

# How Do I Start a Case?

*Note: The following **only** applies to starting a new family law case or filing a modification in a family law case. For further information, or to obtain the appropriate forms, contact the Family Services Coordinator at (410) 758-1773, extension 5128, or attend the Family Law Clinic, which is offered weekdays.*

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## STEP 1. FILE YOUR CASE

- To initiate a proceeding, you must file a written statement—a complaint, motion, or petition (which one depends upon the case type).
- Forms are available online on the Maryland Courts website (<https://www.courts.state.md.us>) and at the office of the Family Services Coordinator.
- Read the forms and accompanying instructions before you start filling out the forms. Follow the instructions and fill each form out completely, making sure all names and addresses are correct and consistent throughout the forms. The Case Caption should also include the name, address, and telephone number of the Plaintiff (you as the person initiating the case or moving party) and the Defendant (the person the case is filed against or opposing party).
- Be sure to complete the **Civil Domestic Case Information Report**. You must also sign the document as the Plaintiff/person filing the case.
- As needed, be sure to complete the **Request for Accommodation for Person with Disability** (to be used for ASL also) or **Request for Spoken Language Interpreter**, thirty (30) days before the proceeding.
- Make a copy for your records, and the original is for the Court's file.
- Bring the ORIGINAL forms to the Clerk's office. The clerk will stamp them as 'filed'.
- Pay the filing fee. The Clerk's Office will provide the cost for filing a new case. The Clerk's office takes cash, check, credit card, or money order. The clerk will give you a receipt with your case number on it.
  - If you are unable to pay the filing fees and want to ask the Court to waive the fees at the beginning of the case, complete the **Request for Waiver of Prepaid Costs**.

## STEP 2. SERVE THE OTHER PARTY

Once you file your case with the Court and the case is docketed, the Clerk's Office will issue a **Writ of Summons** ("Summons"). *\*E-filers will receive the Summons and all other documents electronically from the Court.* The Summons is a Court-issued document directing the person to respond to the complaint, motion, or petition, and must be delivered ("served") to the opposing party within 60 days. **YOU CANNOT SERVE THE OTHER PARTY YOURSELF.**

### How to Serve the Other Party

Service can be provided in one of several ways:

- Sheriff – for a fee and in the county the opposing party resides
- Private Process
- Certified Mail
- Neutral Third Party

If you choose to have service provided by the Sheriff in Queen Anne’s County and/or Sheriff in another County, their office will notify the Court once service is complete by filing the **Sheriff’s Return**. If service is made by private process, neutral third party, or certified mail, however, you must have the appropriate **Affidavit of Service** (“Affidavit”), completed by the person serving the opposing party, and then file the affidavit and a copy of the Summons, with the Court.

In situations where you have made several attempts to serve the opposing party, within the **time** indicated on the Summons, by using different methods, but have been unsuccessful, you must file a **Request to Reissue Summons**, to issue a new Summons. It is also *recommended* that you attend the Family Law Clinic for further assistance on other actions to take for alternate service, if applicable.

IT IS IMPORTANT THAT THE OPPOSING PARTY IS SERVED. IF THEY ARE NOT SERVED, YOUR CASE CAN BE DISMISSED. YOU MUST CHECK THE COURT FILE TO SEE IF SERVICE HAS BEEN COMPLETED. YOU CAN DO THIS AT THE COURTHOUSE OR YOU CAN CHECK ONLINE AT: [www.casesearch.courts.state.md.us](http://www.casesearch.courts.state.md.us)

### STEP 3. WAIT FOR THE OTHER PARTY TO FILE AN ANSWER

The served party must respond to a Summons within a certain **time**, by filing a Court-Approved Response indicating whether they agree with the complaint, motion, or petition, and how they believe issues listed in the filed papers should be handled. In addition, the served party may file a motion challenging service, jurisdiction, or other aspects of your filing.

If a party is served	The party should answer within
In Maryland	30 days after service
In another state	60 days after service
Outside the United States	90 days after service

### Court-Approved Response

- Answer to Complaint / Petition / Motion (“Answer”)
- Counter-Claim for Absolute Divorce or
- Counter-Claim for Custody/Child Support

If the respondent fails to file the necessary paperwork, within the time specified on the Summons to the Court, the Court assumes that they agree to its terms, and you must file a **Request for Order of Default** to keep the matter moving. If the Order of Default is granted, the Clerk’s Office will issue a **Notice of Default**. The served party has thirty (30) days to file a written explanation about why an Answer was not filed and ask the Court to vacate the Order of Default. If the served party does not respond to the **Notice of Default**, the case may move forward without their participation.

## How to Serve an Answer

- Complete the Answer and remember to complete the Certificate of Service.
- File your Answer with the Clerk's Office.
- Mail a copy of the Answer and copies of any other documents that you are filing to the opposing party/counsel.

## How to Serve a Counter-Claim with your Answer

If you believe that the moving party is at fault, you may file a Counter-Claim.

- Complete the Counter-Claim.
- Fill in the Certificate of Service at the bottom of the Counter-Claim.
- File the Counter-Claim and any other additional documents attached to the Counter-Claim with the Clerk's Office.
- You may serve the Counter-Claim and any other additional documents attached to the Counter-Claim by mailing copies to the moving party/counsel by regular first-class mail, postage prepaid.

## STEP 4. BEFORE COMING TO COURT...

*Queen Anne's County Circuit Court will automatically schedule a proceeding when the filing of an Affidavit, Sheriff's Return, or when the opposing party files an Answer.*

The different types of proceedings that you may be scheduled are as follows:

- **Scheduling Conference:** to set dates and deadlines, and possibly make referrals for services
- **Settlement Conference:** to explore areas of agreement and disagreement
- **Hearing or Trial:** if you have settled your issues and just need to formalize the case issues, you will be given a hearing. Otherwise, the case will go to trial. If, a reasonable period of time passes after the filing of an Answer or Order of Default and you have not received notice from the Court, you will file a **Request for Hearing or Proceeding**.

If you must miss your Court date because of an emergency, call the Clerk's Office at (410) 758-1773, option 4, BEFORE you are scheduled to be in Court.

If you must ask for a continuance or postponement of your Court date, call the Assignment Office at (410) 758-1773, option 5, for an alternate date, and file a **Motion for Continuance/Postponement**, BEFORE you are scheduled to be in Court. A copy must be mailed to the opposing party/counsel by regular first-class, postage prepaid.

## STEP 5. WHAT HAPPENS AT COURT?

At the proceeding, you will have the opportunity to testify, present witnesses, and present evidence that may be accepted by the Court under the **Rules of Evidence**. The opposing party/counsel will also have a chance to present their side of the case, offer testimony, witnesses, and evidence. In preparing for Court, keep the following in mind:

- Arrive **early** on your scheduled proceeding date, see Step 6 of this document for further information.
- If you intend to file documents/exhibits or other evidence, they are to be filed **at least three (3) days prior** to the proceeding. Copies are to be provided to the opposing party/counsel or parties at the last known address and include a completed Certificate of Service when you file with the Clerk's Office. Documents may be filed by submitting them in-person to the Clerk's Office or mailing them to the courthouse. The mailing address is 200 North Commerce Street, Centreville, Maryland 21617, ATTN: Clerk's Office.
  - **FOR ALL DIVORCE CASES** – Depending on the grounds for divorce, parties must identify all witnesses, over the age of eighteen (18) and disclose all information specified in Rule 2-402 (g)(1)(A).
- Have at least two (2) copies of any documents/exhibits or other evidence you file: one (1) for yourself and one (1) for the opposing party/counsel, in the event of technical difficulties.
- If you filed the initial case and fail to appear for the proceeding date, your case may be dismissed. If a Counter-Claim was filed and you fail to appear, the opposing party/counsel may still proceed and could be granted the relief requested in their filing.
- If you have an emergency or must ask for a continuance/postponement, see Step 4 of this document for further information.
- When the proceeding is complete, the Magistrate or Judge will make a decision (**ruling**). They may state the facts, evidence, and the law that applies in their decision either that day or in a written decision mailed to both sides on a later date.

## **STEP 6. ON THE DAY OF YOUR APPEARANCE...**

**In-Person Court Appearance:** Arrive early on your scheduled proceeding date. It is recommended that you be present **20 minutes** prior to your scheduled proceeding, to allow time for screening by Sheriff. If you are not present when your case is called, your case could be dismissed, or the Court could rule without hearing what you have to say.

- Check the television monitors in the lobby for the location of the courtroom where your case is assigned. If your case is not listed, check with the Assignment Office on the 2<sup>nd</sup> floor, room 212 (next to the Law Library).
- **Do not** bring children to Court on your scheduled proceeding date for any reason.

**Remote Court Appearance:** Arrive early on your scheduled proceeding date. It is recommended that you be online **15 minutes** prior to your scheduled proceeding, to allow time for any technical issues that may arise.

- **Audio and video are required for remote proceedings.** Camera should allow view of you from the shoulders up. Be aware that what is behind you can be seen by others (e.g., messy room, sensitive documents).
- Turn off audible notifications from your devices, including phones, tablets, and computers.

- Ensure you are in a quiet, private place free from distractions, or an isolated location with no background noise during your proceeding.
- Recording remote proceedings, taking screen shots, or otherwise publishing the remote proceeding are strictly prohibited.

Do not appear in Court, **either in-person or remote**, wearing shorts, tank tops, bathing attire, shirts with suggestive slogans, overly revealing clothing or other inappropriate attire. Please ensure that your witnesses follow the same rules.

Possession of and use of cell phones, personal electronic devices, and cameras may be limited or prohibited in the Court, pursuant to Administrative Order 23-04 and Maryland Rule 16-208. All electronic devices must remain off and inoperable during Court proceedings, unless necessary and **only** when authorized for use by the Court.

Food, drinks and chewing gum are not allowed during Court proceedings.

## **STEP 7. WHAT HAPPENS AFTER COURT?**

What happens after a decision is made depends on whether a Judge or Magistrate heard your case.

- If your proceeding was in front of a Judge, they will sign a final order.
- If your proceeding was in front of the Magistrate, they will issue a Report and Recommendations with findings of fact and a proposed order. A Judge will review it before it becomes a final order.
- If either party believes that the Magistrate or Judge made an error in applying the law in a case, there are procedures for requesting the Court to review the decisions or orders. You may file exceptions to a Magistrate's Report and Recommendations, or an appeal of a Judge's decision to another (higher) Court. **Requests for review, exceptions, or an appeal are complex with specific requirements and strict deadlines.** It is *strongly recommended* that you attend the Family Law Clinic or obtain personal legal counsel, for further assistance before submitting any further filings.