If you are experiencing family breakdown, separation or divorce in Manitoba and you wish to seek spousal support, child support, custody, access, division of property and/or a divorce, you may do so in the MB Court of Queen’s Bench. This process begins with the completion and filing of a **Petition for Divorce,** form 70Aor a **Petition,** form 70B.

If you are asking the court to order support or division of property, you may also need to file a Financial Statement, form 70D. The Court of Queen’s Bench Rules 70.05(1) to (5) provides information on what you will require.

These forms are available on our Manitoba Courts web-site along with the Court of Queen’s Bench rules that relate to the family court process and some Frequently Asked Questions that may assist you with the process.

If you are married and seeking a Divorce, you will begin with a Petition for Divorce. If you are married and seeking support, custody, access or other relief not including a divorce OR if you are not legally married but are looking for relief related to the breakdown of the relationship, you will begin with a Petition, form 70B.

If you are married but need the court to determine something on an urgent basis, you can file a Petition or Petition for Divorce immediately following separation. If you start by filing a Petition, you may file a Petition for Divorce at a later date. The law requires that either you or your spouse has been ordinarily resident in Manitoba for at least one year preceding the filing date of the Petition for Divorce.

To obtain a divorce, you must show that you have grounds for the divorce. The most common grounds are that the parties have lived separate and apart for at least one year because of a breakdown of the marriage. In that case, although you may file for divorce at any time, a divorce will not be granted until you have lived separately and apart for at least one year. Other grounds for divorce are that the other spouse has committed adultery or has treated you with physical or mental cruelty. Court staff cannot assist you to determine if adultery or cruelty are applicable. You may find that these websites are helpful, but it is recommended that you seek the advice of a lawyer.

Once you have carefully considered your circumstances and determined the type of court order you are seeking, you should be ready to complete the Petition or Petition for Divorce.

Remember, this tutorial does not replace legal advice. Getting advice from a lawyer about your own situation can help you to save time, money and stress in the long run.

Once you have determined which form you will use to begin your proceeding, you will begin to fill it out in order that you can file it with the Court and serve it on the other party.

The cover page:

* The title of proceeding identifies who the parties are - the party filing the Petition or Petition for Divorce is called the petitioner and the responding party is called the respondent. If you and your spouse are jointly filing a Petition for Divorce, you identify yourselves as co-petitioners.
* The title of proceeding must identify the parties’ full legal names at the time the Petition or Petition for Divorce is filed, in order of first, middle and last name. The names should be exactly the same as on the Marriage Certificate. If, following the date of your marriage, you legally adopted the surname of your spouse, you are required to use that surname until you are divorced or have obtained a Certificate of Change of Name from Manitoba’s Vital Statistics Agency.
* Insert the name, address and telephone number of the party filing a Petition or Petition for Divorce or the co-petitioners filing a Petition for Divorce in the designated area so you can be contacted by the court or the respondent if necessary.

Page 2:

* Insert the title of proceeding as it appears on the cover page.
* Insert the name, address and postal code of the respondent.

Page 3:

* The deputy registrar who issues and registers your Petition or Petition for Divorce will date and sign in the designated area of this page.
* Insert the address of the Court of Queen’s Bench Court Centre in the area where you reside. A full listing of court locations can be found on the Manitoba Courts website.

**Details of the Claim**

Paragraph 1

* Paragraph 1 is completed if you are seeking a divorce either on its own or together with another court order for corollary relief that is available under the *Divorce Act* of Canada. If you have already been divorced in Canada, you may seek Corollary relief at a later date. Please mark your selection(s) with an X or a checkmark.
* If you are seeking a court order for spousal and/or child support or division of property, you are required to file a Financial Statement, Form 70D, with your Petition for Divorce.
* If you are NOT seeking a divorce at this time, you may cross out paragraph 1.

Paragraph 2

* If you are seeking a court order for relief that is available under provincial law such as *The Family Maintenance Act* or *The Law of Property Act* mark your selections with an X or a checkmark.
* If you are seeking a court order for support or division of property, you are required to file a Financial Statement, Form 70D with your Petition.
* If you are seeking a court order for Declaration of Parentage an original or notarized copy of your child’s or children’s birth certificate is required. This will remain on the court file.

**Details of the Relief Claimed**

Paragraph 3

* You must state the legislation that you are relying on to obtain your divorce or court order.
* If you checked the “other” selection in either paragraph 1 or 2, you must state the exact relief you are claiming and all material facts you are relying on for each claim.
* If you are seeking a divorce because you and your spouse have been living separate and apart for at least one year, you must reference “Section 8(2)(a) of the *Divorce Act of Canada.*
* If you are seeking a divorce because of adultery or cruelty, you must reference “Section 8(2)(b) of the *Divorce Act of Canada.*

**Reconciliation**

Paragraph 4

* If you and the respondent never cohabited you may state that the parties never cohabited, “Not applicable”
* If you have lived together, you may state “There is no possibility of reconciliation or resumption of cohabitation”. You will notice that the form defaults to include this statements already.
* This paragraph is only relevant for a Petition for Divorce which is why it is crossed off in the Petition document.

Paragraph 5

* If you are filing a Petition for Divorce state “There has been no collusion in relation to this Petition”. If you are seeking a divorce on the grounds of adultery or cruelty you must also state “There has been no condonation of or connivance at the grounds for divorce set out in this petition.”
* If you are filing a Petition state “There has been no collusion in relation to this Petition”. and cross out “There has been no condonation of or connivance at the grounds for divorce set out in this petition”

**Particulars of relationship:**

Paragraph 6

* Insert date and place of marriage as well as date cohabitation commenced if you lived together before marriage. In the case of a common law union, just insert ``Date cohabitation commenced”. If you never cohabited with the respondent, this subparagraph may be crossed out.
* Insert date cohabitation ceased. If you never cohabited with the respondent this subparagraph may be crossed out.
* Insert surname of each party immediately **before** marriage: Mark with an X or a checkmark whether or not the parties changed their surname. If you or your spouse changed surnames following the date of marriage, you must state the legal surnames immediately before marriage. If the parties were never married, this subparagraph may be crossed out.
* Insert the wife’s maiden name which is her surname at birth. If the parties were never married this subparagraph may be crossed out.
* Insert the marital status of you and your spouse at the time of marriage. You are required to select from the following options ``never married` or `divorced` or `widowed`.
* Insert the petitioner`s place and date of birth.
* Insert the respondent`s place and date of birth.

Paragraph 7

* Insert the petitioner`s complete address.
* Insert the respondent`s complete address.
* Insert “One of the parties has been ordinarily resident in the Province of Manitoba for at least one year preceding the date of the filing of this petition.”

**Children**

Paragraph 8

* Insert the names and dates of birth of all the children of the parties or either of them, and of any child for whom either party stands in the place of a parent. This information is required whether or not you are seeking support. If there are no children, state that there are no children of the parties.
* Insert the kind of parenting arrangement you are seeking, for example joint custody, sole custody, etc. If there are no children you may state `Not applicable`.
* If you are seeking child support state the names of the children that you are seeking support for. If you are not seeking child support you may state `Not Applicable`.
* Complete this section if you are proposing child support arrangements. If not you may state `Not Applicable`.

Paragraph 9

* Insert the dates of all written or oral agreements between you and your spouse or common-law partner. If there are none you may state that there are no written or oral agreements between the parties.

**Particulars of all court proceedings**,

Paragraph 10

* If there is an existing court file or other court proceedings affecting you and your spouse or common-law partner, insert the court file number and specify the nature of the proceeding.

**Financial Information**

Paragraph 11

* Mark with an X or a checkmark if you are attaching a Financial Statement, Form 70D.
* If you are not asking for a court order of child or spousal support or division of property, it is not necessary to attach a Financial Statement.
* If you are only asking for a table amount of child support under the Child Support Guidelines and your children are under the age of majority it is not necessary to attach a financial statement.
* If you are asking for child support under the *Divorce Act of Canada* and either you or your spouse live outside of Manitoba, you must add: ``Attached is the respondent`s affidavit containing the documents required under section 21 of the Federal Child Support Guidelines`` and mark “yes” with an X or a checkmark. If this section does not apply, mark “no”.

Paragraph 12

* Insert the legal description of real property or if there is no real property you may state ``not applicable``.
* Insert the property`s address or if there is no property you may state ``not applicable``.
* Insert the name or names that the property is registered to or if there is no property you may state ``not applicable``.
* Insert the property`s market value or if there is no property you may state ``not applicable``.
* Insert any liens or encumbrances registered against the property or if there is no property you may state ``not applicable``.

**Declaration of Petitioner**

Paragraph 13

* As the petitioner, you must declare that you have read and understand the statements contained in your petition and make a declaration about the truth of the statements, before you date and sign in the areas indicated.
* If you and your spouse are filing a petition for divorce jointly, you must change paragraph 13 to read:

“Declaration of co-petitioners” – “we have read and understand this petition. Those statements contained in this petition of which we have personal knowledge are true, and those of which we do not have personal knowledge, we believe to be true.”

Both you and your spouse must sign as co-petitioners.

* If you are not represented by a lawyer, cross out the “Statement of Lawyer” section as shown.

Once you have completed your Petition or Petition for Divorce, you must attach an Acknowledgement of Service, Form 70C, to your Petition or Petition for Divorce. Insert the title of proceeding as it appears on the cover page. The respondent is expected to complete and sign the Acknowledgement of Service when served with the Petition or Petition for Divorce. A witness’ signature is required. If the respondent does not sign the Acknowledgment of Service when served with the Petition, the affidavit of service should indicate that the respondent was requested to sign the Acknowledgment of Service but declined to do so.

If you and your spouse are filing as co-petitioners, it is not necessary to serve the Petition for Divorce nor is there a need to include the Acknowledgement of Service, Form 70C.

A certified or notarized copy of your marriage certificate must be filed with your Petition for Divorce. A certified copy of the Registration of Marriage from Manitoba’s Vital Statistics Agency is also acceptable. If yours is a foreign language marriage certificate, a Translation Certificate must also be filed. A church-issued certificate will not be accepted as proof of marriage.

Now that you’ve completed the document, you may proceed to the courthouse in your area. You will be required to file two original copies of the document. You may bring two copies with you or you may pay a fee for court staff to certify a second copy. There is a cost involved in filing a Petition or Petition for Divorce. All court fees are available on the Manitoba courts website.