

Directions for 3301(d) Divorce (1 year- or 2-year Separation)

Prothonotary's Filing Fee:
Elk County – \$162.00
Cameron County – \$86.00

Read these instructions carefully and look over the forms before you start filling out the papers.

Courthouse employees cannot give you legal advice.

If you have child custody, property or money disagreements with your spouse, you should talk to a lawyer.

1. If you are the person starting the divorce and filing for the divorce, you are the ***Plaintiff*** and your spouse is the ***Defendant***. You or your spouse must have lived in Pennsylvania for the past six (6) months. You must know the address of the Defendant so the Defendant can be mailed a copy of the divorce complaint and other papers. If you do not know the Defendant's address, you cannot file for divorce.

If you or your spouse lives in Elk County, file the divorce papers with the Prothonotary's Office at the Elk County Courthouse in Ridgway. If you or your spouse lives in Cameron County, file the divorce papers with the Prothonotary's Office at the Cameron County Courthouse in Emporium.

Use a typewriter or pen to fill in the blanks on the forms. Circle the county you are filing the divorce papers in. Print clearly, making sure your name and the Defendant's name are spelled right, and also use middle names or middle initials. Make sure you sign all forms on the signature lines for the Plaintiff.

If the date of separation was prior to December 5, 2016, the parties must continue to live separate and apart for a period of at least two (2) years to file under this section. If the date of separation was on or after December 5, 2016, the parties must continue to live separate and apart for a period of at least one (1) year to file under this section.

If you want to ask the Court to let you file the divorce without having to pay the filing fees and costs, you must ask for a ***Petition to Proceed In Forma Pauperis***. You must fill out the form and file it at the same time you file the divorce complaint. The judge will decide if you can afford to pay based on your income. If the judge denies your petition, you will have to pay the filing fees before the Prothonotary can file your divorce complaint.

2. Fill in the blanks of the ***Notice to Defend and Claim Rights***, the ***Complaint*** and the ***Affidavit Under Section 3301(d)***. Make three (3) copies of the Notice, the Complaint, the Affidavit, and the ***Counter-Affidavit under Section 3301(d)***. Also fill out the ***Vital Records*** form and the ***Affidavit of Non-Military Service*** and make a copy of each form for you to keep.
3. Take the original and the three (3) copies of your paperwork to the Prothonotary's Office at the Courthouse (in Ridgway if you live in Elk County OR in Emporium if you live in Cameron County). Be prepared to pay the filing fee unless you filled out the Petition to Proceed In Forma Pauperis form. Credit/debit cards are not accepted. You can also file the Vital Records form and the Affidavit of Non-Military Service form at the same time. Once the Prothonotary takes the original paperwork and stamps it with a date stamp, the paperwork is "filed."
4. Ask the clerk at the Prothonotary's office to certify the three (3) copies. You keep one certified copy. The other two (2) copies are for the Defendant. You have to mail the certified copies of the divorce complaint to the Defendant so the Defendant receives the copies within thirty (30) days from the date you filed the complaint. This is called "service."

You must mail one certified copy to the Defendant by regular first-class mail. Make sure your return address is on the mailing envelope and you use the right number of postage stamps.

You must mail the other certified copy to the Defendant using "certified mail, restricted delivery, return receipt requested." You need to go to your post office to get the right mailing forms and you will pay extra postage. A green card will be attached to the certified mailing envelope, and once the Defendant receives the mailed paperwork and signs the green card, the card will be mailed back to you. Keep the green card once you get it back.

Be sure that the Defendant signed the green card. If someone else signed the card, you must send everything to the Defendant again, making sure the mail is certified, restricted delivery, return receipt requested.

5. After the paperwork has been delivered to the Defendant (either the green card has been mailed back to you OR the certified mail has been returned to you marked “refused” but the regular mail is not returned within 15 days), fill out the **Affidavit of Service** form. If you received the green card back and it is signed by the Defendant, tape or staple the card to the Affidavit of Service form. If the certified mail was returned “refused” and the regular mail was not returned to you, tape or staple the unopened certified mail envelope to the Affidavit of Service form.

The Affidavit of Service form must be filed with the Prothonotary’s Office. Make sure to keep a copy.

6. After twenty (20) days have passed since the Defendant received the divorce paperwork, you must mail the Defendant the **Notice of Intention to Request Entry of Divorce Decree** and another copy of the **Counter-Affidavit** by regular first-class mail. The date to fill in on the Notice of Intention should be twenty (20) days ahead from the date you mail it. Make sure to keep two (2) copies for yourself after you fill in the date. You will need one copy later.
7. After the twenty (20) days have passed since you mailed the Notice of Intention and the Counter-Affidavit to the Defendant, you can fill out the **Praecipe to Transmit the Record** and the **Decree in Divorce**. Make sure to fill in the dates correctly on the Praecipe. File the Praecipe and the Decree with the Prothonotary. Keep a copy of the Praecipe.

Please give the Prothonotary an envelope with your address and a postage stamp and an envelope with the Defendant’s address and a postage stamp.

The Prothonotary will send the divorce paperwork to the judge. The judge will look at it to make sure everything was done right. If there is a problem, the judge will deny your request for a divorce decree until the problem is corrected. You will be mailed a court order explaining the problem. You may have to re-file or re-mail some paperwork.

If the divorce paperwork is done correctly AND the Defendant has not filed a counter-affidavit denying a 1-year or 2-year separation or asking for a money or property settlement, the judge will sign the Decree. You will receive two (2) certified copies of the Decree in the mail, and the Defendant will receive a notice that a divorce was granted or a certified copy of the Decree.

A woman may retake her maiden name by filling out the ***Affidavit of Intention to Retake Maiden Name*** after the Complaint is filed. Make three (3) copies and file the original with the Prothonotary. Ask the Prothonotary to certify the three copies. You will need the certified copies to change your name on important documents (Social Security, driver's license, employment records) and accounts.

Keep a copy of the final Divorce Decree and all your divorce paperwork in a safe place. Do not throw it away. You will need the Divorce Decree if you apply for a marriage license in the future.