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## **1. Disclaimer**

This Guide for Family Law Cases was compiled through the joint efforts of members of the Nineteenth Judicial Circuit Court and the Lake County Bar Association. The purpose of this Guide is to answer general questions and provide general information about the procedures in Lake County, Illinois, in order to obtain a Dissolution of Marriage (commonly referred to as “divorce”), a Dissolution of Civil Union, a Legal Separation, or a Declaration of Invalidity of Marriage (commonly referred to as “annulment”).

**The information provided in this Guide is not intended to provide legal advice. This booklet does not address specific situations, and, as such, does not replace the advice or representation of your own attorney. Because of this, the Nineteenth Judicial Circuit Court and the Lake County Bar Association, and its members make no claim as to whether the information provided will achieve the result that you desire and disclaim any responsibility for the consequences of any actions taken in reliance upon the information provided.**

Family law matters may have an effect on other legal rights, including but not limited to immigration, probate, bankruptcy, tax issues and criminal matters. If any such legal issues are involved in your case, you should consult an attorney.

The information contained in this Guide is based upon the law in effect at the time that this Guide was drafted. The state law or local court rules governing family law cases are subject to change. All self-represented litigants act as their own attorneys, and are expected to be familiar with the law.

It is always a good idea to seek legal advice from your own attorney, who must be licensed to practice law in the State of Illinois. If you need a referral to an attorney who may be able to assist you, please contact the Lake County Bar Association’s Lawyer Referral Service at [www.lakebar.org/find-a-lawyer](http://www.lakebar.org/find-a-lawyer) or by calling them at (847) 244-3143.

## **2. INTRODUCTION FROM CHIEF JUDGE**

The Constitution of the United States and the State of Illinois not only guarantee litigants the right to retain legal counsel to represent them, but also affords to each and every citizen the right of self-representation.

Any person involved in a legal dispute is encouraged to seek the advice of a lawyer of his or her choice. Because of finances or personal preference, many litigants choose to represent themselves. If you have made that choice and are involved in a family law matter in Lake County, you should read this booklet.

Whether you are filing a lawsuit or responding to a claim made against you, this booklet will familiarize you with the procedures necessary to conduct a family law action and allow you to be better prepared when you reach the courtroom.

Although this guide presents the legal procedures as completely as possible, it is not designed to take the place of sound legal advice. If you do not fully understand the information in this booklet, find the procedures to be complicated, or need advice, you may need to talk to a lawyer about your case. The choice is yours.

Chief Judge

Nineteenth Judicial Circuit

### **3. RESOURCES AND LOCATIONS FOR INFORMATION**

The following is a list of locations where forms and samples can be found:

- 3.1 The Clerk of the Circuit Court (commonly called the Clerk's office) - 18 North County Street, Waukegan, Illinois 60085. The Clerk's office is located in the basement of this building at the southernmost part of the building, adjacent to Washington Street. The Clerk's phone number is (847) 377-3380. The Clerk's Office is open Monday through Friday, from 8:30 a.m. to 5:00 p.m., and is closed on most federal holidays. Information about the Clerk's Office can be located online at [www.lakecountycircuitclerk.org](http://www.lakecountycircuitclerk.org)
- 3.2 Law Library - 18 North County Street, Waukegan, Illinois 60085. The Law Library is located in the northwestern area of the first floor of the courthouse. The Law Library's phone number is (847) 377-2800. It is open Monday through Friday, from 8:00 a.m. to 5:00 p.m. and is closed on most federal holidays. Information about the Law Library can be located on line at [www.19thcircuitcourt.state.il.us/services/Pages/LawLibrary.aspx](http://www.19thcircuitcourt.state.il.us/services/Pages/LawLibrary.aspx)
- 3.3 The Website - Forms can also be found at the following website:  
Clerk's office forms:  
<http://www.lakecountycircuitclerk.org/court-forms>
- 3.4 Court Administration: This office is located on the 1<sup>st</sup> floor between Courtrooms C-105 and C-107. Most of the family law courtrooms are located on the first floor of the main courthouse. The Court Administration phone number is (847) 377-3600. The Courthouse is open Monday through Friday, from 8:00 a.m. to 5:00 p.m. and is closed on most federal holidays.  
  
Information about the Courthouse and the court system can be found on line at [www.19thcircuitcourt.state.il.us/default.aspx](http://www.19thcircuitcourt.state.il.us/default.aspx). You can also find information under "Frequently Asked Questions" located at [http://www.19thcircuitcourt.state.il.us/findit/Pages/faq\\_home.aspx](http://www.19thcircuitcourt.state.il.us/findit/Pages/faq_home.aspx)
- 3.5 Lawyer Referral Service: Lake County Bar Association, at 300A Grand Avenue, Waukegan, Illinois, on line at [www.lakecountylawyer.info/](http://www.lakecountylawyer.info/) or you may call (847) 244-3143.
- 3.6 Kids Korner: Children are not allowed in the courtrooms. If you have minor children, there is a free supervised waiting area available at the courthouse while you are in court. Kids Korner is for children aged 2 to 12, who are in the Lake County courthouse to testify in court or whose parents or guardians are conducting court

business. Kids Korner is located within the courthouse on the first floor between Courtrooms C-103 and C-105 across from Court Administration.

- 3.7 Lake County Parenting Class: This is a mandatory class for all parents in cases which involve minor children. There is a fee to take this class. The fee is waived if the Court grants a Petition to Sue or Defend as an Indigent Person. Enrollment forms are located in each courtroom and at the Clerk's Office. You may obtain the enrollment form on line at <http://www.clcillinois.edu/programs-and-classes/court-programs> . If you are prepared to pay for the class by credit card you may also enroll by phone at (847) 543-2185 or Fax (847) 543-2188.
- 3.8 Notary Public: Several of the papers described in this booklet require a notarized signature. Notarization can be obtained at most banks, currency exchanges or the Clerk's Office.
- 3.9 Legal References: The following is a list of the laws and relevant rules pertaining to family cases:
- Illinois Marriage and Dissolution of Marriage Act: 750 ILCS 5/101 *et seq.*
  - Illinois Parentage Act of 2015, 750 ILCS 45/1 *et seq.*
  - Civil Union Act 750 ILCS 75/1 *et seq.*
  - Local Court Rules of the Nineteenth Judicial Circuit
  - Supreme Court Rules

The Statutes and the Supreme Court Rules can be located at the Lake County Law Library or at

<http://www.illinoiscourts.gov/SUPREMECOURT/Rules/default.asp>

The Illinois Marriage and Dissolution of Marriage act can be found at

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2086&ChapterID=59>

The Local Court Rules can be found at the Lake County Law Library or online at

[www.19thcircuitcourt.state.il.us/resources/Pages/rules\\_home.aspx](http://www.19thcircuitcourt.state.il.us/resources/Pages/rules_home.aspx)

#### **4. TYPES OF FAMILY LAW CASES**

Before you can file a case in court to start the process, you need to determine *what* you need to file, or what is your “cause of action”. The Family Law Division handles many types of cases involving families including dissolution of marriage (commonly known as a “divorce”), legal separation, declaration of invalidity of marriage (commonly known as an “annulment”), dissolution of civil union, and parentage and child support for unmarried

persons. Throughout this booklet, when a reference is made to “dissolution” it means both a dissolution of marriage and a dissolution of a civil union, unless it specifically excludes one or the other.

- 4.1 Dissolution of Marriage (“Divorce”): If you are married and no longer wish to be, you must start the process by filing a written Petition asking the Court for a Dissolution of Marriage. See Section III below for specific guidelines to pursue the dissolution of a marriage.
- 4.2 Legal Separation: Any person living separate and apart from his or her spouse during the marriage may petition the Court for reasonable support and maintenance while they live apart. See Section IV below for specific guidelines to pursue a legal separation.
- 4.3 Declaration of Invalidity of Marriage (“Annulment”): A spouse can ask the Court to declare their marriage to be invalid rather than granting dissolution if the appropriate grounds exist. This process is commonly known as an annulment – the legal effect is that the marriage is treated as never having existed. See Section V below for specific guidelines to pursue the invalidity of a marriage.
- 4.4 Dissolution of Civil Union: A civil union is dissolved using the same procedures as dissolution of marriage. All provisions of the Illinois Marriage and Dissolution of Marriage Act apply to the dissolution of civil unions. See Section VI below for specific guidelines to pursue the dissolution of a civil union.
- 4.5 Parentage or Family Case: If you are not married, but you have children together, and you are asking the court to enter orders: establishing parentage; establishing or enforcing child support; establishing parenting time (formerly known as visitation); or establishing decision making for the minor child or children including education, medical, extracurricular, or religion.

## **5. FILING AND FEES**

- 5.1 E-filing: All documents filed with the court must be e-filed. Detailed instructions for e-filing are available at [www.lakecountycircuitclerk.org](http://www.lakecountycircuitclerk.org) or the center for self-representation.
- 5.2 Court Fees: A court fee is charged when you file your petition, or when you file your appearance/answer. Please call the Clerk of the Circuit Court to obtain the correct amount of the fee charged, or see the fee schedule at [www.lakecountycircuitclerk.org](http://www.lakecountycircuitclerk.org)

The fee must be paid at the time you file your Petition or your Appearance. The clerk's office does not accept checks – all fees must be paid in cash or by credit card. There is an additional transaction fee charged when you use a credit card. Call the Circuit Court Clerk's Office to determine the amount of the fee and whether they accept your type of credit card. An ATM machine is also available in the building.

- 5.3 If you cannot afford to pay filing fees: If you cannot afford to pay the court fees, you can request that the court fees be waived. To request the court fees be waived you need to fill out a form called Application for Waiver of Court Fees.

If you want to file an Application for Waiver of Court Fees you will need to provide the following information:

- Amount of money that you make
- Value of property that you own
- Number of people that you care for
- Monthly expenses and debt

After you complete the form you must appear before a Judge to ask that your request be granted. You do this by obtaining a case number from the Clerk's office, then requesting Court Administration for assistance in assigning a Judge to hear the Petition. This typically occurs on the same date that you file the form, so please plan your day accordingly. The Judge will review the application and either grant or deny your request. If the Judge grants the application, the Judge will provide an order waiving your court fees for the dissolution suit. If the Judge denies the Petition, you will have to pay the filing fee before your case can proceed.

Fees for Dissolution, Invalidity, Legal Separation, or Family cases that can be waived include:

- Fee for filing a petition
- Fee for filing your appearance/response
- Fee for service of the petition by the sheriff
- Fee for publication notice, if necessary
- Fee for a court reporter for the prove up hearing
- Fee for the Lake County Parenting Class



## **6. PRE-TRIAL MATTERS/OBTAINING FINANCIAL INFORMATION ABOUT THE OTHER PARTY/DISCOVERY**

There are several ways to obtain financial information regarding the other party. The process of obtaining information during the legal process is referred to as “discovery”. Each party is required to respond truthfully and completely to written and oral discovery requests. If financial issues are involved in your case, you must comply with Local Court Rule 4-3.02. You must comply with this rule even if you are the person requesting or receiving child support, maintenance, or other forms of financial relief. Sanctions can be imposed for failure to accurately disclose your income, assets, expenses and debt on your financial affidavit. Discovery can be obtained by the following:

- Marital Interrogatories (requests the other party to answer questions) (see Illinois Supreme Court Rule 213).
- Notices to Produce (requests the other party to produce copies of documents, objects, or access to real estate and personal property) (see Illinois Supreme Court Rule 214).
- Subpoenas (requests a non-party to produce documents or appear in court to testify.) Additionally, a Subpoena can compel a person to appear in Court (see Illinois Supreme Court Rule 204 and Local Court Rule 4-2.09).
- Depositions (requests a party to give testimony on the record) (see Illinois Supreme Court Rules 202 through 208, and Local Court Rules 5-2.06 and 5-2.07).

For additional rules regarding discovery in general, and other forms of discovery allowed, see the Illinois Supreme Court Rules and Nineteenth Judicial Circuit Local Court Rules Part 2.00 Proceedings Before Trial. If you do not fully understand this information or find the procedures to be complicated, or need advice, you may need to talk to a lawyer about your case. The Lake County Bar Association Lawyer Referral Service can be reached on line at [www.lakecountylawyer.info/](http://www.lakecountylawyer.info/) or you may call (847) 244-3143.

## **7. COMMUNICATIONS WITH THE JUDGE**

**Ex Parte Communications:** **Ex parte** communication is communication with the judge when only one party is present. Judges are not allowed to engage in ex parte communication. **If you have something you need to tell the judge, you must ask for a hearing and give notice to the other party or file a written statement in the court file and send a copy of the written statement to the other party.**

## 8. **MOTIONS**

If you are asking the court to enter an order or take some action you must file a written Motion:

8.1 How to prepare a Motion: The title of your Motion must state the exact relief you are requesting (for example, visitation, temporary child support, temporary maintenance, etc.). This Motion must:

- Cite the statutory provision under which you seek relief;
- Clearly state, in separately numbered paragraphs, the exact relief you seek and the factual reasons for requesting that relief;
- Include a request or prayer for relief;
- Be signed by you; and
- Include a certification that the allegations in the motion are true and correct to the best of your knowledge.

For motions for temporary child support, temporary maintenance, or other financial relief, you must complete the Financial Affidavit form as set forth in Local Court Rule 4-3.02 and provide it, along with supporting documents such as income tax returns, pay stubs, and bank statements, etc., to the other party prior to the hearing. The same should be tendered to the Judge at the time of hearing. The Financial Affidavit form is available on-line at [www.lakecountycircuitclerk.org](http://www.lakecountycircuitclerk.org) or in the Law Library.

8.2 Examples of form motions available:

- Motion for Default
- Motion to Excuse Parenting Class
- Motion to Terminate Support
- Petition for Dissolution
- Petition for Joint Simplified Dissolution
- Petition for Modification of Allocation of Parental Responsibilities
- Petition for Rule to Show Cause

8.3 Obtain a court date. To obtain a court date, call the Clerk of the Court at 847-377-3209 and have your case number available.

8.4 Notice of Motion. This is the form that is used to notify the other party of when and where you will appear in court to present your Motion. Once you fill out this form with the court date, time, and courtroom that was obtained when you called the

Clerk's office, it is ready to be e-filed. Make sure to include your name, address and phone number on the bottom of the Notice. The e-filing system will reject your filing if you do not enter a court date on the form before e-filing it.

- 8.5 Filing the Motion and Notice of Motion. The Motion and the Notice of Motion need to be e-filed with the Clerk of the Court.
- 8.6 Serving the Motion and the Notice of Motion. Send a file stamped copy of both the Notice of Motion and the Motion to the opposing party by U.S. Mail at his or her last known address. You must mail this document at least five court days before the court date. How does this work with e-filing?
- 8.7 Presenting the Motion in Court. You must appear in court on your assigned court date and time. If you fail to appear, your motion may be stricken or dismissed. At that time, you will present the Judge with your Motion and request a hearing date. The other party will be given time to respond to your Motion and the Judge will set a future date for that hearing. Whenever you appear in Court, you should bring several copies of all the papers you have filed in your case, as well as several copies of any other documents to support your request. Court begins at 9:00 a.m. and ends at 12:00 p.m. Thus, for a 9:00 a.m. court call you should typically be completed with court by 12:00 p.m. But this does not always occur. Sometimes, you are asked to return for the afternoon court call which begins at 1:30 p.m. and ends at 4:30 p.m. Sometimes you are given another court date in the future.
- 8.8 Personal Identity Information: Supreme Court Rule 138 imposes important restrictions on the use of Personal Identity Information in any document filed in the Court record as the record is public information. Personal Identity Information is defined as: Social Security and Taxpayer-identification numbers, driver's license numbers, financial account numbers, or debit and credit card numbers. Personal Identity Information must only use the last four digits of the actual number. Willfully failing to comply with this Rule could result in monetary sanctions, including attorneys' fees and court costs.

## **9. COURT APPEARANCES**

- 9.1 Where to go: When a case is filed, it is assigned to a Judge, sometimes, Judges switch courtrooms or Judges are assigned to another area of law. When you get to the courthouse you can ask Court Administration in what courtroom your case will be heard, or you can look at the television screens that are mounted to the

walls near the entrances. The screen will have a list of case names and the courtroom in which each is being heard.

9.2 What to do when you arrive in the courtroom: When you arrive at the appointed court room approach the Clerk to check in. This is the person sitting at the front of the courtroom next to the judge. Tell the clerk your name and for what case you are there. Ask the clerk to put the case in front of the Judge. After checking in you will sit down and wait for your case to be called. While waiting for your case to be called, remain quiet and silence and put away all electronic devices. When your case is called, approach the bench and plead your case to the Judge.

## 10. DISSOLUTION OF MARRIAGE/DIVORCE

10.1 Joint and Simplified Petition for Dissolution of Marriage/Divorce. A Joint and Simplified Dissolution of Marriage is a court procedure that allows parties to get divorced faster and more easily if they meet certain specific criteria.

- a. *Do you qualify?* You can file a Joint and Simplified Divorce Petition if **all** of the following are true:
- You and your spouse BOTH agree to get a divorce.
  - You and your spouse BOTH fill out the paperwork together.
  - You and your spouse BOTH attend court.
  - You OR your spouse was an Illinois resident or was stationed in Illinois while a member of the armed services for at least 90 days before filing your petition asking for a Joint and Simplified Dissolution of Marriage.
  - The duration of the marriage does not exceed 8 years.
  - You and your spouse do NOT have any children together and have not adopted any children together.
  - You or your spouse are NOT currently pregnant;
  - You and your spouse do NOT have any interest in real property (house or land).
  - You and your spouse do NOT have any interest in retirement benefits, unless the retirement benefits are exclusively held in individual retirement accounts and the combined value-of the accounts is less than \$10,000.
  - Neither you nor your spouse will receive spousal support from the other.
  - The total fair market value of all property owned by you and your spouse, including pensions and after subtracting debts that you may owe, is less than \$50,000.

- You and your spouse have executed a written agreement dividing all assets that are valued over \$100 and have allocated responsibility for debts and liabilities.
  - The combined gross income (before taxes) of you and your spouse is less than \$60,000.
  - Your gross income (before taxes) is less than \$30,000.
  - Your spouse's gross income (before taxes) is less than \$30,000.
  - You and your spouse have disclosed all assets and liabilities for all years of the marriage.
  - You and your spouse have disclosed to each other your income tax returns for all years of the marriage.
- b. *If so, what is the process?* If you qualify for a Joint and Simplified Dissolution of Marriage, you must complete the following forms:
- Application for Waiver of Court Fees (if applicable).
  - Joint Petition for Simplified Dissolution of Marriage and Verification of Joint Petition for Simplified Dissolution of Marriage (both parties must sign the Joint Petition in front of a Notary Public, who will complete the notary public section).
  - Joint Affidavit Regarding Separation of the Parties Division of Property and Waiver of Bifurcated Hearing and Verification of Joint Affidavit Regarding Separation of the Parties Division of Property and Waiver of Bifurcated Hearing (Both parties must sign the Joint Affidavit in front of a Notary Public, who will complete the notary public section).
  - Agreement as to Assets and Debts (both parties must sign in front of a Notary Public, who will complete the notary public section).
  - Judgment for Dissolution of Marriage (both parties must sign the Judgment).

Once you have completed the required documents as listed above, e-file them with the Lake County Circuit Court Clerk's Office and contact the Clerk's Office in person or at 847-377-3209 to obtain a court date. Additionally, pay the required filing and court reporter fees. Both you and your spouse will need to be present in court on the assigned date received from the Clerk's office. Make sure you have an original and at least two copies of all of your documents. On the day and time specified by the Circuit Court Clerk's Office, you will appear in court to present your Joint Petition for Simplified Dissolution of Marriage and the proposed Judgment for Dissolution of Marriage for the Judge to read, approve, and sign. You may be asked to testify to the information contained in the Judgment.

- c. *If not, what do you do?* If you do NOT satisfy all of the criteria listed above in Paragraph (b), you must proceed with a standard Dissolution of Marriage.

## 10.2 Standard Dissolution (“Divorce”) Proceedings

- a. *Jurisdiction* (can you file in Illinois?): The first step is to make sure that the Court has jurisdiction over your case. One or both spouses must be a resident of Illinois (or stationed in Illinois while a member of the armed services) for at least 90 days prior to the filing of the case, or not less than 90 days before the final judgment is entered.
- b. *Venue* (where do you file in Illinois?): You can file for divorce in the county in which you reside or the county in which your spouse resides. Filing in a county where neither you nor your spouse resides requires a written request (Motion) and hearing to proceed. The Motion must be filed at the same time that you file for divorce.
- c. *Starting the Process*. Prepare a Petition for Dissolution of Marriage, which will be filed with the Circuit Court Clerk’s Office. **Note:** In any and all petitions filed with the court, you must tell the truth, and must sign the petition as your certification of its truth.
- d. *What must be included in a Petition for Dissolution of Marriage:* A Petition for Dissolution of Marriage must be in writing, and you must sign it. Each Petition for Dissolution of Marriage should include the following information:
- Caption, including the filing party’s name as Petitioner and the other spouse’s name as Respondent;
  - Each spouse’s age, occupation, and residence with the length of residence within Illinois;
  - Date of marriage and the state and county in which it was registered;
  - Whether any other court action is pending for a dissolution of marriage in any other county or state;
  - That the court has jurisdiction (see above);
  - That irreconcilable differences have caused an irretrievable breakdown of your marriage and that efforts at reconciliation were not or would not be successful;
  - Names, addresses and ages of all living children of the spouses, and whether a spouse is pregnant; (Note: it is preferable to use the initials of

all minor children instead of full names and only the year of each child's birth and age as opposed to the actual date of birth of a child).

- Whether any arrangement has been made between the spouses as to support, parental responsibility allocation and parenting time;
  - Whether any arrangement has been made between the spouses as to the support or maintenance of each spouse; and
  - The relief sought (what you want the Judge to award to you and/or your spouse).
- e. *Filing with the Clerk:* The Petition must be e-filed with the Clerk of the Court. A case number and a Judge will be assigned, and an official court file will be opened. (you will be sent a court date 30 days prior to your first court appearance. If your address changes notify the clerk's office so that you will receive this notice.)

You must file the original and three copies of the Petition. This relates to any of the other cases discussed in this booklet [Dissolution of Marriage, Legal Separation, Invalidity of Marriage, and Dissolution of Civil Union].

You must also e-file the following documents at the Lake County Clerk's Office:

- Summons. The appropriate summons form is titled: "Summons Illinois Marriage and Dissolution of Marriage Act". You will need to complete the summons form with the case name, the name and address of the opposing party and your information.
- Affidavit of Military Service. The Affidavit of Military Service informs the Court whether the Respondent is or might be in the military service of the United States. You must complete the form truthfully and accurately and include your name and contact information at the bottom.
- Declaration Under Uniform Child Custody Jurisdiction Act (UCCJEA). This form is only required if you and your spouse have minor children together. The form requires detailed information about the children involved in this action and where they have lived for the past five years. Complete the form truthfully and accurately and include your name and contact information at the bottom.
- Certificate of Attorney – Family Division. The Certificate of Attorney – Family Division asks if the parties are involved in another case in another county and identifies the type of case being filed (e.g. Dissolution of Marriage with minor children, Dissolution of Marriage without minor

children; etc.). You must fill this out, even if you are representing yourself.

f. *Service of Process*: The process of officially delivering the summons and petition to the other party is known as service of process. This provides legal notice of your divorce action to the other party. A party may be served by the Sheriff or by publication in a newspaper.

- Service by the Sheriff: The Lake County Sheriff can attempt to serve your spouse if he or she lives or works in Lake County. To hire the Sheriff's office, you must take two copies of the file stamped summons and Petition for Dissolution of Marriage to the Lake County Sheriff's office. There is a fee, which varies depending on where your spouse lives within the county. You should call the Sheriff's office at 847-377-4000 to determine the exact fee. If you cannot afford the fee, follow the steps in section 5.2. The Sheriff only accepts cash or checks. All proper documents and fees shall be delivered to: Lake County Sheriff Attn: Civil Process 25 S. Martin Luther King Jr. Ave. Waukegan, IL 60085. A minimum of 2 weeks is required for service.

If your spouse lives outside of Lake County, Illinois, then you need the Sheriff of that county to serve your spouse. You should contact the Sheriff of that county to determine the exact procedure and fees.

- Service by Publication: If you do not know where your spouse lives or works, or if the Sheriff has tried and failed to serve your spouse, then you may be able to serve the Respondent by publishing a notice in a local newspaper. You must get a Court Order signed by the Judge allowing you to publish the notice in the local newspaper.
- Proof that the Service has been Completed: All affidavits of service by Lake County Sheriff will be returned to the Clerk of the Circuit Court for filing.

To serve a person by publication, you must fill out two court forms and e-file the forms at the Circuit Court Clerk's Office. If you have obtained an Application for Waiver of Court Fees, you must also present this order to the clerk when you e-file your forms for publication to waive the publication fee.



The first form you need to file is called a Notice of Publication. This form notifies the Respondent that he or she must file an appearance with the court by a particular date. The clerk will provide the date and courtroom to be listed on the form. The second form is called an Affidavit for Service by Publication. This form must be signed and notarized. Fill out the form but do not sign it until you have a notary to witness your signature. The clerk's office does provide a notary free of charge, you must have a state I.D., drivers license, or government issued I.D.

After the forms are e-filed, you will designate a newspaper company, either The News Sun or The Daily Herald. The newspaper representative will call you for payment of the publication fee (unless you had the fee waived as stated above). Upon payment of the publication fee, the newspaper will publish the notice. The newspaper will mail you a Certificate of Publication listing the days that your notice ran. You must file that Certificate of Publication with the clerk's office. If the newspaper fails to send you the certificate, you must contact the newspaper and obtain the certificate. The certificate is required to show the Judge that service was completed.

The court clerk must mail a file stamped copy of the Notice of Publication form to your spouse/partner at his/her last known address and file a Certificate of Mailing, stating that the Notice of Publication was mailed. You should check with the court clerk to make sure that this was done.

- g. *After your spouse has been served:* Your spouse has 30 days after being served to file an "Appearance" (a court form) in your case.
- If your spouse has filed an Appearance and you have reached an agreement on all issues, you can request a prove-up hearing date. You can obtain a date by submitting a Motion and Notice of Motion to the Clerk's office or from your Judge if you are already in court for a previously scheduled appearance. A prove-up hearing is the court date when you appear before the Judge and request that the Judge grant you a divorce based on the terms of your agreement. You must bring to court all of the necessary documents for the prove up and follow the prove up instructions below.
  - If your spouse does not file his or her Appearance within 30 days of being served, you will file a motion for default, see instructions below.

h. *Default*: To obtain a Default Judgment and finalize the divorce without our spouse's participation, you must:

- Complete a Motion for Default and a Notice of Motion.
- Contact the Circuit Court Clerk's Office in person or by calling 847-377-3209 to set a date to present your motion to the court.
- Send your Motion for Default to your spouse, along with a Notice of Motion. The Notice of Motion should state the date and time that you will appear before the Judge for hearing on your Motion, as well as the courtroom number.
- Appear in court at the specified date and time to present your motion to the Judge. If your spouse does not appear at that time, the Judge may enter an Order of Default.
- If your spouse was served by publication, you may be able to go before a Judge and complete the prove-up that same day.
- If your spouse was personally served with the Petition for Dissolution of Marriage, you will need to mail him or her the Order of Default and set another date to return to court to complete the prove-up.
- If you and your spouse have minor children together, you must complete the Lake County Parenting Class before the final prove-up hearing.

i. *Prove-up on Uncontested Proceedings*: If you have reached an agreement with your spouse, you may appear in front of a Judge to finalize your case. This is known as a prove-up. You will contact the Clerk of the Court to obtain a prove-up date before the appropriate Judge to appear with your spouse. If your spouse does not plan to appear in court on the date of the prove-up hearing, you must send a Notice of Motion to your spouse indicating the date of the prove-up. Your spouse should also sign a Stipulation, which states that they agree to the terms of the divorce and the case can proceed as in a case of default (this form can be found on the Clerk's website).

On the day of the prove-up hearing, you will present to the Judge a proposed Judgment of Dissolution. The Judgment for Dissolution of Marriage is a final order of the court that the judge signs granting you a dissolution of your marriage.

The Judgment for Dissolution of Marriage details the terms of your financial settlement, either on its own or by incorporating an agreement that the two of

you have drafted and signed (commonly known as a Marital Settlement Agreement).

At the prove-up hearing you will need an original and two copies of the following documents:

- Judgment for Dissolution of Marriage;
- Certificate of Dissolution of Marriage;

If there are minor children, you will also need the following:

- Certificate of Compliance with Parenting Class;
- Parenting Agreement, or proposed Order;
- Declaration Under the Uniform Child Custody Jurisdiction Enforcement Act;
- Uniform Order of Support;
- Notice to Withhold Income for Support.

At the prove-up hearing, plan to arrive at the assigned courtroom early. When you arrive at the courtroom, provide the clerk with the original Judgment of Dissolution, Marital Settlement Agreement, Parenting Agreement and any other applicable documents. The extra copies will be stamped by the clerk at the end of the prove-up hearing and returned to you.

When your case is called by the Judge, the Judge will ask questions and will determine whether everything is in order. If so, you will be required to pay the court reporter. The court reporter's fee is \$75.00. This amount is subject to change, and you should confirm the court reporter fee by calling the Court Reporter Office at 847-377-3904 prior to the prove-up hearing date. Note that, if you have previously been granted an Application for Waiver of Court Fees, this fee will be waived.

At the prove-up hearing you will be put under oath and asked questions regarding your Petition for Dissolution, and what you are asking of the court. If the Judge is satisfied that all the requirements have met, the Judge will state his or her findings, grant the dissolution, and sign the Judgment for Dissolution and other orders as required. Wait for a copy of the Judgment and orders signed by the Judge before leaving the courtroom.

If your spouse is not in court for the prove-up hearing, then you must send a file-stamped copy of each order to your former spouse and you must file with the clerk's office a certification that you have sent a copy of the orders.

If you have requested permission to return to your maiden name or if you need to change ownership of bank accounts or car titles, you should request a certified copy of the Judgment for Dissolution from the Circuit Court Clerk's Office. There is a fee to receive a certified copy.

- j. *Trials on Contested Proceedings:* If you and your spouse do not reach an agreement regarding all issues related to the divorce, including the division of assets and debts, maintenance, as well as allocation of parental responsibilities, parenting time and support issues if you have minor children together, you will have a trial. NOTE: It is beyond the scope of these materials to detail how to conduct a contested trial. In the event you are unable to bring matters to resolution by agreement, it is strongly recommended that you consult with an attorney.
- k. *Case Management.* You will be required to participate in a Case Management Conference which takes place within approximately 90 days of filing your case.

The Case Management Procedures are found at Local Court Rule 4-2.11 and it is strongly suggested that you read that Rule in its entirety. Procedurally, it states as follows:

- You will receive notice from the clerk setting a date for the Case Management Conference.
- Before your court date, you must send to the other party or his or her attorney a comprehensive Financial Affidavit and file an Affidavit of Service with the Circuit Court Clerk's Office. **DO NOT file the Financial Affidavit with the clerk.**
- If there are minor children, before your court date, you must file with the Clerk a written Proposed Parenting Plan, which you must send to the other party or his or her attorney unless you have signed a written Final Parenting Plan with your spouse.
- When you appear at the initial case management conference, the court will assign you a trial date and other deadlines. At that time, you will be required to complete a Case Management Order.
- Trial dates will be set depending on the complexity of the issues before

the Court.

If you have children, the Case Management Conference will also include:

- Whether you have completed the mandatory Lake County Parent Education Program (PEP); and
- Whether you have reached an agreement regarding the children and whether you have filed a Proposed or Final Parenting Plan.
- If you have not reached an agreement regarding the children, the Case Management Order will include whether you should be required to attend mediation, or if an attorney should be appointed to represent your child(ren).

The Case Management Order will set additional court dates, which are further described below and may include the following:

- A Pretrial Settlement Conference date.
- A Subsequent Case Management date.
- A Final Trial Conference date.
- Trial dates.

The Case Management Order will also include Discovery Issues, such as deadlines for disclosing witnesses and completing discovery.

Failure to appear in court for your scheduled Case Management Conference may result in your case being dismissed.

- i. *Pre-Trial or Settlement Conference:* Prior to trial the Judge may schedule a pre-trial conference. (See Local Court Rule 4-3.11). You must complete a settlement conference memorandum and send it to the opposing party and the Court at least two days prior to the court date. You must also provide to the other party an updated Comprehensive Financial Affidavit (if anything has changed since the last affidavit) no less than seven days prior to the Trial Conference (see below).
- m. *Subsequent Case Management:* The Subsequent Case Management date is to verify the parties have reached an agreement as to parenting issues, or for the Court's consideration of referral to mediation, or appointment of a Guardian Ad Litem or in the event there are no minor children, Subsequent Case management is intended to identify and simplify issues.

- n. *Final Trial Conference*: Final Trial Conferences are scheduled approximately two weeks prior to your scheduled trial date. The purpose of the final trial conference is to determine the issues that will be decided at trial.

At this conference, both sides will be expected to present the Judge and the other party with the exhibits that they intend to present at trial. These exhibits should be numbered and clearly marked to reflect which side (Petitioner or Respondent) is presenting them. Each side should present one copy of the exhibits to the Judge and one copy to the other side.

- o. *Trial*. All trials are scheduled on Monday mornings and extend for two weeks. Both parties must appear on Monday and whatever day your case is scheduled thereafter during that two-week period. On Monday morning, the Judge will tell you what day(s) that week (or the following week) the Judge will likely hear your case.

At trial, you will present evidence to the Judge to support your case. You should make sure to have all of your documents and witnesses present with you on your scheduled trial date. There are Rules of Evidence that govern the information that may be presented in court. The Judge will expect you to follow these rules when presenting your case.

The person who filed the Petition for Dissolution of Marriage (the Petitioner) will present his/her evidence first. The Respondent will present his/her evidence after the Petitioner has finished.

After both sides have presented his or her case, the Judge will make a ruling. The Judge may or may not rule immediately after the trial but must rule within 60 days. The Judge may take time to think about the evidence presented before making a decision.

The decision of the Court will be entered as, or incorporated into, a Judgment for Dissolution of Marriage.

## 11. LEGAL SEPARATION

You can seek a legal separation by filing a Petition stating that you and your spouse are living separate and apart and providing information similar to that in a Petition for Dissolution of Marriage. You must file for legal separation in the county where:

- Your spouse resides; OR
- You and your spouse last resided as husband and wife; OR
- If your spouse cannot be found in Illinois, the county in which you reside.

NOTE: A legal separation does NOT terminate a marriage. Even if a Judgment for Legal Separation is granted, the parties remain legally married unless and until a Judgment for Dissolution is entered. However, the court may award support to the other party if appropriate and pursuant to a Petition and proper Notice.

## 12. DECLARATION OF INVALIDITY OF MARRIAGE

The following are grounds for the Court to declare the marriage invalid:

- A spouse lacked the capacity to consent to the marriage at the time of the ceremony due to mental incapacity due to alcohol, drugs, or other incapacitating substances; or a spouse was induced to enter into the marriage by force, duress, or fraud involving the essentials of the marriage.
- A spouse lacks the physical capacity to consummate the marriage by sexual intercourse AND at the time of the marriage the other spouse did not know of this physical incapacity.
- A spouse was aged 16 or 17 at the time of the marriage and did not have consent of his parents, guardian, or judicial approval.
- The marriage is prohibited by law. See 750 ILCS 5/212.

For each ground, there are specific time limits for filing a Petition for Declaration for Invalidity. See 750 ILCS 5/302 for more details.

To begin proceedings, you must draft a Petition for Declaration of Invalidity of Marriage setting forth the appropriate grounds (detailed above) and providing information similar to a Petition for Dissolution.

### **13. DISSOLUTION OF CIVIL UNION**

How to File for Dissolution of a Civil Union: In Illinois, a party to a civil union may petition the Court to dissolve the civil union just as with Dissolution of Marriage. You must draft a Petition to Dissolve a Civil Union alleging similar facts as in a Petition for Dissolution of Marriage, and follow similar procedures as set forth above.

### **14. WHAT TO DO IF YOU HAVE BEEN SERVED WITH A PETITION FOR DISSOLUTION OF MARRIAGE, INVALIDITY OF MARRIAGE, LEGAL SEPARATION, OR CIVIL UNION**

If you have been served by the Sheriff with a Summons and Petition for the above mentioned proceedings, you have 30 days from the time of service to file an Appearance. If you have not been served by the Sheriff, but you have received a mailing at your last known address and/or a Legal Notice has been placed in the local newspaper, you have until the date in the Notice to file your Appearance.

There is a fee for filing an Appearance. Please call the Clerk of the Circuit Court to obtain the correct amount of the fee charged, or see the fee schedule at [www.lakecountycircuitclerk.org](http://www.lakecountycircuitclerk.org). If you cannot afford to pay the filing fee, you may complete an Application for Waiver of Court Fees.

Once the Appearance or limited scope Appearance is e-filed, you must mail it to the other party or the party's attorney if that party is represented by counsel. Prepare a Notice of Filing stating how and when you sent the Appearance, then e-file that Notice of Filing with the Circuit Court Clerk's Office.

After you file your Appearance, you must prepare an Answer to the Petition, or otherwise respond to the Petition, in which you answer each and every numbered paragraph of the Petition by admitting or denying the allegations in that specific paragraph. Like the Appearance, you must prepare a Notice of Filing of your Answer, e-file both of these documents with the Circuit Court Clerk's Office, and send copies of both the Answer or responsive pleading and the Notice of Filing to the other party or counsel for the other party.



## VIII. GLOSSARY

**Affidavit:** A sworn statement that often appears at the end of a document, usually stating that everything said above it is true to the best of the affiant's knowledge. Lying in an affidavit can result in a charge of perjury punishable by fine, imprisonment, or both.

**Alimony (maintenance):** Financial support paid to one spouse by another. This support is not for the children, but rather is to maintain the standard of living for the receiving spouse.

**Answer:** A written response to a petition or motion. An answer generally responds to each allegation in the pleading by denying or admitting it, or admitting in part and denying in part.

**Appearance:** A document that a respondent must file stating their mailing address for service of notices. Filing an Appearance submits a person to the jurisdiction of the court unless an objection to jurisdiction is filed with the Appearance.

**Alias Summons:** a second summons that is issued by the court when the first attempt to serve a summons was unsuccessful.

**Arrearage:** Money that the court ordered to be paid which is past due.

**Certificates of Attorney:** A cover sheet for all civil suits and one for divorce/family cases.

**Child Support:** A specific amount that one parent pays to the other parent to help support his or her child or children. The amount of child support is usually a percentage of the net income of the parent exercising a minority of the parenting time according to the statutory guidelines as set forth by Section 505 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/505).

**Circuit:** The judicial system in Illinois is divided into circuits. Each circuit defines a geographic area in Illinois. Lake County is the Nineteenth Judicial Circuit.

**Continuance:** A continuance simply means that the case will be continued on another date set by the court.

**Default:** If the Respondent does not respond to a motion or petition filed by the other party, within the time allowed, the case may proceed by "default." This means the judge will hear the case even though one party is not present in court.

**Discovery:** Legal procedures for parties to seek information necessary to prepare their case. Discovery procedures include written questions (interrogatories), oral questioning (deposition), and document production.

**Divorce/Dissolution:** The legal end of a marriage or civil union. The legal proceedings by which a party ends his or her marriage or civil union, divides property and debt, and determines parental responsibility, support, and parenting time for any minor children.

**Docket Number:** A number assigned to every case when it is opened by the clerk. This number will appear in the caption of the case and should be on everything that is filed with the court.

**Grounds:** The reason a party must prove for seeking the dissolution of his or her marriage. In dissolution of marriage proceedings, the only valid grounds are irreconcilable differences.

**Hearing:** An opportunity for both parties to tell the judge his or her side of a dispute. Failure to appear at a hearing can result in the other side getting the relief they requested. Failure to appear in court after being ordered to appear by the judge can result in arrest for contempt of court.

**Irreconcilable Differences:** the basis for divorce in Illinois. Irreconcilable differences have caused the irretrievable breakdown of the marriage and efforts at reconciliation have failed or that future attempts at reconciliation would be impracticable and not in the best interests of the family.

**Judgment:** A final decision or order.

**Jurisdiction:** Whether the court in a particular state has the power to hear a case or to order someone to do something depends upon whether it has “jurisdiction.” Jurisdiction can be either over a person or over a thing. For a state court to have jurisdiction over a person, generally, the person must either reside in the state, or have committed an act in the state that gave rise to the case, or have been personally served with summons in Illinois.

**Marital Settlement Agreement:** A document that sets out the terms of an agreement between spouses as part of a divorce. Generally, marital settlement agreements discuss items such as property, debts, taxes, child support and related expenses, visitation, and maintenance. If it is made part of a judgment, a marital settlement agreement has the force of law.

**Minor:** Child under the age of eighteen.

**Motion:** A written or oral request to the judge after a lawsuit has been started (see petition).

**Order:** An order of court contains instructions to the parties regarding what they must do. Orders can contain instructions as simple as “the parties will next appear on Feb. 27, 2019,” or command the parties to do \_\_\_ or to forbid them from doing \_\_\_ specifications. Generally, each time you

appear in court, the court will order the parties to do something. All orders are kept in the court file.

**Parental Responsibilities:** Decision-making authority regarding major decisions pertaining to minor children. A court can designate which parent is responsible for making major decisions regarding the care and upbringing of minor children. Parental responsibilities are broken into categories such as education, health, religion, and extra-curricular activities. The Court can allocate the respective responsibilities either jointly or solely to the parent(s).

**Parenting Time:** The time during which a parent is responsible for exercising caretaking functions and non-significant decision-making responsibilities with respect minor children.

**Petition:** A written request to the court. A petition usually starts a divorce and contains the facts that one person alleges have happened, along with the relief that they are requesting from the court.

**Petitioner:** The person who files for dissolution of marriage or civil union, legal separation, or declaration of invalidity of marriage. The original petitioning party is referred to as the Petitioner throughout the proceedings, regardless of which party files any other motions or petitions.

**Prove Up:** The process of finalizing a divorce in front of a judge at an uncontested court hearing. At the prove up, one or both of parties testify regarding the contents of the settlement reached between them.

**Respondent:** The person against whom the original legal action is being requested. The respondent remains the respondent throughout the case.

**Self-Represented Litigant (SRL):** A person who is not represented by an attorney and instead chooses to represent himself or herself in pending litigation.

**Service:** is how a person who you are filing a lawsuit against is notified that a case has been started and told how they can participate in that case by y filing an appearance and responsive pleading or answer. Proper service is important because without it, a court does not have the power to order a party to do anything or resolve the dispute. A party is served when he or she receives a **summons**. Usually, the Sheriff delivers a summons to a defendant and there is a fee for the service.

**Service of Process:** The process by which a person is officially notified of a pending lawsuit by being served with any documents that have been filed to initiate the case.

**Status Date:** A status date means a future date on which the parties will again appear in court to tell the judge what is happening with the case. The court uses these dates to ensure that the case moves efficiently to resolution.

**Statute:** A law enacted by the state legislature or federal government on a particular subject. The relevant statute for a divorce in Illinois is the Illinois Marriage and Dissolution of Marriage Act, often referred to as the “IMDMA.”

**Subpoena:** A court order that requires someone to come to court, appear to testify at a deposition, or provide documents or evidence to the other party.

**Summons:** A pre-printed legal form that tells a defendant that he or she is being sued. The defendant must file an appearance and responsive pleading or answer within 30 days of being served with the summons.

**Temporary Relief:** Court orders made before the divorce is finalized. Temporary orders may address any issues that need to be dealt with while a divorce is pending, such as allocation of parenting time or parental responsibilities, child support, maintenance, use of property, and responsibility to pay debt or other expenses.

\*This guidebook is not intended to provide legal advice and cannot replace the advice of an attorney. For a referral to a qualified attorney, please contact the Lake County Bar Association’s Lawyer Referral Service at 847.244.3143 or <http://www/lakebar.org/find-a-lawyer>.

## NINETEENTH JUDICIAL CIRCUIT

### LAKE COUNTY, ILLINOIS

The materials contained herein are accurate as of the publication – October 2018, but are subject to legislative or administrative amendments after this date.