

How to File a Motion | Divorce & Family Law, WA



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This article explains how to file a motion in a Washington State divorce or family law case. A motion is how you ask the court to make a small decision (as opposed to a petition, which is how you ask the court to make a large decision). Usually a motion is a request for the court to make a decision DURING the case as opposed to requesting that the court decide the case's final outcome. There are many types of motions, such as for temporary orders, modification of temporary orders, and trial continuances. This article gives general guidance. If you're filing a motion for temporary orders, read this article in conjunction with [How to Get Temporary Orders](#). If you're in danger and need emergency relief, skip to [How to Get an Immediate Restraining Order](#). We also have a separate article on [Entering Agreed Orders](#), including agreed temporary orders.

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I. Overview of the Process.

1. The Motion. Initiate a motion by filing a document called a "motion" along with written supporting materials. These give the court and opposing party(ies) advance notice of what you're asking for, your factual allegations, and when the court will make its decision. Usually in family law you'll need to submit these materials to the court and opposing party(ies) about two weeks

in advance of the hearing. The exact timing depends on the [county's local rules](#).

2. The Written Response. The opposing party(ies) may submit written rebuttals to your motion. A rebuttal of this type is called a response. In family law a response to a motion is usually due about a week before the hearing. Again, the exact timeframe depends on the [county's local rules](#).

3. Your Reply. You're allowed to submit a written rebuttal to the response(es). It's called a reply and is typically the last written word prior to the hearing.

4. The Hearing. Usually the parties and their attorneys, if any, appear in court for the hearing and may present oral argument. Then the judge renders an oral decision.

5. Orders. The last step in the process is when the parties draft written orders and the commissioner or judge signs them into effect.

II. The Initial Documents You'll Need.

Generally you initiate a motion by submitting at least the following four types of information in writing:

- A document called a motion. It tells the court and opposing party(ies) what you're asking for.
- One or more declarations. These are essentially witness statements, explaining the facts you believe the court should know for the motion.
- A calendar note, sometimes called a hearing notice. This tells the court and opposing party(ies) when and where the court will hear (decide) the motion.
- Proposed Order(s). These are the documents you want the court to sign into effect.

Sometimes more documents are necessary. Usually you can find all required documents on [Washington's Court Forms Website](#) under Family Law. There, the state has self-explanatory templates under various categories. Find the category that most closely matches your case-type and motion-type. If you cannot find a matching motion, you can download our firm's [generic motion form](#) and [generic order form](#). Please remove any reference to our firm and replace it with your own information.

TIPS.

1. If You're Requesting Financial Relief. Prepare a Financial Declaration if you're requesting any sort of financial relief, such as maintenance, child support, or attorney fees. The form for a Financial Declaration is on the state's forms website under most family law categories, but it might not be under the one you've looked at. Search around and find it under one of the other categories. The bottom of the Financial Declaration lists financial source documents you should provide if you're able. Gather those financial source documents and put a Sealed Financial Source Documents Cover Sheet on them as the first page. Typical financial source documents include your last two years' tax returns, your last two years' W-2 forms, and your paystubs for the current calendar year. Don't worry if you don't have the financial documents called for. Just explain why in your declaration.

2. Don't Use the State's Subjoined Declaration Forms. Typically the state's motion templates have subjoined declaration sections prompting you to relate facts under penalty of perjury. Don't use the subjoined declaration sections. They're too simplistic and stilted to give you a strong chance of winning against a competent opposing party. Instead, draft and submit your own declaration(s), and write something like "see my declaration" on the subjoined declaration sections. Click here for an article on [writing declarations in support of a motion](#).

3. Don't Use the State's Calendar Note / Hearing Notice. Often the state's calendar note won't work well, because the county's local superior court has its own calendar note (hearing notice form) with specialized information. In fact, large counties typically have many calendar note forms, and you'll want to make sure you use the one applicable to your motion-type. In that situation you'll usually use the calendar note labeled "family law" or "domestic". Generally these forms are available on the county superior court's website. Plan ahead before writing in your chosen hearing date on the calendar note. You probably need to serve the opposing party around 7-14 days before the hearing, with the local rules setting the exact service deadline. Schedule the hearing far enough out to ensure you have time to serve the opposing party prior to the service deadline. If you can't get the other side served by the deadline, you'll need to continue the hearing or re-file your motion for a later hearing date.

4. Local Rules. You should always learn about the county's local superior court rules before filing your motion. You might be able to learn enough by reading the [county's local rules](#) and the local calendar note. It's probably a better idea to speak briefly with a local attorney, LLLT, or family law facilitator. Facilitators are the least expensive option at \$10 per session but can only answer basic questions.

5. Don't Condense Proposed Orders. The state's forms for orders have check-the-box options. Many people delete the check-the-box sections they don't select, which makes the form shorter and cleaner looking. It's called "condensing" the form. Don't condense proposed orders. The court might order relief differing from your request, and it's easier to make changes to an uncondensed order with all the potential checkboxes still showing.

III. Filing & Serving the Documents.

Once done drafting these documents, make several (at least three) sets of copies, for a total of at least four sets including the originals.

1. Filing. File all your original documents with the clerk of the court.

2. Working Copies. Provide the second set as "working copies" for the judge or commissioner who will decide the hearing. Ask around at the courthouse to find out where working copies go. There's probably a drop box. Often you will need to stamp the upper right corner of the first page and fill in the stamp's blanks with routing information. You will know, because there'll be a stamp of this sort sitting next to the working copy drop box. Routing information means the date and time of the upcoming hearing and where the working copies should go. You can find out where the document are supposed to go by looking at the calendar note or hearing notice. The documents go to the judge, commissioner, or hearing calendar named there.

When delivering working copies, you might also need to insert the top document into a machine that marks the time and date you dropped off your materials. If so, there should be a machine sitting next to the working copy drop box.

Some counties have online systems for submitting and routing working copies. Rest assured, you do not need to use the online system if you are a layperson representing yourself.

3. Service on Opposing Party(ies). Serve a set on every party to the case. Often there's only one other party – your ex. But sometimes there are more, such as a GAL and/or county prosecutor.

You can find the allowed methods of serving documents in [How to Serve Papers in a Washington State Divorce](#).

As mentioned above, you probably need to serve the opposing party around 7-14 days before the return hearing. The exact deadline depends on the county's local rules.

4. Your Copies. Keep the last set of copies for yourself.

IV. Replying to the Response.

The opposing party(ies) may submit a Responsive Declaration and other responsive materials before the hearing. You may then submit a Reply Declaration rebutting the responsive materials. Click here for an article on [how to draft a reply declaration](#). Your reply is usually due no later than noon two or three court days before the hearing. The exact deadline depends on the county's local rules. As before, make sure to file your reply, provide a stamped working copy of it, and [serve](#) your reply on the other parties.

V. Confirming the Hearing.

In many counties, you must confirm your hearing about two court days prior to the hearing date. Whether you need to confirm, the confirmation deadline, and the method of confirmation vary from county to county. Again, you might want to speak with a local facilitator. If the county requires confirmation, make sure you do it. Otherwise the hearing will not take place.

VI. The Hearing.

Your hearing will be at the date, time, and location stated in the calendar note or hearing notice. Arrive for the hearing at least fifteen minutes early. Tell the courtroom clerk you are present, and wait for your case to be called. Usually each party will be allowed to orally argue his or her case for five to ten minutes. Afterwards the judge/commissioner will orally state his or her decision. The winning party will then present orders for the court's signature. If you win, you should already have draft orders ready from [section II](#), above. Sometimes you'll need to step out of the courtroom and edit your draft orders with a pen. In that instance, you should show the handwritten

revisions to the opposing party(ies) or their counsel and ask him/her/them to sign the orders in the signature space at the bottom of each document. Then return to the courtroom and present your orders to the judge or commissioner for final approval and/or resolution of any drafting disputes.

VII. After the Hearing.

Before you leave the courthouse, have at least two copies made of any and all orders the judge signed. File the original orders with the court clerk (the judge/commissioner may offer to file the originals for you), keep one set of the copies for yourself, and provide the last to the other party(ies) (usually just your ex or his/her attorney). If you file the original orders yourself, make sure to file a Law Enforcement Cover Sheet with any temporary restraining orders you won. The court clerk can provide you with a blank Law Enforcement Cover Sheet if you do not bring your own.

If neither the opposing party nor his or her attorney appears at the hearing, you should arrange to serve any temporary restraining order(s) directly upon on the opposing party being restrained. See our article on [how to serve documents](#).

That's it! Hopefully this was helpful. Our firm believes in making quality legal information available for free on the internet. For more free articles, guides, and videos, visit our website and click the resources link in the upper right corner.

Recommended Articles & Videos:

- [How to Draft a Declaration](#)
- [How to Get Temporary Orders in a Divorce](#)
- [How to Get an Immediate Restraining Order](#)
- [Win Custody: How to Position Yourself](#)
- [Can My Child Testify or Write a Declaration](#)
- [Calculating Child Support: The Basics](#)
- [Types & Examples of Parenting Plans | Washington State](#)
- [Property Division in WA Divorces: The Basics](#)
- [Spousal Maintenance \(Alimony\) in Washington State](#)
- [How Much Does a Divorce Cost in Washington State?](#)

- [Unbundled Legal Services: Representing Yourself with Limited Help from an Attorney](#)
- [A Guardian ad Litem \(GAL\): Do I Want One in My Custody Case?](#)

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