONE
WHEN THE OTHER SPOUSE CANNOT BE LOCATED

Court staff generally can inform you about court procedures, court rules, court records, and forms. Court staff must remain neutral and impartial. They are not allowed to give legal advice. Court staff cannot:

- advise you how statutes and rules apply to your case,
- tell you whether the documents you prepare properly present your case,
- tell you what the best procedures are to accomplish a particular objective, or
- interpret laws for you.

If you need help with your case, you should talk to a lawyer.

Dissolution of Marriage

A decree of dissolution of marriage has the same force and effect as a decree of divorce. However, the procedures for getting a dissolution are somewhat different than those for a divorce. Dissolution procedures are described in Alaska Statutes 25.24.200 - .260 and Civil Rule 90.1. Divorce procedures are described in Alaska Statutes 25.24.010 - .180 and Civil Rule 90.1.

If one spouse alone petitions for dissolution when the other spouse cannot be located, the dissolution decree will dissolve the marriage, but will not grant other relief such as child custody, child support and division of property.

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Requirements

The requirements for one spouse alone to use the dissolution procedure are:

1. That spouse must be domiciled in Alaska. That means the person must claim residency in Alaska. The person must be physically present in Alaska and intend to remain indefinitely. No minimum number of days of residency is required. In addition, military personnel who do not claim to be Alaska residents may file for dissolution if they have been continuously stationed at a military base or installation in Alaska for at least 30 days. AS 25.24.900.
2. That spouse must assert that "incompatibility of temperament, as evidenced by extended absence or otherwise, has caused the irremediable breakdown of the marriage." This means there is no chance of saving the marriage because the married persons cannot get along.
3. The whereabouts of the other spouse must be unknown to the petitioning spouse after reasonable efforts have been made to locate the absent spouse.
4. The petitioning spouse must have been unable to find out the absent spouse's position on the following because the absent spouse cannot be located:
 - a. the dissolution of their marriage,
 - b. the fair and just division of their property, including retirement benefits,
 - c. spousal maintenance,
 - d. payment of debts, and
 - e. custody, support and visitation of any minor children of the marriage.
5. It must be shown that the absent spouse cannot be personally served with process inside or outside the state.

If you cannot meet one or more of these requirements, contact a lawyer to find out what your options are.

Procedure to Follow

To get a decree dissolving your marriage, you must do the following:

1. Fill out the following four forms attached to these instructions:
 - a. Form [DR-200](#), Petition for Dissolution of Marriage: One Spouse. See the instructions beginning on page 5.
 - b. Form [DR-210](#), Affidavit of Diligent Inquiry. Check all of the boxes that apply, and describe what you have done to try to find your spouse. You must sign your affidavit under oath before a notary public, a court clerk or any other person authorized to administer oaths.
 - c. Form [DR-314](#), Information Sheet.
 - d. Form VS-401, Certificate of Divorce, Dissolution of Marriage or Annulment. Complete the "Parties' Information" block, lines 11-30. If you make a mistake, get a new form from the court. This form will be sent to the Health Analytics and Vital Records office after the dissolution is granted, and they will not accept forms with cross-outs, whiteouts, or other corrections on them. Health Analytics and Vital Records also will not accept photocopies of the VS-401 form.
2. File these forms at the clerk's office and pay the filing fee according to [Administrative Rule 9\(b\)](#). If you cannot afford this fee, ask the clerk for form [TF-920](#), Request for Exemption from Payment of Fees.
3. The court will review your Affidavit of Diligent Inquiry for sufficiency. If the court believes you have not done enough to attempt to locate your spouse, the court will require further inquiries.

If you believe that

- a. posting on the Alaska Court System's legal notice website is not the best way to give notice to your spouse, and
- b. e-mail, posting on social networking accounts, or some other method of notice would be more likely to give notice to your spouse,

you should note that on the Affidavit of Diligent Inquiry. You may also fill out form [DR-215](#), Motion and Order for Alternative Service, to ask the court for permission to give notice by some way other than posting.

4. After your affidavit is filed, the clerk will issue a Notice to Absent Spouse (form DR-220) and will post the Notice on the Alaska Court System's legal notice website for four consecutive weeks.

5. After posting of the Notice to Absent Spouse, you must complete the Proof of Notice (form [DR-225](#)), have it notarized and file it with the court. Be sure to fill in the case number which the court clerk assigned to your petition.
6. When you file your Proof of Notice, ask the clerk's office for instructions on setting a hearing date. The hearing must be at least 30 days after the last date of notice to the absent spouse.
7. Hearing.

You must attend the hearing unless the court, for good cause, provides otherwise. You may have a lawyer at the hearing, but you are not required to have one.

At the hearing, the court will ask you questions to determine whether you fully understand the nature and consequences of the action; whether the location of your spouse is unknown; whether an incompatibility of temperament has caused the irremediable breakdown of your marriage and whether the other requirements on page 2 have been met.

At some court locations, hearings are held before a Superior Court Master instead of a judge. A master cannot grant a decree. A master can only recommend to a judge whether or not a decree should be granted.

8. The Decree.

Although in some cases the decree may be granted at the hearing (if the hearing is before a judge rather than a master), usually the decree is not entered until a few days later. Do not assume a decree has been granted until you receive your copy.

Once signed by the judge, the decree will dissolve your marriage. It will not, however, grant other relief such as child custody, child support, spousal maintenance or property division.

How To Fill Out The Petition

When you fill out the Petition form and any other forms you file with the court, please type or print neatly in black ink. Do not leave any spaces blank. If more space is needed, attach additional pages and sign them.

At the top of the petition form, fill in the city where the superior court is located. Then fill in your name and your spouse's name on the lines in the box. Leave the "Case No." line blank.

Read the first section of the petition and be sure you agree that all statements in it are true. Then fill in the information requested in paragraphs 1 through 7.

Paragraph 6. Mailing Address.

If your mailing address changes after you file the petition but before the decree is entered, you must send the court written notice of your new mailing address. Be sure to include your case number in any letters to the court.

Paragraph 9. Change or Restore Name.

You may ask to restore (return to) a **prior** name, that is, a name that you had before the marriage. You may alternatively ask that a **new** name be authorized, however, there may be additional legal requirements and the court will have to approve this request.

Prior Name

If you want a prior name restored (to go back to a name you had before), check the appropriate box and fill in the blanks for your current and former names. You may also want to follow steps #2, #9, #10, #11, and #12 below.

You must also fill out Notice of Request to Restore Name in Dissolution or Divorce Case (form [DR-957](#)) if you are one or more of the following:

- currently charged with a crime,
- currently incarcerated (for example, in jail, in prison, or at a halfway house),
- on supervised felony probation or on parole for a criminal conviction, or
- required to register as a sex offender or child kidnapper under AS 12.63.010.

The court may order you to do additional notice of your name restoration if you fall into one of these categories. Read the court's order carefully. You must complete any additional notice by the date of your dissolution hearing or your dissolution could be delayed. You can use Affidavit of Additional Service (form [CIV-702](#)) to provide proof to the court that you completed this requirement. You may file this before the hearing or bring it to the hearing.

New Name

If you are requesting a name that was **not** a name you had before the marriage, there may be additional costs and your dissolution hearing will be delayed. Additionally, the judge may find that a new name change is not authorized in certain situations as part of a dissolution case. For these reasons, it may be easier to do the name change in a separate case by filing Petition for Change of Name (form [CIV-700](#)). If you do decide to do it as part of your dissolution hearing, do the following:

1. Check the box requesting a new name and fill out Request to Change to New Name in Dissolution Case (form [DR-955](#)).
2. Ask the court for form VS-405, Application for Legal Name Change. Fill out the form (please type the information if possible) and return it to the court, together with form DR-955, when you file your dissolution petition.
3. Tell the clerk your petition includes a request for name change and that you need an order for posting.
4. If the court finds that the name change is legally allowed as part of the dissolution case, the court will send you an Order for Hearing, Posting, and Additional Service (form CIV-701). This order will tell you the time and place of the hearing on your name change. It will also tell you whether you must provide additional service. If the order requires additional service, follow the instructions on the order.
5. Unless waived by written court order, the clerk will automatically post the proposed name change and the date of the hearing to the Alaska Court System's Legal Notice Website for four consecutive weeks. After posting is completed, the clerk will file the Clerk's Certificate of Service of Posting (form TF-815) to the website.

If you are also required to serve additional notice, you must file proof that you did so. Use Affidavit of Additional Service (form [CIV-702](#)). File it with the court before the hearing or bring it to the hearing.

6. The hearing is usually short and fairly informal. It will usually be combined with your dissolution hearing. You must tell the judge why you want to change your name and assure the judge that you are not seeking to change your name in order to avoid debts or defraud anyone. If the judge finds there is no reasonable objection to the change and that it is consistent with the public interest, the judge will sign a judgment allowing you to take the new name. However, you cannot begin using the new name yet, because the judgment will not be effective until the following steps are completed.
7. The court will automatically post notice on the Alaska Court System's legal notice website for one week unless waived by the court in a written order. Following the posting, the clerk will file the Clerk's Certificate of Service of Posting (form TF-815) to the website.
8. If the judgment requires additional service, follow the judgment's instructions. After additional service is complete, fill out an Affidavit of Additional Service (form [CIV-702](#)) and file it with the court. The clerk will then issue a Certificate of Name Change (form CIV-705). You can begin using your new name on the date stated in the certificate. This date will be at least 30 days after the judgment was distributed. The clerk will give you two copies of the certificate. One will be a free certified copy. If you need additional certified copies, there will be a charge for them. Current fees are listed in [Administrative Rule 9](#).
9. If you have an Alaska driver's license, or you own a vehicle registered in Alaska, you must send written notice of your name change to the Division of Motor Vehicles **within 30 days**. AS 28.05.071. To get a new driver's license, you will need to go to a DMV office and present a copy of the Certificate of Name Change (form CIV-705).

10. Notify the Social Security Administration of your name change to avoid tax problems and help assure proper employment credit. Toll-free telephone number: 1-800-772-1213.
11. Individuals required to register on the Sex Offender and Child Kidnapper Registry per AS 12.63.010 must notify the Department of Public Safety about any name change (including restoring a prior name) **within one business day** after receiving the Certificate of Name Change (form CIV-705). Use Notification of Petition/Proof of Legal Name Change (form 12-299-74). This form is available from law enforcement or online at <https://sor.dps.alaska.gov/Home/Documents>.
12. If you want a new birth certificate, contact the Vital Records office of the state in which you were born and pay the required fee.

Signature and Verification

You must sign your petition under oath before a notary public, a court clerk or any other person authorized to administer oaths.

Please keep in mind that, in signing the petition under oath, you are swearing that every statement you have made in your petition is the truth.