

DIVORCE

AND CUSTODY

A GUIDE FOR REPRESENTING YOURSELF IN COURT



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FOREWORD

Dear Friend:

The courthouse can be an intimidating and confusing place. The goal of this Guide is to help you through your divorce or custody case by providing general information about the process, what to expect, and tips to help as you prepare for your day in court. It is our hope that the information we provide might make this process less stressful.

This Guide begins with a general explanation of what it means to self-represent and how you start this process. You will find several sections that highlight the different stages of your case, ranging from completing your court forms to child custody arrangements to mediation. The Frequently Asked Questions Section is intended to answer the questions most frequently asked by individuals planning to represent themselves. The final sections of this Guide provide you with a list of resources available to you, as well as a Glossary of terms that you may run across during this process. If you have comments or questions about this Guide, please do not hesitate to contact us at (505) 221-5759.

Sincerely,

The DivorceNM.com Team

Please Note:

The materials available in this Guide are for informational purposes only and are not for the purpose of providing legal advice. Your receipt and use of this Guide does not create an attorney-client relationship, nor does it act as a substitute for obtaining legal advice from a qualified attorney.

Local, Experienced Family Law Attorneys Available to Help

DivorceNM.com has partnered with the Family Law Resource Group, LLC.* to provide mediation services, lawyer consultations, and review of documents created on DivorceNM.com.

If at any time in the process you have questions, take advantage of our Consult a Lawyer services. Our local, experienced Family Law attorneys can explain the process, including:

- When and where you must file your Petition.
- How the Court may decide a contested case.
- Tips for representing yourself in Court, including what to wear, how to address the Judge, and general ways to argue your case.

To schedule a consultation, visit <https://divorcenm.com/legal-resources/consult-a-lawyer/> or call (505) 221-5759.

If your divorce began uncontested, but now you and your spouse cannot agree on something, consider using our Mediation Services to resolve your case now. A trained mediator will guide you and your spouse through the conflicts surrounding finances, property, and other sources of disagreement.

To learn more and schedule a Mediation, visit <https://divorcenm.com/mediation-services/> or call (505) 221-5759.

*Advertising Material

INTRODUCTION

Representing yourself in your divorce action may seem like a frightening idea. You may think the laws are hopelessly complicated and that there are hundreds of little technicalities just waiting to trip you up. The truth is: you can represent yourself. In fact, for many people, representing yourself in a divorce makes sense. Hiring attorneys can be expensive, even if your case is not a difficult one. You could end up paying a lot of money to do things you could easily do yourself. When deciding whether you want to represent yourself, you may want to consider the following:

- **Do you and your spouse agree about the issues?** Most people who go through a divorce find that they agree on the essential issues, such as who stays in the house, or who will keep which car. They will also usually agree on who should have custody of the children. When there are no issues to argue about, handling your own divorce makes sense.
- **If you don't agree now, can you come to an agreement?** Couples who don't agree on everything, or who don't know if they agree, can often come to an agreement by discussing the matters. If you and your spouse are able to look at your situation and discuss things reasonably, you are a good candidate for representing yourself, with mediation assistance.
- **Is your divorce a complicated one?** Divorces become complicated when one spouse is hiding assets and a deeper investigation is needed to find all of the property to be divided. Another complicating factor could be a dispute about child custody. Most of the time, however, these complications aren't there. The majority of divorce cases can be resolved without expensive litigation.

If you decide you want to represent yourself, there are a few key things to remember:

- **Use the right forms.** There are different sets of forms for different situations (with children/without children). Be sure you pick the correct ones. Forms can be found at DivorceNM.com or at your local courthouse. Please note that court personnel cannot give legal advice about your case.

- **Follow the instructions.** Make sure you fill out your forms accurately and completely. The court cannot help you fix things, and mistakes could delay your case.
- **Learn the rules.** Know the deadlines, and know the procedures you will have to follow. You don't have to know everything, but you need to have some basic understanding of how things will proceed. The court will not let you off the hook for mistakes about the rules just because you aren't an attorney.
- **If you are called into court, observe proper etiquette.** There isn't always a court hearing in an uncontested divorce in New Mexico, but if there is, show up on time. Be dressed neatly, and have all of your paperwork with you. Always address the judge as "Your Honor." If you have to wait in the courtroom during other hearings, remain quiet. Telephones are not allowed in the courthouse, so be sure to leave them outside. Do not bring children without advanced permission from the court. And always, remain respectful at all time to the judge, court staff, and the other party.

Handling your own divorce is not impossible, and it does not need to be as frightening as you think. This Guide is meant to provide some basic tools so you can begin your divorce or custody case with confidence. Please note that this Guide is meant to provide a general introduction to self-representation. It is not a substitute for legal advice, but our hope is that the information provided will make it easier for you to navigate through your case.

WHAT IS SELF-REPRESENTATION?

A person who goes to court without being represented by a lawyer is called “self-represented” or “pro se.” Pro se is a Latin term that means “for oneself.” Choosing to represent yourself means that you will be representing yourself in court without the assistance of an attorney. It does not mean that you cannot ask an attorney to review your court forms and documents prior to your court hearing. Rather, it simply means that the attorney will not be arguing your case on your behalf in front of the Judge at your hearing.

Can I Represent Myself?

You have a right to represent yourself (appear “pro se”). However, you should not expect any special treatment or assistance from the court, and you must follow all of the Court Rules. If you do not follow the rules, the court may not be allowed to give you what you want, even if it seems like you should win the case. This Guide will provide you with a better understanding of what to expect as you walk through the process of representing yourself.

It may be a good idea to talk to a lawyer about your case if you have concerns. At DivorceNM.com, we offer consultation services to discuss your case without requiring that you sign attorney-client contract. This means that your consultation will focus on the facts of your case, rather than being an offer to become your attorney.

Divorce is Complicated – Don’t I Need a Lawyer?

There is no law in New Mexico that says a person must hire a lawyer to get a divorce. For many people, it makes sense to hire a lawyer, but for others, doing it themselves is a realistic and affordable option. At DivorceNM.com, we can help you decide which option is the best for you. If you decide that doing it yourself is the way to go, we can support you through this process. We offer consultations with expert attorneys who can offer advice and guidance on how to file your case and represent yourself at a fixed cost. You will never receive an unexpected bill for our services.

Divorce does not have to be a hard process. There are always issues that arise in a divorce. When there are no disputes about these issues, the process becomes simpler and easier for everyone involved. If you and your spouse are in agreement on the issues that will come up, or if the two of you can come to an agreement, it makes sense to save the expense of a lawyer and learn how to do the divorce pro se. Even if you cannot agree on everything, mediation may help resolve those disputes.

When you do your divorce yourself, it will be up to you make sure that all of the issues are addressed. There are five categories of issues that can arise in a divorce: children, child support, alimony, property division, and liabilities.

- **Children.** If you and your spouse have no children together, or if your children are adults, there are no child-related issues to decide. When children are involved, the court will consider things like child support, custody, and visitation.

If you have minor children, you and your spouse will most likely share joint custody of your child or children and be required to enter into a joint custody arrangement. New Mexico law assumes joint custody is in the best interest of children, so that is what the court will order unless there is a good reason not to. If you don't think joint custody is in the best interest of your child, you will have to prove that claim to the court. Depending on where you live, you may be required to go to court-sponsored mediation to work out your parenting plan. This plan will include important points like paying child support and deciding the amount of time a child lives with each parent ("timesharing").

For more information, visit: <https://divorcenm.com/legal-resources/divorce-articles/joint-legal-custody-vs-sole-legal-custody/>

- **Child Support.** Child support is a separate issue from custody, although your timesharing arrangement could affect the amount of support that has to be paid. Child support is not a matter that is left entirely to you and your spouse. The State of New Mexico has detailed requirements for the calculation of child support. The

amount of child support that will be ordered is based on the gross income of both parents, the number of children involved, work-related childcare expenses, health and dental expenses, and the amount of time each child spends with each parent. There might also be adjustments made for a child's unusual medical, dental, or counseling expenses, for extraordinary educational expenses, or for transportation or travel expenses for long-distance visitation or timesharing.

The child support calculator can be found at: <https://divorcenm.com/legal-resources/divorce-custody-calculators/> or through the DivorceNM app. The app may be downloaded in the play store using the following link: <https://play.google.com/store/apps/details?id=com.touchbaseinc.divorcenm> or from the iTunes store through the following link: <https://itunes.apple.com/us/app/divorcenm/id1191824156?mt=8>

- **Alimony.** Alimony consists of payments made to a divorced spouse as required by a divorce decree. Alimony is different from child support because it is based on the idea that a husband and wife must support each other. A court may order an individual to pay alimony based on the circumstances, taking into consideration a variety of factors such as how long the couple has been married, how much money each individual is likely to make in the future, and if either party has any specific needs (such as health issues) which have a higher financial expense.

To learn more, visit: <https://divorcenm.com/wp-content/uploads/2016/10/Alimony-Guidelines-and-Commentaries-Revised-September-6-2006.pdf>

- **Property Division.** New Mexico is a community property state, which means that, as a general rule, any property you or your spouse acquire while you are married belongs to both of you jointly. Community property is to be divided as equally as possible. If you don't own a lot of property, or if the property you do own is not community property, property division is not going to be an issue. If you do own property—cars, bank accounts, real estate—you and your spouse could work out for yourselves how you want it to be divided. If the two of you haven't been living together for a time, you may already have done this. If not, each of you may have a good idea of how to

divide things up. If everything has been divided, or if the two of you have already come to an agreement on how to divide what you do own, taking care of the divorce yourself should be straightforward.

To learn more and get started, visit: <https://divorcenm.com/how-it-works/>

- **Liabilities.** The debts you and your spouse incurred while you are married are also items to be divided as community debt. You need to take care that no one is given an unfair share of your liabilities.

To learn more and get started, visit: <https://divorcenm.com/how-it-works/>

The steps for a self-represented divorce are fairly straightforward. You have to bring the action in the district court in the county in which either you or your spouse live. The action starts when the case is filed. After filing, the papers are served on the other spouse and the other spouse has 30 days to make a formal response. Note that, if your spouse files the action, and you don't respond, your spouse will get a judgment by default. Judgment by default means you will lose your right to contest or object to anything that happens in the action, including property division or child custody.

If at any point in this process you feel that you need the help of an attorney, consider scheduling a consultation with one of our family law attorneys. Our attorneys can explain the entire process, including how to file an application, how the divorce is finalized, and what decisions must be made by you and the other party.

To schedule a consultation, visit:

<https://divorcenm.com/legal-resources/consult-a-lawyer/>

WHAT IS LEGAL SEPARATION?

If you have been considering a divorce, you probably have seen the term "legal separation." It is not a term familiar to a lot of people. What does it mean? Is it just leaving your spouse, or is it something more?

In New Mexico, a legal separation (known formally as a “proceeding for division of property, disposition of children or alimony”) is an alternative to divorce (or, as it is officially known, a “dissolution of marriage”). A court decree in a legal separation proceeding will decide most of the same issues that would be decided in a divorce action. Marital property will be divided, custody and support of any minor children will be ordered, and one spouse may be ordered to pay alimony (“spousal support”) to the other. Any property that you acquire after a separation is ordered will be your separate property. It will not be community property, and your spouse will not be entitled to claim an interest in it.

You also will not be liable for any debts your spouse incurs after the separation. Most debts incurred or contracted while a couple is married are community debts, and both spouses are liable for them. A separation decree means you are not liable for future debts. You may still be liable for all or part of the debts that came up during your marriage, but going forward, your spouse cannot saddle you with more.

Although a separation decree may have a lot of the same effects as a divorce, there are some important differences. The biggest difference is that you are still married to your spouse, even if the legal relationship has changed. This will mean that you will not be able to remarry unless you get a divorce.

The proceedings for a separation are also a little different from divorce proceedings. In order to bring a divorce action, one spouse has to have lived in New Mexico for six months before the action starts. There is no length of residency requirement for a legal separation.

There are also different legal grounds for divorce and separation. A divorce decree will be granted after a court finding of incompatibility, cruel and inhuman treatment, adultery, or abandonment. A separation decree is granted when a couple has “permanently separated and no longer live together or cohabit together as husband and wife.” The separation action can’t be started when a couple is still living together.

There are several reasons a couple might choose to get a separation rather than a divorce:

- They have religious or moral objections to divorce;
- Neither spouse has lived in New Mexico for six months; or

- The couple is unsure if they want a divorce, or think there is a chance they could reconcile after time apart.

At DivorceNM.com, we can provide you with the resources to answer all of your questions about legal separation and divorce. You will be able to decide which option is the best for you and get everything you need to take you through the process from start to finish.

PREPARING YOUR CASE

As a person representing yourself, you should be aware of the many questions you will be required to answer during this process. The following sections provide insight into these questions that you will face, as well as some general tips to help you make the tough decisions regarding your case. These decisions may concern division of property and finances, child custody and support, and how to reach a marital settlement agreement, among others.

Prior to starting your case, it will be helpful to get organized. Begin collecting all materials related to your case. Materials will include everything from financial and tax documents to prenuptial or postnuptial agreements to any estate planning materials such as a will or advance directive. These materials will be helpful as you begin creating your court documents.

We recommend that you gather the following documents prior to starting your case, however you may be required to collect other materials as needed for your case:

- Tax returns for the previous 3 years
- Bank statements
- Statements for stock accounts, and/or any pension plans such as IRA and 401(k) accounts
- Current pay stubs for you and your spouse
- Credit card statements
- Copies of any stock certificates or bonds
- The deeds, mortgage statements and/or escrow papers for all property you and your spouse currently own
- Any current life insurance policies on your life, your spouse's life, or on your children

- Any prenuptial or postnuptial agreements
- Documents from any prior legal proceedings involving your spouse or children
- Documentation of any protective orders
- Any estate planning documents such as your will, advance directive, or powers of attorney

Throughout your case, write down names, addresses, phone numbers and details about people and events in your case. Start keeping a diary or a journal of past and upcoming events and deadlines. Keeping dates and events in one location will make them easier to locate. Organize your documents. Keep original documents safe, so that you can bring them to court. You must make three copies of all documents, one for the judge, one for the other party, and one for yourself.

For child support cases, you will need:

- Prior year tax returns
- Eight (8) recent paycheck stubs
- A ledger to show work-related child care

At a DivorceNM Center, staff can help you organization and prepare your documents and exhibits for court. This includes a copy center for making duplicates of each document, as well as assistance in getting your documents organized and ready for court.

TOPICS TO CONSIDER AS YOU PREPARE YOUR CASE

The following sections provide deeper insight into a number of topics you may come across during your divorce or custody case. These topics range from division of property to child custody to creating a Marital Settlement Agreement. As you read each section, consider how you plan to manage these issues during your case, and what questions you must answer before addressing these questions. For examples of the specific types of questions you will be required to answer when preparing your case, see the Divorce Intake Form and Child Custody Intake Form, both of which may be found in the Appendix.

Dividing Property

Property division in New Mexico is done according to the state's community property laws. This means that each of the spouses has a one-half interest in all of the property acquired during their marriage. It is presumed that all property acquired during the marriage is community property, unless proven otherwise. Community property is divided equally by the court, so that each party receives a share of the property that is equal to what was awarded to the other party. The particular items of property do not necessarily have to be divided, as long as the overall division is equal. For example, if a couple has three certificates of deposit, one worth \$5,000, and two worth \$2,500 each, the court would award the \$5,000 certificate to one spouse, and the two \$2,500 certificates to the other.

Division of community property sounds like it should be a simple matter. As a general rule, it is, but there still are important areas where disputes can arise. The most important area of dispute is the decision of what property is community property. As noted above, it is presumed that property acquired during the marriage is community property. If a couple buys a house while they are married, the house is community property. This is true even if all of the funds for the purchase were earned solely by one spouse during the marriage. Property that one spouse owned before the marriage may be considered separate property. Similarly, property that was acquired by one spouse through gifts or inheritances will usually be regarded as separate property.

The disputes arise when property is "blended." Suppose a woman owns a portfolio of stocks. After she marries, that stock remains her separate property. If she marries, and she and her spouse buy a house after the marriage, the house is presumed to be community property, since it was purchased after the marriage. Suppose however, that the money for the down-payment on the house was the money received when the first spouse sold her stock portfolio. How is that contribution treated in a divorce?

The cash contribution will very likely be held to be community property. When the money was applied to the down-payment, it will appear as though the spouse wanted to make a gift of the money to her spouse and herself as a married couple. The cash has been comingled or transmuted, and is now community property.

The key factor here is intent, or evidence of intent. When the stock was sold and the proceeds used to buy a house, it looks like the intent was to make a gift to both of the spouses. If, instead of it towards the down payment, the money had been reinvested in a mutual fund in the name of the spouse who owned the stock only, it is likely that the mutual fund investment would remain separate property.

While we have been discussing dividing assets, remember that liabilities are also divided equally. Debts of a married couple will be split up in a similar manner. If a spouse owed money on a credit card before the marriage, and didn't add to it while married, that debt stays with that spouse. Unpaid debts acquired during the marriage are split.

All types of property—real estate, bank accounts, vehicles, vested retirement plans, interest in a business—may be community property, and subject to division. Once it is determined what property is community property and which is separate property, the courts will assign a value to the community property.

If you cannot agree on values and do not have the financial resources to hire a valuation expert, the court will likely order all property be sold and the cash received from the sale be divided. This is because cash may be easily divided between you and your spouse.

Alimony and Spousal Support

When a married couple gets a divorce, the court may award spousal support to one of the two spouses. Spousal support, or alimony, is not automatic. There is no longer an assumption that a husband will pay alimony to his former wife, or that a spouse with a higher income is necessarily responsible for support. The court has discretion in deciding whether to award spousal support. In addition, unlike child support, which is set according to very detailed monetary guidelines, courts have broad discretion in determining how much support to award, and how long payments should continue.

Spousal support may be ordered to be paid in a number of different ways. A court may order that support be paid for an indefinite duration or that a single sum be paid, either in a lump

sum or in payments over time. Single-sum payments may or may not end on the death of the spouse receiving the payments.

Spousal support may also be transitional. Transitional support is meant to supplement the income of the spouse who receives support. It is ordered for a definite period of time and that period of time is to be set out in the court's decree. Transitional support is an acknowledgement of the fact that many spouses suffer an economic loss after a divorce.

Finally, spousal support is often deemed "rehabilitative." Rehabilitative support is intended to provide the spouse who receives it with education, training, work experience, or other forms of rehabilitation to increase his or her ability to earn income and become self-supporting. A court order for rehabilitative support may include a specific rehabilitation plan. The continuation of support may be conditioned on the receiving spouse following that plan.

When the New Mexico courts consider whether to make an award of spousal support, and what kind of support to award, several factors are considered, including:

- The age, health, and means of support of each spouse;
- The current and future earnings, and the earning capacity of each spouse;
- Each spouse's good-faith efforts to stay employed or to become self-supporting;
- The reasonable needs of each spouse, including:
 - The standard of living during the marriage;
 - The maintenance of medical insurance; and
 - Whether life insurance on the life of the person who is to pay support is appropriate;
- The duration of the marriage;
- The amount of property awarded to each spouse;
- The respective spouse's individual assets;
- Each spouse's debts and other liabilities;
- Income produced by property owned by each spouse; and
- Any dissolution or legal separation agreements entered into.

Although awards may be hard to estimate, whether the payer that is ordered to pay spouse will comply with a support order is even harder to gauge. Alimony enforcement is not like child-support enforcement, which has the “teeth” of wage garnishment, liens, and other enforcement mechanisms. The recipient could, however, return to court in a contempt proceeding to force payment.

Support awards end after a stated period of time, or when some event happens. This event is often the remarriage of the spouse receiving support, but it may also be graduation from college or completion of some other kind of job training or education.

Most marriages today are between two wage earners. Spouses of either gender are more likely to be regarded as self-supporting, or capable of supporting themselves, than they were in the past. Despite this change in social attitude, the reality is that one spouse often loses earning power during a marriage. Spousal support is meant help such a spouse minimize his or her economic loss.

To calculate child support for you case, visit: <https://divorcenm.com/legal-resources/divorce-custody-calculators/>

Prenuptial Agreements

Prenuptial agreements are contracts between two people who intend to marry each other. While couples may address many issues in a prenuptial agreement, the courts will enforce only the parts of an agreement that relate to the distribution of property and income if a marriage ends in divorce, or after the death of one or both spouses. The issue of child support in the event of a divorce cannot be resolved by a prenuptial agreement, but is to be decided by the court.

Prenuptial agreements—also called premarital or postnuptial agreements—are typically used by couples who are entering into a second or subsequent marriage. They are also used when one person will be bringing more financial assets to the marriage than the other person. Prenuptial agreements are often intended to make sure that children from a previous marriage receive a substantial portion of their assets upon the death or divorce of their parent. A prenuptial agreement may also set out in advance what property will not be divided in a divorce

action, so that certain property—an antique with sentimental value, for example—stays in the family.

The requirements for a valid prenuptial agreement in New Mexico are fairly simple: It must be in writing, signed by both parties, and acknowledged. The agreement goes into effect upon marriage. Courts will enforce an agreement unless a party proves that:

- He or she did not sign the agreement voluntarily; or
- The agreement was unconscionable when it was signed and, before signing, the spouse:
 - Was not given a fair and reasonable disclosure of the property or debts of the other spouse;
 - Did not waive in writing the right to receive disclosure of the property or financial obligations of the other party beyond what was given; and
 - Did not have, or reasonably could not have had, adequate knowledge of the property or debts of the other spouse.

A prenuptial agreement can be changed or even revoked after marriage. The change or revocation can be made by a written agreement signed and acknowledged by both spouses, or by a consistent and mutual course of conduct, which evidences an amendment to or revocation of the prenuptial agreement. The kind of conduct that would show an agreement had been revoked could be something like putting the other spouse's name on the deed to property that was to remain separate.

Prenuptial agreements are not the same as dissolution or separation agreements. By definition, a prenuptial agreement is one that was made before marriage. It may never go into effect, if the couple does not divorce—it is a “just in case” agreement.

Child Custody: Joint Custody v. Sole Custody

One of the toughest decisions that you will likely have to make concerns child custody and a parenting plan. The first major question is whether you and your spouse plan to share

custody, or if one parent will be responsible for your children. In other words, whether you and your spouse are seeking joint or sole custody.

Joint legal custody is one of the most misunderstood concepts in child custody cases. Contrary to popular belief, joint custody does not require equal time or equal money. Instead, it means that parents share major decisions for the five main issues concerning their child: residence; education or day care; non-emergency medical, dental, eye, or psychological care; religion; and recreation. If you and your former spouse have joint legal custody, neither of you can change anything about these areas without each other's permission without a court order.

- Residence means the community in which your child lives. Residence is defined at the city level rather than by street address.
- Education/Day Care refers to the school or day care your child will attend. This includes whether your child goes to public or private school or will be home schooled, as well as who will provide care before and after school or when school is out.
- Non-emergency medical, dental, eye, or psychological care means which providers will provide your child's primary care. When possible, these providers should be the same as when you and your spouse were together. If a new provider must be chosen, it must be a joint decision.
- Religion specifies what belief system your child will be taught and what religious organization he or she will belong to. Whatever religion you and your spouse followed prior to the divorce will be considered your child's religion until you agree otherwise. For some children, that means no religion is declared.
- Recreation means any regularly scheduled activity, including classes, meetings, practice times, or games. Enrolling your child in a recreational activity requires approval from both you and your spouse. For example, if you want to enroll your child in soccer, your spouse must first agree. This requirement helps make sure that you will both be responsible for seeing that your child goes to all events while he or she is living with you.

Sole legal custody gives one parent full control over decisions made about the five main areas of the child's life. Sole custody is usually recommended when one parent cannot participate

in decision-making completely, such as when he or she is seriously ill (physically or mentally) and/or living too far away to make communication practical. With sole legal custody, you would have full decision-making power for your child, as long as any changes made do not interfere with any time-sharing arrangement you have with the other parent.

Once you have determined whether you are seeking joint or sole custody, the second major question that you will need to decide is what type of time-sharing plan you and your spouse plan to keep. The next two sections outline timesharing tips and recommendations for developing a parenting plan to help your family ease into a new parenting arrangement. For time-sharing examples, see the Appendix.

Time-Sharing Guidelines: Factors to Consider for Co-Parenting after Divorce

Time-sharing refers to the schedule that defines each parent's period of responsibility for the child. This includes regular time-sharing, holidays, and vacations. The goal is to maintain a good relationship between the parents and children. When determining the time-sharing schedule, many factors must be considered, including your child's age and personality, the logistics of implementing a given schedule, the amount of contact that will be required between the parents, and the previous involvement of each parent in your child's life.

Some families successfully carry out what is called a 50/50 time-sharing plan. In this plan, parents divide parenting time equally. This sort of plan typically only works when both parents are committed to it and live close to one another. They must also be willing to have similar daily routines and disciplinary styles, and agree to be supportive of one another in setting limits and following through with them.

If multiple children are involved, it is important to note that, in general, it is not a good idea to separate siblings. When their parents are separating, siblings often become closer to feel more secure. Separating them creates a situation where they suffer not only the loss of having their parents together, but also the loss of sibling contact. The primary exception to this general rule is if the siblings are prone to significant problems with one another or there is a large age difference between the children.

The following suggestions may be helpful as you and your spouse establish a good co-parenting relationship and time-sharing plan:

- Continue routine, quiet at-home times during time-sharing to help your child understand that the family they have been familiar with won't change totally. Activities are fun, but a continuous series of special events such as sports games or outings to the zoo can actually harm your relationship with your child, as he or she may learn to expect something fun and unique every time you get together. This can lead to disappointment.
- When time is limited, your child needs to feel that he or she is your main focus. Involving other people regularly may make your child feel unimportant and can lead to resentment of new people. Remember, you may have been prepared for this separation, but your child was not. They need time with you.
- Children need permission to love both parents. Do not undermine or interfere with the relationship your spouse has with your child. Contact with both parents should be consistent and predictable for your child.
- Do not use your child as a messenger. If a schedule change is necessary, it is important to keep your child out of the middle by communicating directly with your spouse or by using a third party such as a mutual friend to communicate the change. For more information, see the resources pages for *Our Family Wizard* at: <https://divorcenm.com/legal-resources/partners/> The *Our Family Wizard* website offers divorced or separated parents an array of tools to easily schedule child custody and track parenting time, share important family information, manage expenses as well as create an accurate, clear log of divorce communication.
- The best way to help your child transition successfully is to keep open communication. Do not use your child to spy on or openly put down your spouse. Always keep your home a pleasant place that makes your child feel loved.

Developing a Plan for Parenting after Divorce

Where do the children live? When parents divorce, the custody of their children is perhaps the most important point to be decided. It can also be frightening: How do you raise children when you may not be living in the same home?

New Mexico child custody law starts with the principle that custody is decided “in accordance with the best interests of the child.” It is presumed that the “best interests” means that the parents will have joint custody.

As discussed above, joint custody does not necessarily mean that each parent will have an equal financial responsibility for their children, or that the children will spend half their time living with each parent. Joint custody means that each parent will have “significant, well-defined periods of responsibility for the child.” During a parent’s periods of responsibility, he or she will have “responsibility for the child's financial, physical, emotional and developmental needs.”

Parents who have joint custody must consult with each other on major decisions involving the child. This means that neither parent does anything that makes a major change in a child's life until the parents agree on the change. “Major changes” are things like moving to a different city or state, changing religion or religious activities, the type of education the children receive, major medical or dental treatment, and recreational activities. Both parents have access to school and medical and dental records. Both parents may attend a child's activities, and both parents should know their children’s schedules.

Before joint custody is ordered, the court must approve a parenting plan. A parenting plan is basically a plan for putting everything involved with joint custody into place. It will include setting out the time each parent has responsibility for the children. A plan could also include:

- Statements about religion, education, child care, recreational activities and medical and dental care;
- A designation of specific decision-making responsibilities;
- Statements about how the parents will communicate information about the children, how the child will be transported, when and how care for the children is exchanged, and how to maintain telephone and mail contact between parent and child;

- Procedures for future decision making and resolving disputes; and
- Other statements about the welfare of the children, or that may assist parenting under a joint custody arrangement.

When making your parenting plan, remember that it needs to work in your specific situation. For sample time-sharing plans, see the Appendix but remember that this plan needs to meet your needs as a parent, the needs of your spouse as a parent and your children's needs, as well. Take the time to look at how your children live now, and think of how you can make a plan that will help them grow and thrive, even through a difficult situation like a divorce. What is fair to you may not be fair to your children. If you cannot agree, mediation is an excellent option to work towards an agreement while keeping your children out of the conflict. To schedule a mediation, visit: <https://divorcenm.com/mediation-services/>.

Your divorce or separation does not have to mean the end of your relationship with your children. Making a good parenting plan will help you be the best parent possible.

How to Calculate Child Support

The final question surrounding child custody concerns child support. Child support is a sum of money paid to the parent having primary custody of a minor child. It is ordered in virtually every divorce case involving minor children. Paying support is part of a parent's obligation to support their children. A child must eat daily. However, a child cannot drive himself to the grocery store and purchase food to prepare a meal. The other parent can; therefore the support is paid to the other party for the benefit of the child. Remember, this is money to support the child or children, not the other party.

The amount of child support that will be paid is decided according to guidelines set out in state law. Parents cannot agree on a lower figure, or make an agreement that support may be paid by buying things like food or clothing. The guidelines are followed unless there is a good reason for the court to order a higher or lower amount (For example, if a child has special medical needs, the courts may order a parent to pay more support).

The child support guidelines base the amount of support on the combined incomes of both parents, and the number of children they have. The percentage of income a parent contributes to the total is used to figure his or her “basic support obligation.” In addition to the basic support obligation, child support includes the premium for medical and dental insurance for each child, and also includes the cost of job-related child care. If there are extraordinary expenses, such as uninsured medical, dental, or counseling expenses over \$100, those will be added to the support obligation.

The calculations become even more complex when the parents have a “shared responsibility arrangement.” A shared responsibility arrangement means that a child, in effect, has a home with each parent. The amount of support that a parent will pay takes into account how much time the children spend with each parent, with the shift in obligations occurring after 130 days.

The calculations can be confusing, especially for a person who does not work with them on a regular basis. DivorceNM has created an easy to use interactive online calculator. You can access this calculator at: <https://divorcenm.com/legal-resources/divorce-custody-calculators/> or through the DivorceNM app. The app may be downloaded in the GooglePlay store using the following link: <https://play.google.com/store/apps/details?id=com.touchbaseinc.divorcenm> or from the iTunes store through the following link: <https://itunes.apple.com/us/app/divorcenm/id1191824156?mt=8>

The calculator asks you to enter both parent’s income, the child’s medical and dental insurance premiums, and any extraordinary expenses. The amount that must be paid in support is calculated automatically.

For example, consider parents who have two children, aged 8 and 13. The parents have a combined gross monthly income of \$4,000, with Parent 1 earning 60%, or \$2,400 per month, and Parent 2 earning 40%, or \$1600 per month. Gross monthly income refers to the income earned from employment before taxes. It includes basic wages, overtime pay, commissions, tips, and other forms of payment such as bonuses. The parents will have a basic support obligation of \$834. It costs \$125 per month to provide health and dental insurance for both children, which is provided through Parent 1’s employer. The 8-year old is enrolled in before-school and after-

school child care, at a cost of \$380 per month. That cost is paid by both parents. The total support obligation for both children is \$1339.

Assuming the shared responsibility agreement call for an even split between the parents, Parent 1's obligation is \$803.40, or 60% of the total support obligation including health and dental insurance, as well as child care. Parent 2's obligation is \$345.60. In another scenario, if there is a shared responsibility arrangement that calls for the children to spend May through October (153 days, or 42% of the year) with Parent 1, the basic support (excluding health/dental insurance and child care) of \$834 is multiplied by 1.5, which makes the shared responsibility \$1251. Parent 1's share is 60%, or \$750.60. That amount is reduced by 42%, to take into account the time the children spend with Parent 1. Parent 1's monthly obligation to Parent 2 is \$225.27.

A child support order will include a provision that says that support will be taken directly out of the paycheck of the parent who pays support. This is a way of making sure everyone involved can rely on the payments being made, and being made on time. Many parents who pay support appreciate the convenience of not having to remember to make a payment every month, and also have a reliable record that payments were made.

Child support is part of a parent's obligation to support their children. It cannot be used as leverage against the other parent. If the parent who has custody of a child refuses to let the other parent see her, the parent who is denied visitation may not withhold support in retaliation. Likewise, if a parent disagrees with the other parent's parenting choices, support may not be withheld. In both of those situations, the courts have means for resolving the disputes. Those are the means that should be used.

Child support must be paid until the child either turns 18, or turns 19 while still enrolled in high school. The support obligation will also end if the child marries, joins the Armed Forces, or dies. If a child has a disability that makes it impossible to be self-supporting, the obligation to pay support may continue indefinitely. Unless the parents agree otherwise, there is no duty to pay for college or other post-secondary education.

Courts do not look kindly on child support that is unpaid because children eat daily and thus require support. The child support payment amounts can be changed based on a material change to the circumstances of the parent such as losing a job. It can also be modified annually.

Creating a Marital Settlement Agreement

Many couples who decide to get a divorce agree on a lot of the issues that have to be dealt with. For example, both may agree that the children should spend most of the time with one parent. Both may agree on who gets what property. Both may want to make sure their own wishes about important matters are respected.

When a couple can come to an agreement about the issues in their divorce, they need to formalize it. “Formalizing” is not a difficult or mysterious process. The term just means that the agreement is put into writing, and turned into a final document. This final document is known as a “marital settlement agreement.”

Putting your verbal agreement into writing accomplishes three things. First, it makes sure that both spouses know exactly what they are agreeing to. Misunderstandings can be avoided when everything is made clear. Second, it lets the court know what your agreement is. The courts encourage couples to work out as many issues as they can between themselves. As a general rule, courts will approve a settlement as long as it does not appear that one party has taken unfair advantage of the other. There are some limited exceptions to this general rule; for example, parents cannot agree between themselves that child support payments will be less than the amount called for by state guidelines.

Third, you can be sure all of the issues are covered. A common pitfall for couples who draft their own agreements is that an important issue is left out. A marital separation agreement should include the following:

- Child custody and visitation. An agreement must set out who will have the physical custody of the children. It should also set out how often the other parent will have visitation with the children. While many couples may think a schedule is not needed, making a schedule now will avoid conflicts later.
- Child support. Your agreement should set out the amount of support that will be paid. It should also show how that amount was arrived at, by setting out each parent’s income, medical and dental insurance premium, child care expenses, and any

extraordinary expenses. This will let the court know that your agreement calls for the correct amount of support. As mentioned above, you cannot agree that child support will be less than the amount called for by New Mexico support guidelines (see our article *How to Calculate Child Support* at <https://www.divorcenm.com/legal-resources/divorce-articles/>).

- Spousal support. Will one spouse receive support payments from the other? If so, how much? How long will payments be made? Will they end when the spouse receiving payments remarries? If support is not going to be paid, are both spouses clear that they are giving up any claim to it? When determining spousal support, it is important to consider the questions of for how much and for how long will the spousal support be paid. Without clarifying this in your settlement agreement, you or your spouse may receive more (or less) spousal support than is considered fair.
- Property division. This is the part of the agreement that can get the most complex. An agreement should say, at the very least, who will get particular items of property that are titled or licensed. For example, if a couple owns real estate, the county property records will need to show that one spouse is no longer an owner. The agreement will require that spouse to let his or her name be taken off the property records. Similarly, names on motor vehicle titles and bank accounts will have to be changed. An agreement will make sure that this will be done.
- Debt Division. Debt division refers to the division of all debt incurred during the marriage. This will include any credit card debts, mortgages, and other outstanding bills. Typically, courts will attempt to divide debt in a fair and equitable way, regardless of whose name the debt is held in. This means that even though a credit card only has one spouse's name attached to it, the court may divide any debt owed on that card between both parties.

It may not be necessary to list everything you own in a settlement agreement. An agreement could just say that all of the property has been divided to the parties' mutual satisfaction, if that is the case. That being said, where a specific action is required of either you or your spouse, it should be specified in your settlement agreement. For example, if dividing

property calls for someone to do something, such as sign over title, or even deliver an item to a former spouse's new home, it should be included in the agreement. Even if one spouse is keeping the entire piece of property, it must be listed in the agreement. For example, even if your spouse is keeping his or her a retirement account listed in his or her name, this must be listed in the agreement.

It is always best when a couple can reach an agreement on their own. It will save time and money. It will also help the process go more smoothly for both of you. If you find you are struggling to reach a compromise, consider scheduling a mediation at: <https://divorcenm.com/mediation-services/>

PREPARING FOR COURT

Once you've gathered all the necessary materials for your case and considered the major questions that must be decided, your next step is to prepare for court. Your divorce or custody case may or may not involve a court hearing, depending on whether you and the other party agree on all decisions regarding your case. The following sections provide you with general tips for completing your court documents and preparing to represent yourself in court.

Complete Your Court Documents

All divorce and custody cases are started by filing a petition or motion with the court that clearly states the issue of the case and the resolution being sought. You may also be required to complete several other forms such as a Custody Agreement and/or Parenting Plan and a Marital Settlement Agreement.

DivorceNM offers an affordable and easy-to-use interview process for completing all your court forms. Upon completion of the online interview process, DivorceNM will generate all the necessary forms for your case, along with step-by-step instructions for how to file your documents. To learn more or to start the interview process, [visit https://divorcenm.com/start-your-process/](https://divorcenm.com/start-your-process/). Alternatively, you may download each of these forms from the New Mexico

Courts website at <https://self-help.nmcourts.gov/divorce.aspx> or receive them from your local Court Clerk. Below you will find several tips to consider as you begin completing your court forms:

- Make sure you have the most current version of the form.
- Make sure you read the entire form and any directions that came with it BEFORE you start filling out the form. This will give you a better understanding of what the form is intended to accomplish and what information you will need to provide.
- Make sure your forms are printed on only one side of the page. The court only accepts single-sided copies.
- Be sure your completed forms are easy to read. Use only black ink or type them.
- Always use your legal name, current address, daytime phone number, and a valid email address where applicable. This is to ensure the court knows who you are and how to reach you with important updates about your case.
- Most forms have what is called a “caption” on the first page of the form. The caption may include your name and address, the name of the petitioner and respondent, as well as the name of the court and your case number. The petitioner is the person filing the Petition (i.e. the person requesting the divorce). The Respondent is the person who must respond to the Petition. **The caption must always be completed or your form will not be accepted by the court.**
- If any form asks for the name of your attorney, write in “self-represented” or “pro-se” to let the court know you are representing yourself.
- Sign your forms in each place that requires your signature using black ink only. Many court forms will state that you are signing “under penalty of perjury.” This means that when you sign the form, you are declaring that the information entered on the form is true and correct.
- Make copies of your completed forms and keep those copies in a safe place. Take your entire document file with you every time you go to court.

Applying for Free Process

When you file for divorce, you will be required to pay a filing fee of \$137. If you cannot afford the filing fee, you may ask the Court to allow you to file for free or at a reduced rate. The Court will decide whether your request for free process will be granted. Below is an outline of the qualifications considered by the Court when reviewing an Application for Free Process.

1. If the individual applying for free process is a current recipient of aid from the state or federally administered public assistant program, the Court will typically grant the Application for Free Process. These programs may include:
 - a. Temporary Assistance for Needy Families (TANF),
 - b. General Assistance (GA),
 - c. Supplemental Security Income (SSI),
 - d. Disability Security Income (DSI),
 - e. Department of Health, Case Management Service (DHMS),
 - f. Food Stamps,
 - g. Medicaid, or
 - h. Public Assisted Housing,
2. If the individual applying for free process can show that his or her annual gross income does not exceed one hundred eighty-five percent (185%) of the current federal poverty guidelines established by the United States Department of Labor, the Court will typically grant the Application for Free Process.

To request free process, you must file the Application for Free Process (Form 4-222) and an Order for Free Process (Form 4-223). The Court may decide your application for free process based on these documents and without scheduling a hearing. The Court may waive the entire filing fee or allow you to file at a reduced rate. If your application for free process is denied, you may request a hearing for reconsideration.

If you have any questions about free process, set up a free 15-minute consultation with an attorney [at https://divorcenm.com/legal-resources/consult-a-lawyer/](https://divorcenm.com/legal-resources/consult-a-lawyer/).

Court Hearing: Do's and Don'ts

The following section identifies several questions you may have as you prepare for your hearing and provides helpful tips for courtroom etiquette.

1. **What Should I Wear to Court?** Court is a business type of environment. Dress in a way that shows respect for the court. You should avoid wearing shorts, tank tops, flip-flop sandals and ripped clothing. Dress to impress.
2. **When Should I Arrive at Court?** Arrive at the courthouse at least 30 minutes before your scheduled court appearance. It is very important that you allow time to park and find your courtroom. If you miss your hearing, the judge can make decisions that you may not agree with and which could seriously affect you.
3. **What about Court Security?** Upon entering the courthouse, you will be expected to pass through a metal detector. Any metal object on your body must be removed and inspected.
4. **How Do I Find the Correct Courtroom?** Most courts post a list of cases in the lobby of the courthouse. If you need help locating your name, ask a court employee for help. Contact the clerk or the bailiff in the courtroom to let them know you have arrived and to make sure you are in the correct courtroom. Let them know if you need to leave the courtroom for any reason.
5. **What Materials Should I Bring?** Bring copies of all documents that you have filed with the court and that you have been served with. The court will not have these documents for you. Also bring copies of the documents that support your case. Organize your evidence so that it is easy for the judge to understand your side of the story.
 - We also recommend that you bring pens and paper for taking notes during the hearing. This ensures you remember what is said in court, as well as any instructions the Judge may give you.
 - Cellphones are NOT allowed in court. Be sure to leave them at home or in your car.

6. **How Long Will I Have to Wait?** It is very likely that you will have to wait for your case to be called, depending on the number of other people in court that day and the order in which the judge calls cases. For some cases, you might need to plan on being there all day. Some courts do not allow children in the courtroom. Make sure to schedule enough time away from work or for child care so that you will not miss your court appearance.
7. **Can I Bring My Children?** Do NOT Bring Children into Court unless required by the judge in advance. You should not bring children to the courthouse, even if the matter being heard involves them, unless you have been ordered by the judge to do so or the child is to be called as a witness. If you cannot avoid bringing your children to the courthouse, then you should bring an adult to watch them while you are inside the courtroom.
8. **How Do I Address the Judge?** You should always stand when talking to the judge, referring to him or her “Your Honor.” Never interrupt the judge when he or she is speaking. Respond politely and answer any questions honestly and completely.
9. **Will the Judge Help Me Argue My Case?** Court personnel, including Judges, cannot give you any legal advice. Your assigned Judge may explain the process to you, but know that this does not mean the Judge is giving advice about your case.
10. **Do I Need Witnesses?** You are your own witness. Be sure to explain your position to the judge in a calm and organized manner. The clearer you are with what you want and why you feel it is the best solution, the more likely it is that the judge will agree.

If you have questions about your case or are unsure about the process, schedule an appointment with one of DivorceNM’s expert attorneys by accessing this link: <https://divorcenm.com/legal-resources/consult-a-lawyer/>

MEDIATION

Divorcing couples face a variety of difficult decisions about their family. Sometimes, these decisions may seem overwhelming. You will have to deal with questions like:

- How can I still be the best parent to my children?
- Where will I live? Where will my children live?
- How will I pay my bills?
- How will we divide all our property?
- How much child support will I pay/receive?
- Will I have to pay alimony? How much?

What is Mediation?

Mediation gives you and your spouse a safe, confidential place to address these issues. Trained mediators will guide you and your spouse through these tough decisions. The mediator is a neutral party, not a decision maker. The mediator will not side with a person, an issue, or a proposed solution. No outcome will be called right or wrong, better or worse. Instead, the mediator will simply ask questions and guide you through decision-making. When solutions are reached, the mediator will help you and your spouse draft a Mediation Agreement that reflects the decisions you reached together. The mediators will not be representing you or your spouse and their services end after the allotted time has expired. There are two types of dispute resolution services:

- **Mediation** places you and your spouse in the same room to discuss any disputes surrounding your divorce in a safe and constructive environment. A trained mediator will guide you and your spouse through the questions that must be addressed, such as decisions around children, finances, and property. Brainstorming and working through different options lets you and your spouse come up with solutions that are best suited to your own unique family situation. In mediation, you and your spouse have the power to determine your family's future.
- **Facilitation** offers the same safe and constructive environment for you and your spouse to resolve any disputes surrounding your divorce, but empowers you do so without speaking directly with your spouse. In facilitation, you and your spouse will be in separate rooms, and the trained mediator will move between the two of you.

This helps reduce any tension or communication difficulties between you, helping pave the way for an agreement on some the toughest decisions about your divorce. The facilitator will usually be a lawyer to help you understand the pros and con of your position.

The following three tips will help ensure you have a meaningful mediation session with the results you want:

- 1. Ask yourself that all-important question: What do I really want?** If you say you want the house, is it really the house? Or is it staying in the same community, owning rather than renting, or wanting to give your kids a sense of stability? Whatever it is, keep this firmly in mind as you enter negotiations. Maybe you will get the house, but if you remain open to possibilities, something equally good — or even better — has the chance to present itself.
- 2. State your goals, but name your bargaining chips.** Make a two-column list. In one, list your demands, from the house to the flat screen TV to your stock portfolio to your desired child custody arrangement. In the column next to this, list any bargaining chips that are relevant to this item. If you get the flat screen TV, you are willing to give up the iPad or pay \$500 cash. If you get the stock portfolio, you are willing to give up a larger percent of your company 401K, etc. The goal of mediation is to find a happy medium in which both parties are content with the outcome. Knowing what you are and are not willing to give up will help strike that balance.
- 3. Be patient.** It would be nice if your spouse could be equally reflective upon entering mediation, but don't expect this to be the case. If there is a standoff on certain issues, this is where the mediator comes in to help. If you do have private time with the mediator at this point, you may want to share your higher goals to see if this can spark a creative solution to the impasse.

To learn more about mediation and/or facilitation, or to schedule a session, please visit <https://divorcenm.com/mediation-services/>. Our trained mediators will help guide you and your spouse through these difficult decisions, helping make this process as easy and seamless as possible.

Creating a Mediation Statement

When preparing for your mediation session, your first step will be to prepare a mediation statement. The mediation statement provides your mediator with a brief introduction to your case, any disputes between you and the other party, and what your expectations are for the mediation. It should be no longer than five pages and should highlight the key disputes between you and the other party. You may request that anything discussed in your mediation statement remain confidential between you and the mediator. If you do not make this request, the mediation statement will be shared with the other party, providing the other party a better understanding of your side of the dispute. The other party will also have the option to keep his or her mediation statement confidential.

The mediator will read through your mediation statement prior to your scheduled mediation in order to better understand your case. In order to provide your mediator plenty of time to prepare for your mediation, the statement must be submitted at least five (5) days before your mediation.

A good mediation statement will include the following:

1. Your case number (if you have one) and court information including the Judge, County of the Court, and Judicial District. If you have already filed your case, you can locate this information at the top of your court documents.
2. The name and contact information for the other party.
3. If you or the other party plan to include any third party participants in your mediation such as a parent, partner, or child, include that in your mediation statement. Both parties must agree to include a third party prior to the mediation.
4. A brief description of your case. Things to include are the date of your marriage, separation, and divorce (if applicable), names and ages of any children, occupations of both you and the other party, as well as any relevant financial information such as annual income.
5. If you and the other party disagree on anything specific, include a brief description of the disagreement, as well as your recommended resolution. It will be helpful for you

to also include a well-reasoned response to why your recommended resolution should be followed. For example, if you and your spouse disagree about the custody arrangement, provide a strong argument for why your proposed custody arrangement should be followed.

6. If you and the other party have already made an attempt to resolve a dispute, provide a brief summary of that attempt and the main reasons you could not reach an agreement. For example, if you and your spouse disagree about what to do with your marital home and failed to reach an agreement in a prior discussion or mediation, include a description of this conversation in your mediation statement. This allows the mediator to brainstorm new ways to approach this topic and hopefully help you and your spouse come to an agreement.
7. If there is a disagreement over division of assets and/or debt, provide the mediator with all relevant financial information including annual incomes, retirement plans, bank and credit card statements, real estate deeds and mortgage statements, and any other relevant materials.
8. If you have minor children, provide a description of your requested custody and timesharing arrangement. This includes whether you are requesting sole or joint custody, as well as any timesharing and/or visitation arrangement.
9. If you have already filed your case with the court, provide the mediator with a brief summary of your court proceedings, including what documents have been filed, if a hearing has been set, and any other relevant information about your case.
10. Provide your mediator with all key documents including your Petition, Custody Plan and Order, Marital Settlement Agreement, and other court documents relevant to your case.

Remember, the mediation statement is your opportunity to introduce the mediator to the key facts of your case. Providing them with this information will save time and energy at the mediation itself, and will allow the mediator time to thoughtfully consider ways to help you and the other party reach an agreement. Taking the time to write a strong mediation statement will only help you in settling your divorce or custody case.

FREQUENTLY ASKED QUESTIONS

Below are a variety of frequently asked questions to help you through this process. If you have any questions that are not answered in this Guide you may schedule a consultation with one of our expert lawyers by visiting this site: <https://divorcenm.com/consult-lawyer/consult-a-new-mexico-lawyer/>

What does “pro se” mean?

Pro se (pronounced “pro say”) is a Latin term that means “for oneself.” A person who goes to court without being represented by an attorney is called “self-represented” or “pro se.”

Should I represent myself?

You have a right to represent yourself in all legal cases. That said, self-representation is not always a good idea. Before deciding to represent yourself, you may want to consult an attorney or contact your local legal aid program. Some things to consider before deciding to represent yourself:

1. Do you need legal advice?
2. Is it unlikely that you will work well with the other party in the case?
3. Do you have a complicated case?
4. Are you having a difficult time understanding the papers you received from the other party or from the court?
5. Do you want to appeal the decision of the court?

If the answer to any of these questions is yes, you should seriously consider consulting an attorney.

Where can I find the legal forms I need?

DivorceNM.com offers a simple and easy way to complete all the necessary forms for your case. By following simple step-by-step instructions, you will be able to complete all the forms required for your case and will be provided with instructions outlining your next steps for filing with the court.

If you prefer to complete this process on your own, you may access all the required form through the New Mexico Courts website.

Where do I file my papers?

You file your papers with the court clerk in the county where the court proceeding is to be held. For a list of all local courthouses, see the Appendix of this Guide or visit www.nmcourts.gov

What does it cost to file?

When you file your action, you will need to pay filing fees. Most divorce and custody cases will require a \$137 filing fee be paid.

What if I cannot afford to pay fees and/or costs?

If you cannot afford the filing fee, you may ask the Court to allow you to file for free or at a reduced rate by filing an Application for Free Process. The Application for Free Process is Form 4-222. You may get this form from the Court, or online at www.nmcourts.gov

What if I need an interpreter?

The court provides an interpreter in any language for free at court hearings or trials. You are responsible for notifying the court that you need an interpreter, so make sure you reserve an interpreter in advance of any hearing or trial. Use Form 4-115 NMRA to reserve an interpreter. If you reserved an interpreter and then find out you don't need one (for example, if a hearing or

trial was rescheduled), be sure to cancel the interpreter. Use Form 4-116 NMRA to cancel an interpreter.

What if I don't have transportation?

The court cannot provide transportation. However, many communities have public transportation options for citizens. Churches and religious organizations, as well as local community organizations, are also good resources for assistance. If you live far away, you may request permission from the court to appear via telephone.

What if I think the judge is wrong?

When a court enters an order or judgment, the parties have certain time frames for asking the court to reconsider its decision or to appeal the judgment. These time frames are set by New Mexico court rules. As with the time frames for filing a case, if you do not act before the time expires you may lose your right to challenge the judge's decision.

ABOUT DIVORCENM.COM

DivorceNM.com was developed to provide meaningful access to the New Mexico Family Courts without breaking the bank. It was founded by experienced New Mexico Family Law attorneys to support families who want to reduce the cost of resolving their family law case. While the court can provide you with the necessary documents to file for divorce, it does not guide you through the process. DivorceNM is here to support you in that process and help you find the best solution for your family.

At DivorceNM, we believe that access to the New Mexico Family Courts should not be a luxury option available only to those with the financial resources to pay attorneys, but instead is a necessary step in allowing all families to move forward. Separating hurts, divorce doesn't have to. Which is why we strive to help make the process both affordable and seamless.

By using DivorceNM, you will have the resources to represent yourself in court. You will be guided through our easy to follow instructions on the preparation of your legal documents and will have the opportunity to consult an attorney about your case. In the consultation, our attorneys can explain the process, including how to file an application, how the divorce is finalized, and what decisions must be made about your children. **They can review your application to make sure it is correct, or even fill out the application for you.** Any legal documents you prepare will be maintained in a personal account with DivorceNM.

At any time during this process, you can seek mediation services. Through DivorceNM.com, you will be able to schedule sessions with an experienced mediator who will guide you and your spouse through any difficult decisions about your family. If at any time you wish to hire an attorney, referrals to highly experienced attorneys are readily available.

DivorceNM.com has contracted with the Family Law Resource Group, LLC to provide the best services for you to represent yourself in court and complete your divorce or custody case. DivorceNM.com has a physical location in Albuquerque, New Mexico. The Center is staffed by paralegals and lawyers and provides:

- A computer lab for you to complete your documents
- Do-It-Yourself copy center to prepare your exhibits and copies for the court

- Notary services
- Mediation Services
- Facilitation Services
- Attorney Consultations

DivorceNM.com allows you to take control of your divorce by assisting you to craft a divorce, custody or child support agreement that fits your needs and budget. Why spend a small fortune paying for attorney's fees when you can handle your case on your own? Through DivorceNM.com you will learn about the law, your rights and what is expected of you and the other party.

We are a Simple, Affordable & Trusted solution so that you can complete your divorce, On Your Own, but Not Alone.

Consult an Attorney

DivorceNM.com has partnered with the Family Law Resource Group, LLC, to provide Mediation Services, lawyer consultations, and review of documents created on DivorceNM.com.

Ready to represent yourself in your divorce, but not sure where to start? Have questions about the application? Not sure how to file with the court? Consulting with an attorney can help you get started by answering your questions.

During the consultation, our attorneys will explain the whole process, including how to file an application, how the divorce is finalized, and what decisions must be made about your children. Anything you need support with, our attorneys are here to help!

To receive the best value during your consultation, please assemble the necessary documents. The attorney will review your legal documents and discuss your specific case with you. If you have created documents on DivorceNM.com, then please bring them with you.

We recommend you bring the following:

- All documents created on DivorceNM.com
- Tax returns for the previous 3 years
- Bank statements

- Statements for stock accounts, and/or any pension plans such as IRA and 401(k) accounts
- Current pay stubs for you and your spouse
- Credit card statements
- Copies of any stock certificates or bonds
- The deeds, mortgage statements and/or escrow papers for all property you and your spouse currently own
- Any current life insurance policies for you, your spouse, or your children
- Any prenuptial or postnuptial agreements
- Documents from any prior legal proceedings involving your spouse or children
- Documentation of any protective orders
- Any estate planning documents such as your will, advance directive, or powers of attorney

The following services are available from the Family Law Resource Group, LLC. To schedule the service, click-on the following link and follow the online instructions: <https://divorcenm.com/legal-resources/consult-a-lawyer/>.

Consult a New Mexico Lawyer

The purpose of this Consultation with a Lawyer is to provide advice and assistance in preparing your application for divorce and answering any questions that you may have related to your divorce. The attorney will assist you in completing the online questionnaire and answer any questions you may have about the process of filing for divorce and representing yourself in Court. Services provided to you by the attorney are limited to those provided during the Consultation, and the attorney/client relationship will end upon completion of the Consultation. This means the attorney will not file any court documents or appear before the court on your behalf.

Mediation/Facilitation Services

The following services are available from DivorceNM.com and the Family Law Resource Group, LLC

Mediation places you and your spouse in the same room to discuss any disputes surrounding your divorce in a safe and constructive environment. A trained mediator will guide you and your spouse through the questions that must be addressed, such as decisions around children, finances, and property. Brainstorming and working through different options lets you and your spouse come up with solutions that are best suited to your own unique family situation. In mediation, you and your spouse have the power to determine your family's future.

Facilitation offers the same safe and constructive environment for you and your spouse to resolve any disputes surrounding your divorce, but empowers you do so without speaking directly with your spouse. In facilitation, you and your spouse will be in separate rooms, and the trained mediator will move between the two of you. This helps reduce any tension or communication difficulties between you, helping pave the way for an agreement on some the toughest decisions about your divorce.

To learn more or to schedule a mediation or facilitation, visit <https://divorcenm.com/mediation-services/>.

APPENDIX

New Mexico Courts

If at any point in this process you have questions, please visit the New Mexico Courts Website. The website is available at <https://nmcourts.gov/> and provides resources for each individual court.

New Mexico Courts Contact Information

New Mexico Supreme Court

Physical Address
New Mexico Supreme Court
237 Don Gaspar Avenue, Room 104
Santa Fe, New Mexico 87501

Mailing Address
P.O. Box 848
Santa Fe, New Mexico 87504-0848

Phone: 505-827-4860

Court of Appeals – Santa Fe Office

Physical Address
Supreme Court Building
237 Don Gaspar, Room 116
Santa Fe, NM 87501

Mailing Address
P.O. Box 2008
Santa Fe, NM 87501

Phone: 505-827-4925

Court of Appeals - Albuquerque Office

Physical Address
2211 Tucker NE
Albuquerque, NM 87106

Mailing Address
P.O. Box 25306
Albuquerque, NM 87125-5306

Phone: 505-841-4618

First Judicial District Court

Physical Address
225 Montezuma Avenue
Santa Fe, NM 87505

Mailing Address
P.O. Box 2268
Santa Fe, NM 87505

Phone: 505-455-8250

Second Judicial District Court

Downtown Courthouse
Physical Address
400 Lomas Boulevard NW
Albuquerque, NM 87102

Mailing Address
Bernalillo County Courthouse
PO Box 488
Albuquerque, NM 87103-0488

Children's Court
Physical Address
5100 2nd Street NW
Albuquerque, NM 87104

Phone: 505-841-8400

Third Judicial District Court

Physical Address
201 West Picacho Avenue
Las Cruces, NM 88005

Phone: (575) 523-8200

Fourth Judicial District Court

San Miguel County Courthouse
Physical Address
496 West National Avenue
Las Vegas NM 87701

Phone: 505-425-7281

Santa Rosa Office (Guadalupe County)
Physical Address
420 Parker Avenue, Suite 5
Santa Rosa NM 88435

Phone: 575-472-3888

Fifth Judicial District Court

Chaves County Courthouse
Physical Address
400 North Virginia
Roswell, NM 88201

Mailing Address
P.O. Box 1776
Roswell, NM 88202-1776

Phone: 575-622-2212

Eddy County Courthouse
Physical Address
102 North Canal
Carlsbad, NM 88220

Mailing Address
102 North Canal, Suite 240
Carlsbad, NM 88220

Phone: 575-885-4740

Lea County Courthouse

Physical Address
100 North Main
Lovington, NM 88260

Mailing Address
100 North Main, Box 6-C
Lovington, NM 88260

Phone: 575-396-8571

Sixth Judicial District Court

Grant County Courthouse

Physical Address
201 North Cooper Street, 1st Floor
Silver City, NM 88061

Mailing Address
PO Box 2339
Silver City, NM 88062

Phone: 575-538-3250, Ext. 2

Luna County Courthouse

Physical Address
Luna County Judicial Complex
855 South Platinum
Deming, NM 88030

Mailing Address
855 South Platinum
Deming, NM 88030

Phone: 575-546-9611, Ext. 0

Hidalgo County Courthouse

Physical Address
Hidalgo County Courthouse, 3rd Floor
300 Shakespeare Street
Lordsburg, NM 88045

Mailing Address
PO Box 608
Lordsburg, NM 88045

Phone: 575-542-3411, Ext. 0

Seventh Judicial District Court

Catron County Court

Physical Address
101 Main Street
Reserve, NM 87830

All Catron County court filings are to be submitted through the Socorro District

Socorro County Court Clerk's Office
Physical Address
200 Church Street
Socorro, NM 87801

Mailing Address
P.O. Drawer 1129
Socorro, NM 88901

Phone: 575-835-0050, ext. 12

Socorro County Court

Physical Address
Socorro County Courthouse
200 Church Street
Socorro, NM 87801

Mailing Address
P.O. Drawer 1129
Socorro, NM 88901

For Court Filings
Socorro County Courthouse
200 Church Street
Socorro, NM 87801

Phone: 575-835-0050, ext. 12

Sierra County Court

Physical Address

Sierra County Courthouse
311 North Date Street
Truth or Consequences, NM 87901

Mailing Address

P.O. Box 3009
Truth or Consequences, NM 87901

For Court Filings

Sierra County Courthouse
311 North Date Street
Truth or Consequences, NM 87901

Phone: 575-894-7167, ext. 10

Torrance County Court

Physical Address

Neil Mertz Judicial Complex
903 North 5th Street
Estancia, NM 87016

Mailing Address

P.O. Box 78
Estancia, NM 87016

For Court Filings

Neil Mertz Judicial Complex
903 North 5th Street
Estancia, NM 87016

Phone: 505-384-2974, ext. 40

Eighth Judicial District Court

Taos County Courthouse

Physical Address

105 Albright Street
Taos, NM 87571

Phone: 575-758-3173

Raton County Courthouse

Physical Address

1413 South Second
Raton, NM 87740

Phone: 575-445-5585

Clayton County Courthouse

Physical Address

Union County Court Clerk
100 Court Street, Suite 5
Clayton, New Mexico 88415

Phone: 575-374-9577

Ninth Judicial District Court

Curry County Courthouse

Physical Address

700 North Main, Suite 11
Clovis, New Mexico 88101

Phone: 575-742-7500

Roosevelt County Courthouse

Physical Address

109 West 1st Street
Portales, New Mexico 88130

Phone: 575-359-6920

Tenth Judicial District Court

Quay County Courthouse

Physical Address
300 South 3rd Street, 2nd Floor
Tucumcari, NM 88401

Mailing Address
PO Box 1067
Tucumcari, NM 88401

Phone: 575-461-2764

DeBaca County Courthouse

Physical Address
248 East Avenue, C
Ft Sumner, NM 88119

Mailing Address
PO Box 910
Ft Sumner, NM 88119

Phone: 575-355- 2896

Harding County Courthouse

Physical Address
4th and Pine Street
Mosquero, NM 87733

Mailing Address
PO Box 1002
Mosquero, NM 87733

Phone: 575-673- 2252

Eleventh Judicial District Court

Gallup District Court – McKinley County

Physical Address
207 West Hill Avenue, 2nd Floor, Room 200
Gallup, NM 87301

Phone: 505-863-6816

Aztec District Court – San Juan County

Physical/Mailing Address
103 South Oliver
Aztec, NM 87410

Phone: 505-334-6151

Twelfth Judicial District Court

Lincoln County Courthouse

Physical Address
300 Central Avenue
Carrizozo, NM 88301

Mailing Address
P.O. Box 725
Carrizozo, NM 88301

Phone: 575-648-2432

Otero County Courthouse

Physical/Mailing Address
1000 New York Avenue, Room 108
Alamogordo, NM 88310

Phone: 575-437-7310

Thirteenth Judicial District Court

Cibola County Courthouse

Physical Address

700 East Roosevelt Avenue, Ste. 60
Grants, NM 87020

Mailing Address

P.O. Box 758
Grants, NM 87020

Phone: 505-287-8831

Sandoval County Courthouse

Physical Address

1500 Idalia Road, Building A
Bernalillo, NM 87004

Mailing Address

P.O. Box 600
Bernalillo, NM 87004

Phone: 505-867-2376

Valencia County Courthouse

Physical Address

1835 Hwy 314 SW
Los Lunas, NM 87031

Mailing Address

P.O. Box 1089
Los Lunas, NM 87031

Phone: 505-865-2400

State Bar of New Mexico

The State Bar of New Mexico is a professional membership organization of attorneys licensed to practice law in the New Mexico. The purpose of the State Bar is to promote the integrity of the legal profession through the encouragement and assistance in delivery of legal services to all in need of such services.

To learn more about the State Bar and the variety of resources available to you, visit the State Bar of New Mexico at: www.nmbar.org

DivorceNM Intake Form



1121 4th Street NW, Ste. 1-D
Albuquerque, New Mexico, 87102
(505) 221-5759

(PREPARE YOUR DOCUMENTS)
DIVORCE

DATE: ___/___/_____

Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Education: _____

Place of Birth: _____
City County State Country

Address: _____ Apt. # _____

City: _____ County: _____ State: ___ Zip: _____

Home Phone: (____) ___ - _____ Work Phone: (____) ___ - _____

E-Mail Address: _____ Cell Phone: (____) ___ - _____

Place of Employment: _____ Job Title: _____

Address of Employment: _____

City: _____ County: _____ State: ___ Zip: _____

Gross Monthly Income: \$ _____ Paid: Weekly/Bi-Weekly/ Monthly (circle one)

What legal action(s) were you involved in previously, if any? _____

How were you referred to DivorceNM.com? _____

DIVORCE INTAKE-FORM

DATE: ___/___/___ Name _____

OPPOSING PARTY INFORMATION:

Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___-___-___

Education: _____

Place of Birth: _____
City County State Country

Address: _____ Apt. # _____

City: _____ County: _____ State: ___ Zip: _____

Home Phone: (____) ___ - _____ Work Phone: (____) ___ - _____

E-Mail Address: _____ Cell Phone: (____) ___ - _____

Place of Employment: _____ Job Title: _____

Address of Employment: _____

City: _____ County: _____ State: ___ Zip: _____

Gross Monthly Income: \$ _____ Paid: Weekly/Bi-Weekly/ Monthly (circle one)

MARRIAGE INFORMATION

Date and City of Marriage: ___/___/___ _____

Date and City of Separation: ___/___/___ _____

How long have you lived in New Mexico? _____

How long has your spouse lived in New Mexico? _____

Reason for Separation? _____

CHILDREN:

1. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

2. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

3. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

4. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

CHILD SUPPORT

Who is the Custodial Parent? _____

Number of Children? _____

Custodial Parent

Non-Custodial Parent

Gross Monthly Income? \$ _____

\$ _____

What is/are the child(ren)'s health and dental insurance premiums paid by each parent? \$ _____

\$ _____

What is the work-related child care payment of each parent? \$ _____

\$ _____

Are there any extraordinary medical, dental, education and counseling expenses incurred in excess of one hundred dollars (\$100) per child per year; and transportation and communication expenses necessary for long distance visitation or time sharing? \$ _____

\$ _____

How many 24 hour days out of 365 days per year spent with Each parent? _____

DEBTS OF PARTIES: CREDIT CARDS/CHARGE ACCOUNTS

1. Credit Card/Charge Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

2. Credit Card/Charge Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

3. Credit Card/Charge Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

4. Credit Card/Charge Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

DEBTS OF PARTIES: PERSONAL LOANS

1. Loan:

Lender	Account Number	Borrower	Balance	Date Incurred
--------	----------------	----------	---------	---------------

2. Loan:

Lender	Account Number	Borrower	Balance	Date Incurred
--------	----------------	----------	---------	---------------

3. Loan:

Lender	Account Number	Borrower	Balance	Date Incurred
--------	----------------	----------	---------	---------------

4. Loan:

Lender	Account Number	Borrower	Balance	Date Incurred
--------	----------------	----------	---------	---------------

PROPERTY OF PARTIES: ACCOUNTS

1. Checking/Savings Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

2. Checking/Savings Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

3. Checking/Savings Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

4. Checking/Savings Account:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

5. Certificates of Deposit:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

6. Certificates of Deposit:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

PROPERTY OF PARTIES: INVESTMENTS

1. Mutual Funds/ Bonds/ Stocks:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

2. Mutual Funds/ Bonds/ Stocks:

Institution	Account Number	Name on Account	Balance
-------------	----------------	-----------------	---------

PROPERTY OF PARTIES: VEHICLES

1. Your Vehicle:

Year	Make	Model	VIN	Value	Balance on Loan
------	------	-------	-----	-------	-----------------

2. Spouse's Vehicle:

Year	Make	Model	VIN	Value	Balance on Loan
------	------	-------	-----	-------	-----------------

3. Other Vehicle:

Year	Make	Model	VIN	Value	Balance on Loan
------	------	-------	-----	-------	-----------------

4. Other Vehicle:

Year	Make	Model	VIN	Value	Balance on Loan
------	------	-------	-----	-------	-----------------

Is your property already divided by an agreement that both parties have signed? Yes/No (circle one)

Are you buying or do you own a house? Yes/No (circle one)

Does either party have retirement Plans/Accounts? Yes/No (circle one)

If yes, please list: _____

Does either party have stocks of any kind? Yes/No (circle one)

LIFE INSURANCE

1. Whole Life/Term Life:

Institution	Value	Owner	Beneficiaries
-------------	-------	-------	---------------

2. Whole Life/Term Life:

Institution	Value	Owner	Beneficiaries
-------------	-------	-------	---------------

3. Whole Life/Term Life:

Institution	Value	Owner	Beneficiaries
-------------	-------	-------	---------------

4. Whole Life/Term Life:

Institution	Value	Owner	Beneficiaries
-------------	-------	-------	---------------

MARITAL RESIDENCE

Address: _____ Apt. # _____

City: _____ County: _____ State: _____ Zip: _____

Date of Purchase: ___/___/___

Balance of Mortgage: \$ _____

OTHER REAL PROPERTY

Address: _____ Apt. # _____

City: _____ County: _____ State: _____ Zip: _____

Date of Purchase: ___/___/___

Balance of Mortgage: \$ _____

NAME CHANGE REQUEST:

Are you requesting the Court to grant a name change Yes/No (circle one)

New Full Name Requested:

Last Name	First	Middle	Maiden
-----------	-------	--------	--------

EMPLOYEE BENEFITS

Husband Benefit Wife Benefit Other

Deferred Compensation: _____

Stock Options: _____

Restricted Stock: _____

I.R.A and Keogh Plans _____

Pension Plans: _____

401k _____

Other Benefit Plans: _____

Other Benefit Plans: _____

OTHER INFORMATION

Does your case involve allegations of:	Physical Violence?	Yes/No (circle one)
	Criminal Record?	Yes/No (circle one)
	Excessive Alcohol Use?	Yes/No (circle one)
	Adultery?	Yes/No (circle one)
	Use of Illegal Drugs?	Yes/No (circle one)
	Child Abuse?	Yes/No (circle one)
	Financial Problems?	Yes/No (circle one)
	Computer Use?	Yes/No (circle one)

If you answered "yes" concerning physical violence, has a Protective Order ever been Issued?

Yes/No (circle one)

If so, please give details:

Have you ever been charged with any crime besides traffic tickets?

Yes/No (circle one)

If so, please give details:

Has your spouse ever been charged with any crime besides traffic tickets?

Yes/No (circle one)

If so, please give details:

Are there other circumstances which may be a factor in your case?

Yes/No (circle one)

If so, please give details:

Have you been involved with any Family Law proceeding with any Court?

Yes/No (circle one)

If so, please explain fully when, where, and why.

Have you ever filed Bankruptcy?

Yes/No (circle one)

If so, please explain where, when, and the disposition.

Have you or any one associated with this case been the subject of a: (circle all that apply)

- | | |
|---|---------------------|
| a) Protective Order | Yes/No (circle one) |
| b) Restraining Order | Yes/No (circle one) |
| c) Child Protective Services Investigation | Yes/No (circle one) |
| d) Mental Health Professional Treatment | Yes/No (circle one) |
| e) Questionable Paternity Status | Yes/No (circle one) |
| f) Substance Abuse Treatment | Yes/No (circle one) |
| g) Welfare or Aid to Families with Dependent Children | Yes/No (circle one) |
| h) Common Law or Informal Marriage | Yes/No (circle one) |
| i) Termination of Parental Rights | Yes/No (circle one) |
| j) Prenuptial Agreement or Partitioning Agreement | Yes/No (circle one) |
| k) Personal Injury Lawsuit | Yes/No (circle one) |

If you answered "yes" to any of the above, please explain: (attach additional pages as needed)

Do you have any of the following social media accounts?¹ (circle all that apply)

- a) Facebook?
- b) Twitter?
- c) Instagram?
- d) Other? _____

¹ Information on social media may be used in Court.

Child Custody Intake Form



1121 4th Street NW, Ste. 1-D
Albuquerque, New Mexico, 87102
(505) 221-5759

PREPARE YOUR DOCUMENTS
(CHILD CUSTODY)

Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___-___-___

Education: _____

Place of birth: _____
City County State Country

Address: _____ Apt. # _____

City: _____ County: _____ State: ___ Zip: _____

Home Phone: (____) ___ - ___ Work Phone: (____) ___ - ___

E-Mail Address: _____ Cell Phone: (____) ___ - ___

Place of Employment: _____ Job Title: _____

Address of Employment: _____

City: _____ County: _____ State: ___ Zip: _____

Gross Monthly Pay: \$ _____ Paid: Weekly/Bi-Weekly/ Monthly (circle one)

What legal action(s) were you involved in previously, if any? _____

How were you referred to DivorceNM.com? _____

CHILD CUSTODY INTAKE-FORM

DATE: ___/___/___ Name _____

OPPOSING PARTY INFORMATION:

Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___-___-___

Education: _____

Place of birth: _____
City County State Country

Drivers License Number: _____ State: _____

Address: _____ Apt. # _____

City: _____ County: _____ State: ___ Zip: _____

Home Phone: (____) ___ - _____ Work Phone: (____) ___ - _____

E-Mail Address: _____ Cell Phone: (____) ___ - _____

Place of Employment: _____ Job Title: _____

Address of Employment: _____

City: _____ County: _____ State: ___ Zip: _____

Gross Monthly Pay: \$ _____ Paid: Weekly/Bi-Weekly/ Monthly (circle one)

CHILDREN:

5. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

6. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

7. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

8. Name: _____
Last Name First Middle Maiden

DOB: ___/___/___ Sex: M/F (circle one) Social Security Number: ___ - ___ - ___

Place of Birth: _____
City County State Country

Please set forth where and with whom this child has lived for the past 5 years:

CHILD SUPPORT

Who is the Custodial Parent? _____

Number of Children? _____

Custodial Parent

Non-Custodial Parent

Gross Monthly Income? \$ _____

\$ _____

What is/are the child(ren)'s health and dental insurance premiums paid by each parent? \$ _____

\$ _____

What is the work-related child care payment of each parent? \$ _____

\$ _____

Are there any extraordinary medical, dental, education and counseling expenses incurred in excess of one hundred dollars (\$100) per child per year; and transportation and communication expenses necessary for long distance visitation or time sharing? \$ _____

\$ _____

How many 24 hour days out of 365 days per year spent with Each parent? _____

Does either party pay child support for other children that are not part of is action?

Yes/No

If so, what is the case number where that child support is paid?

OTHER INFORMATION

Does your case involve allegations of:	Physical Violence?	Yes/No (circle one)
	Criminal Record?	Yes/No (circle one)
	Excessive Alcohol Use?	Yes/No (circle one)
	Use of Illegal Drugs?	Yes/No (circle one)
	Child Abuse?	Yes/No (circle one)

If you answered "yes" concerning physical violence, has a Protective Order ever been Issued? Yes/No (circle one)

If so, please give details:

Have you ever been charged with any crime besides traffic tickets? Yes/No (circle one)

If so, please give details:

Has your spouse ever been charged with any crime besides traffic tickets? Yes/No (circle one)

If so, please give details:

Are there other circumstances which may be a factor in your case? Yes/No (circle one)

If so, please give details:

Have you been involved with any Family Law proceeding with any Court?

Yes/No (circle one)

If so, please explain fully when, where, and why.

Have you or any one associated with this case been the subject of a: (circle all that apply)

- | | |
|---|---------------------|
| a) Protective Order | Yes/No (circle one) |
| b) Restraining Order | Yes/No (circle one) |
| c) Child Protective Services Investigation | Yes/No (circle one) |
| d) Mental Health Professional Treatment | Yes/No (circle one) |
| e) Questionable Paternity Status | Yes/No (circle one) |
| f) Substance Abuse Treatment | Yes/No (circle one) |
| g) Welfare or Aid to Families with Dependent Children | Yes/No (circle one) |
| h) Common Law or Informal Marriage | Yes/No (circle one) |
| i) Termination of Parental Rights | Yes/No (circle one) |
| j) Prenuptial Agreement or Partitioning Agreement | Yes/No (circle one) |
| k) Personal Injury Lawsuit | Yes/No (circle one) |

If you answered "yes" to any of the above, please explain: (attach additional pages as needed)

Do you have any of the following social media accounts? (circle all that apply)²

- e) Facebook?
 - f) Twitter?
 - g) Instagram?
 - h) Other? _____
-

² Social media accounts and information posted may be available as evidence in court.

Sample Time-Sharing Plan: Joint Custody 50/50 Split

Legal Custody: Mother and Father will have joint legal custody and joint decision making authority regarding religion, residence, non-emergency medical or dental care, education or recreational activities. Before such decisions are made, the parties will discuss the decision and come to an agreement. All decisions shall be made in the best interest of the minor child(ren).

Time-Sharing: Each parent is entitled to have and exercise autonomy during their scheduled time sharing. If either parent needs childcare for more than 12 hours during their timesharing the other parent must first be given the right of first refusal. The schedule will be as follows:

- a. Routine: The parties timesharing will be as follows:
 - i. Mother's timesharing will be from Sunday at 12:00pm to Thursday at 12:00pm.
 - ii. Father's timesharing will be from Thursday at 12:00pm to Sunday at 12:00pm.
- b. Summer Vacation: Each parent will have the right to take the minor child(ren) on an uninterrupted vacation for a period of two weeks.
- c. Holidays: The parties agree to cooperate in sharing the minor child(ren) for the holidays. Unless otherwise agreed upon, regardless of the day of the week or the above schedule, the following schedule will be used. The parties will follow the regular schedule for all holidays not outlined. Unless otherwise specified, holidays will be from 9:00am to 8:00pm.
 - i. Mother's Day and Mother's birthday with Mother.
 - ii. Father's Day and Father's birthday with Father.
 - iii. Child's Birthday: The parties will have a joint birthday party for the minor child(ren).
 - iv. Thanksgiving: The minor child(ren) will spend Thanksgiving with both parents. If spending the holiday with both parents is not possible, the parties will alternate Thanksgiving each year with Mother having even-numbered years and the Father having odd-numbered years.
 - v. Spring Break: The minor child(ren) will spend Spring Break with Father during the day and the evenings as agreed upon by the parties.
 - vi. Christmas Break: The minor child(ren) will spend Christmas Break with Father during the day and the evenings as agreed upon by the parties.
 - vii. Christmas: The minor child(ren) will spend Christmas with both parents. If spending the holiday with both parents is not possible, the parties will alternate Christmas each year with Mother having odd-numbered years and the Father having even-numbered years.
 - viii. New Year's Eve: The minor child(ren) will spend New Year's Eve with both parents. If spending the holiday with both parents is not possible, the parties will alternate New Year's Eve each year with Mother having odd-numbered years and the Father having even-numbered years.
 - ix. Fall Break: The minor child(ren) will spend Fall Break with both parents. If spending the holiday with both parents is not possible, the parties will alternate Fall Break each year with Mother having odd-numbered years and the Father having even-numbered years.

- x. Easter: The minor child(ren) will spend Easter with both parents. If spending the holiday with both parents is not possible, the parties will alternate Easter each year with Mother having even-numbered years and the Father having odd-numbered years.
- xi. Memorial Day Weekend: The minor child(ren) will spend Memorial Day Weekend with both parents. If spending the holiday with both parents is not possible, the parties will alternate Memorial Day Weekend each year with Mother having odd-numbered years and the Father having even-numbered years.
- xii. July 4th: The minor child(ren) will spend July 4th with both parents. If spending the holiday with both parents is not possible, the parties will alternate July 4th each year with Mother having odd-numbered years and the Father having even-numbered years.
- xiii. Labor Day Weekend: The minor child(ren) will spend Labor Day Weekend with both parents. If spending the holiday with both parents is not possible, the parties will alternate Labor Day Weekend each year with Mother having even-numbered years and the Father having odd-numbered years.

Notice of Cancellation: Cancellation shall require a minimum of forty-eight (48) hours advance notice to the other party and cancellation of holiday or vacation periods shall require a minimum of two (2) weeks advance notice.

Review and Modification: The schedules for time-sharing set forth above shall be reviewed every 1 year upon written request from either party or when there is a material change in the circumstances of any party regarding any element of this parenting plan.

Transportation: The parties will divide the responsibility for getting the minor child(ren) to and from each other's house, school, and as follows:

- a. School: The party who has custody of the minor child(ren) will be responsible for transporting the minor child(ren) to and from school.
- b. Weekend: The party whose weekend of responsibility it is will pick up the children to start their timesharing.
- c. Extra Activities: The party with that period of time-sharing is responsible for the transportation to and from activities. If this is rendered impractical for the parent, then they will seek the assistance of the other parent to ensure participation in such activities.

Changes: Each parent may ask the other for exceptions to this schedule, but the parties understand that the other parent has the right to refuse the request. Each party shall consider the other party's request, and, if reasonably convenient, attempt to accommodate the requesting parent. This timesharing plan shall be reviewed every 12 months and as needed to address any issues.

Sample Time-Sharing Plan: Joint Custody Long Distance/Summers

Legal Custody: Mother and Father will have joint legal custody and joint decision making authority regarding religion, residence, non-emergency medical or dental care, education or recreational activities. Before such decisions are made, the parties will discuss the decision and come to an agreement. All decisions shall be made in the best interest of the minor child(ren).

Time-Sharing: Each parent is entitled to have and exercise autonomy during their scheduled time-sharing. The schedule will be as follows:

- a. Mother will have the minor child(ren) from one week after school lets out until one week before school resumes. Father shall have the minor child(ren) at all other times.
- b. Father will have a two-week uninterrupted period during the summer. Father must give Mother 30 days' notice in advance of when the two-week summer period will be used. Only Mother and Father may be present when exchanging the minor child(ren).

Holidays: The parties agree to cooperate in sharing the minor child(ren) for holidays. Unless otherwise agreed upon, regardless of the day of the week or the above schedule, the holiday schedule below will be used. Unless otherwise specified, holidays will be from 9:00am to 5:00pm.

- a. Mother's Day and Mother's birthday will be spent with Mother.
- b. Father's Day and Father's birthday will be spent with Father.
- c. Child's birthday: The minor child(ren) will spend her birthday with Mother in even-numbered years and with Father in odd-numbered years.
- d. Spring Break: The minor child(ren) will spend school-scheduled spring break with Mother in even-numbered years and with Father in odd-numbered years.
- e. Christmas Break: The minor child(ren) will spend the first half of the Christmas school holiday with Father in odd-numbered years and with Mother in even-numbered years. The last half of the break will alternate.
- f. Thanksgiving: The minor child(ren) will spend Thanksgiving with Father in odd-numbered years and with Mother in even-numbered years.
- g. Fall Break: The minor child(ren) will spend fall break with Father in odd-numbered years and with Mother in even-numbered years.
- h. Memorial Day Weekend: The minor child(ren) will spend Memorial Day Weekend with Mother in even-numbered years and with Father in odd-numbered years.
- i. July 4th: Child will spend the 4th of July with Mother in even-numbered years and with Father in odd-numbered years.
- j. Labor Day Weekend: The minor child(ren) will spend Labor Day Weekend with Mother in even-numbered years and with Father in odd-numbered years.

Notice of Cancellation: Cancellation shall require a minimum of forty-eight (48) hours advance notice to the other party and cancellation of holiday or vacation periods shall require a minimum of two (2) weeks advance notice.

Review and Modification: The schedules for time-sharing set forth above may be reviewed annually when there is a material change in the circumstances of any party regarding any element of this parenting plan

Transportation: The parties will divide the responsibility for getting the minor child(ren) to and from each other's house, school, and as follows:

- a. School: Father will be responsible for transportation of the minor child(ren) to and from school.
- b. Extra Activities: Father will be responsible for transportation of the minor child(ren) to and from activities.
- c. Exchanges: Mother will be responsible for transportation of the minor child(ren) to and from father's house.

Changes: Each parent may ask the other for exceptions to this schedule, but the parties understand that the other parent has the right to refuse the request. Each party shall consider the other party's request, and, if reasonably convenient, attempt to accommodate the requesting parent.

Sample Time-Sharing Plan: Sole Custody

Legal Custody: Mother will have sole legal custody and decision making authority regarding religion, residence, non-emergency medical or dental care, education or recreational activities. All decisions shall be made in the best interest of the minor child(ren).

Visitation Plan: Father shall have unsupervised visitation time as follows:

- a. Father (non-custodial parent) will have regularly scheduled visitation every other weekend.
- b. Weekends will begin on Friday at 5:00pm and end on Sunday at 5:00pm.

Vacations: The parents shall each have 7 days of uninterrupted time with the minor child(ren) each year. Each parent shall give the other parent at least 14 days' notice of the vacation time.

Holidays: The parties agree to cooperate in sharing the minor child(ren) for holidays. Unless otherwise agreed upon, regardless of the day of the week or the above schedule, the following schedule will be used. The parties will follow the regular schedule for all holidays not outlined. Unless otherwise specified, holidays will be from 9:00am to 8:00pm.

- a. Mother's Day and Mother's birthday will be spent with Mother.
- b. Father's Day and Father's birthday will be spent with Father.
- c. Child's birthday: The minor child(ren) will spend her birthday with Mother in even-numbered years and with Father in odd-numbered years.
- d. Spring Break: The minor child(ren) will spend school-scheduled spring break with Mother in even-numbered years and with Father in odd-numbered years. The child will spend the first half of the Christmas school holiday with Father in odd-numbered years and with Mother in even-numbered years. The last half of the break will alternate.
- e. Thanksgiving: The minor child(ren) will spend Thanksgiving with Father in odd-numbered years and with Mother in even-numbered years.
- f. Fall Break: The minor child(ren) will spend fall break with Father in odd-numbered years and with Mother in even-numbered years.
- g. Memorial Day Weekend: The minor child(ren) will spend Memorial Day Weekend with Mother in even-numbered years and with Father in odd-numbered years.
- h. July 4th: The minor child(ren) will spend the 4th of July with Mother in even-numbered years and with Father in odd-numbered years.
- i. Labor Day Weekend: The minor child(ren) will spend Labor Day Weekend with Mother in even-numbered years and with Father in odd-numbered years.

Transportation: Mother will be responsible for transporting the minor child(ren) to Father for his unsupervised visitation periods and for any vacation or holiday periods.

GLOSSARY

Affidavit. Any written document in which the signer swears under oath before a notary public or someone authorized to take oaths that the statements in the document are true.

Affirmation. Declaring something to be true under the penalty of perjury by a person who will not take an oath for religious or other reasons.

Allegation. A statement claimed as true by a party that must be proved by or supported with evidence in the case.

Petition. Another word for complaint. Document filed by the Petitioner to begin his or her case.

Petitioner. Another word for plaintiff. Person who starts a case.

Appeal. Asking a higher court to review and change the decision of a trial court because the trial court made an error.

Case. A lawsuit, action or right to sue (as in “Do I have a case?”) or a written decision in another case that is used as rule or law for similar legal issues.

Contested Child Custody Proceeding. A child custody proceeding in which you and the other party cannot reach an agreement on one or more decisions that must be made to finalize custody and parentage. These decisions may be about child custody, time sharing, visitation, or child support.

Contested Divorce Proceeding. A divorce proceeding in which you and your spouse cannot reach an agreement on one or more decisions that must be made to finalize a divorce. These decisions may be about division of property, debts, spousal support, child custody, time sharing, visitation, or child support.

Custodial Parent. The parent who has the legal right to determine the primary residence of the child.

Custody. In family law, the right to make decisions about the child. Parents may ask for a custody arrangement that they believe is in the best interest of their child.

Legal custody. Refers to a parent’s legal right to take part in important decisions, such as health care and education. Residential custody refers to which parent the child will live with most of the time. Legal custody to both parents is called joint or shared custody. When only one parent gets legal custody, it’s called sole custody.

Default. To fail to respond or answer the plaintiff's claims by not filing the required court document, such as an Answer.

Docket. A list of cases scheduled to be heard in court on a specific day or week.

Docket Number. A unique number assigned to a case by the court clerk. It must be used on all future papers filed in the court case.

Filing. Giving the court clerk legal papers that become part of the case file. Can also refer to a particular document in the court file.

Guardian ad Litem (GAL). An attorney appointed by the court to represent another who is unable to represent himself/herself in a court case, such as a child, an incarcerated individual or someone who is mentally ill. A GAL may also represent the interest in real estate of persons unborn or unascertainable.

Judgment. A court decision. Also called a decree or an order.

Jurisdiction. The authority of a court to hear and decide a case. The court must be able to exercise authority over the people involved and over the type of case.

Mediation. A method for parties to resolve their dispute without going to court. A neutral third party (the mediator) meets with the parties to help them find and agree upon a solution.

Modification. A change to an existing order or judgment. A request to change a prior order is a "motion to modify." It requires some reason for the change, such as when a spouse paying child support asks to modify the amount paid because of a change in circumstances (such as income) since the original order was made.

Motion. A formal request to the court in a case. An oral motion may be made during a hearing or trial but motions are usually in writing and filed with the Office of Circuit Court Clerk. Often motions have a "memorandum" filed with them that explains the legal reasons why the court should grant the motion. The person who filed the motion is called the movant or moving party.

Notarize. To have a notary public establish the authenticity of the signature on a legal document by seeing the person sign.

Oath. To swear/affirm to the truth of a statement/document.

Order. A decision by the court usually directing a party to do or not do some act, such as an order to exclude certain evidence.

Party. A person or legal entity that is named as a plaintiff or defendant on legal papers.

Paternity. A court action to determine the identity of the father of a child.

Pro Se. A Latin phrase meaning “for oneself.” Representing oneself in any kind of case.

Respondent. Another word for defendant. The person or entity that must respond to a lawsuit.

Response. A Respondent’s written response to the Petitioner’s initial court filing (the petition) that is filed with the court. A copy is sent to the Petitioner or the Petitioner’s Attorney

Restraining Order. A court order directing a person not to do something, such as make contact with another person.

Service. The legal service of your Petition and Summons to your spouse. You must have someone other than you serve the papers. While this can be done in a number of ways, the most common methods are:

1. Mailing the forms to your spouse by certified mail, return receipt requested, or
2. Serving your spouse personally, meaning someone over the age of eighteen (18) years or older, who is not a party to the action, give the Petition and Summons to your spouse in person. This can be done by the Sheriff or other law enforcement from the county where your spouse lives, or by any adult over 18. Notarized proof of service, signed by the person who served the papers, must be completed and filed with the court.

Statute. Laws enacted by the legislature or the Executive Branch.

Summons. A legal paper to give notice to the respondent that a lawsuit has started. The Summons notifies your spouse of the Petition for Divorce and that he or she must respond to your Petition within 30 days. The Summons Form 4-206 is a two-part form:

1. The first part of the Summons has information about the Court, names and addresses of the parties, the deadline for a response, and notice that a default may happen for failure to respond.
2. The second part of the Summons is the Return. Once your spouse is served with the Petition and Summons, the return must be filled out by the person who did the service of process and signed and notarized by that person. When the original Summons, including the Return, is completely filled out and signed, you are responsible for filing it with the District Court. Filing the completed Summons and Return lets the court know that the respondent (your spouse) has been served.

Temporary Restraining Order (TRO). An order that tells one person to stop doing something requested by the party. Shortly after the TRO is issued, a second hearing is held where the person being restrained can tell his or her side and the judge will decide whether or not to make the TRO permanent.

Uncontested Child Custody Proceeding. A child custody proceeding in which both you and the other party are in complete agreement as to all the decisions that must be made to finalize a custody and parentage, including all decisions regarding, child custody, timesharing, visitation, and child support.

Uncontested Divorce Proceeding. A divorce proceeding in which both you and your spouse are in complete agreement as to all the decisions that must be made to finalize a divorce, including all decisions regarding the division of property, debts, spousal support, child custody, timesharing, visitation, and child support.