

# INSTRUCTIONS FOR SUMMONS AND PETITION FOR DIVORCE/LEGAL SEPARATION WITH MINOR CHILDREN

This form is intended for use by an individual who believes that his or her marriage is irretrievably broken and wishes to file for divorce or legal separation when the parties have children together under the age of 18. You can file for divorce or legal separation in Dane County only if at least one of the parties has lived in the State of Wisconsin for at least six months and in Dane County for at least thirty days immediately before filing the divorce or legal separation.

## **STEP 1: Fill out the forms**

You should read all instructions before filling out the forms. Type or print neatly using **black ink only**. Use the instructions in the left margin of the Summons and Petition to help you complete them accurately.

### **The packet includes the following forms:**

1. Summons with Minor Children (FA-4104V)
2. Petition with Minor Children (FA-4108V)
3. Confidential Petition Addendum (GF-179)
4. Application for Child Support Services

**\*\*Note: If you have found these instructions online, you will need to print each form individually. There are links from the Dane Co. Clerk of Courts Family Court Forms page at:**

**<https://courts.countyofdane.com/Resources/Forms/family-forms>**

**\*\*Make three additional copies of the Summons and Petition and Confidential Petition Addendum after you have completed and signed them.**

## **STEP 2: File the forms and pay the filing fee.**

Take the **original and three copies** of the Summons and Petition and Confidential Petition Addendum to the Clerk of Courts Office, Room 1000, Dane County Courthouse, in order to file the case. One copy is for the Court, two copies are for service on your spouse, and the original is for you to retain. If you are requesting child support or maintenance, the filing fee will be the current Family Action to Commence with Petition for Maintenance or Support fee. If you are not requesting child support or maintenance, the filing fee will be the current Family Action to Commence with NO Petition for Maintenance or Support fee. The fee chart may be obtained at

**<https://courts.countyofdane.com/Prepare/Court-Fees>** or in Room 1000 of the Dane County Courthouse.

**\*\*\*If you believe that you are entitled to a waiver of the fee because of poverty, you will need to fill out a Petition for Waiver of Filing and Service Fees available in the Clerk of Courts Office, Room 1000. The Court will determine if the fee can be waived. If you ask for a waiver, do so before paying any fees, not after. In order to have your Petition for Waiver of Filing and Service Fees reviewed, you MUST provide the following:**

1. Driver's license or identification card with your signature;
2. The proposed pleading, original and required copies;
3. The completed Petition for Waiver of Fees and Costs – Affidavit of Indigency and Order, Forms CV-410A and CV-410B;
4. Requestors receiving public assistance benefits need to complete Section 1 of the Waiver;
5. Requestors who do not receive aid need to complete Section 2 of the Waiver and provide:
  - Paystubs for the past 30 days for any type of income, earned or unearned;
  - Taxes for self employment;
  - Unemployment amounts, if any received;
  - Child support payments received.

### **STEP 3: File the Application for Child Support Services**

An Application for Child Support Services should be completed and filed regardless of whether or not there will be an order for child support. The form may be obtained in the Dane County Law Library (Room L1007 of the Dane County Courthouse) or the Court Commissioner Center (Room 2000 of the Dane County Courthouse). The completed form should be submitted to the Court Commissioner Center.

### **STEP 4: Serve the forms on the other party**

You must serve your spouse with an authenticated copy of all documents you filed with the Court. Service must be accomplished within 90 days of the filing date. Below are some of the options you may use for service.

#### **Service by Sheriff**

If the other party lives within Dane County, you may have the documents served on the other party by the Dane County Sheriff's Office Civil Process Unit, Public Safety Building, 115 W. Doty St. Room 2002, Madison, WI 53703. The Sheriff's Office will need two copies of the forms you filed in Step 2. There is a \$40 charge for every service attempt plus round-trip mileage that the deputy travels.

Once the Sheriff has served the forms, you will be sent a Proof of Service form. Retain the original for your records and return a copy to the Court Commissioner Center, Room 2000 of the Dane County Courthouse. If the person to be served lives outside of Dane County, call the Sheriff's Office in that county for instructions on service of the paperwork.

#### **Service by Private Process Server**

You may use a private process server to serve the documents. To locate a private process server, look in the phone book yellow pages under "Process Servers." Once the forms have been served, you will be sent a Proof of Service form. Retain the original for your records and return a copy to the Court Commissioner Center, Room 2000 of the Dane County Courthouse.

#### **Admission of Service**

If you believe the respondent will be willing to admit that he or she received the Summons and Petition, you can have the respondent sign an Admission of Service form available at the Dane County Law Library in Room L1007 or online. If an Admission of Service form is signed by the respondent, you do not need to have the respondent served by the sheriff or a private process server. If the respondent signs an Admission of Service form, retain the original for your records and return a copy to the Court Commissioner Center, Room 2000 of the Dane County Courthouse.

#### **Service by Publication (Last Resort)**

First, you must attempt to personally serve the respondent at their last known address. If, after reasonable diligence, you are unable to locate the respondent, you may have to publish the notice in the newspaper according to WI Statute §985.02(1). "Reasonable diligence" may include contacting the respondent's relatives or friends for a current address and evidence of failed attempts at personal service. See WI Statute § 801.11(1)(c) for more information. A separate packet with forms and instructions for "Service by Publication," including an Affidavit of Efforts to Locate the Absent Respondent, are available at the Dane County Law Library or online on the Dane Co. Clerk of Courts Family Court Forms page at

<https://courts.countyofdane.com/Resources/Forms/family-forms>

### **DOMESTIC ABUSE INTERVENTION SERVICES**

If you are seeking a divorce or legal separation from your spouse due to emotional, physical, sexual, or other forms of domestic abuse you can contact Domestic Abuse Intervention Services (DAIS) for support. DAIS Help/Crisis Line Advocates provide information, safety planning, referrals, and emergency shelter screenings.

DAIS Legal Advocates may be able to provide assistance to domestic abuse victims with restraining orders, family court, and other court cases related to the abuse. DAIS Legal Advocates are not attorneys and cannot give legal advice.

Last Updated: 02/19/21

Call the DAIS 24/7 Help/Crisis Line at **608-251-4445** or **800-747-4045** (toll free in Dane County) for support or to get connected to a Legal Advocate.