

Service

NOTICE: Family and divorce laws change often. These forms may not be appropriate for all situations. They are intended to be useful in many cases and may have to be changed in some way to fit your case. Talk to a lawyer if you are unsure that these forms are the most appropriate for your situation. **Court staff cannot give legal advice.**

“Service” or “service of process” are the legal terms used to describe the act of giving notice of a lawsuit or court hearing to another person. There are several different methods and very specific time limits by which you must have the other party served. The type of service you are required to use depends on the type of forms you are filing. If you do not have the other party served properly (within the correct time limits and using the correct method), the court cannot hear or decide your case.

Notice: This packet describes only the most common methods of service available for use. Please seek legal assistance if you would like to explore additional/alternative methods or the forms you are filing are not listed.

Court Self-Help Form	Required Type of Service	Service Time Limits
Summons and Petition for Divorce/Legal Separation (FA-4104V/FA-4105V)	Personal	Within 90 Calendar days from the date the divorce/ legal separation was filed.
Order To Show Cause and Affidavit for Temporary Order (FA-4128VA/B/FA-4129VA/B)	Personal	Not less than 5 Business days before the date of the Temporary hearing.
Response & Counterclaim (FA-4113V)	Mail	Within 20 Calendar days after the date of service.
Order To Appear (FA-4142V)	Personal	Not less than 24 hours before the hearing if the other party lives within the county the action is filed. Not less than 72 hours before the hearing if the other party does NOT live in the county the action is filed, but in the State of Wisconsin.
Motion for and Notice of New (DeNovo) Hearing (FA-4130V)	Personal (Contempt matters) Mail (All other matters)	Not less than 5 Business days before the date of the hearing. Not less than 8 Business days before the date of the hearing.
Order to Show Cause and Affidavit for Finding of Contempt (FA-4172VA/B)	Personal	Not less than 5 Business days before the date of the hearing.
Notice of Motion and Motion to Change:(Post Judgment) (FA-4170VA/B)	Mail	Not less than 8 Business days before the date of the hearing.
Order To Show Cause to Change: (Post Judgment) (FA-4171VA/B)	Personal	Not less than 5 Business days before the date of the hearing.
Petition to Enforce Physical Placement (FA-609)	Personal	Not less than 5 Business days before the date of the hearing.

NOTE: If you are unable to serve the other party within the required time limits, you may write a letter to the court requesting a different court date.

WARNING: Copies (not original documents) should be given to the other party. The proof of service must be filed with the court after the other party has been served.

Personal Service

There are **four** basic ways to have the other party personally served:

1. Admission of Service for the other party

You may give the documents to the other party and **ask** that they voluntarily accept the papers from you. If the other party agrees to accept the documents, you need to:

- A. Complete the caption of the **Admission of Service (FA-4119V)** form.
- B. Have them complete and sign the bottom.
- C. File the **Admission of Service** form and a set of the documents served, as soon as possible with the Clerk of Courts. Remember to keep a copy for your records.

If the other party will not voluntarily accept the papers from you, or you do not wish to have contact with the other party, you must have the other party served using one of the other methods described below.

2. Sheriff's Department

The **Sheriff's Department**, of the County in which the individual to be served resides, may serve the other party. Proof of service and a set of the documents which were served must be filed with the court as soon as possible. Remember to keep a copy for your records.

3. Private Process Server

You may make arrangements with a **private process server** to have the other party personally served. Contact individual companies for fees and procedural information. To find a private process server in your or the other party's area, you may look under "Process Service" using a phone or internet directory. Proof of service and a set of the documents which were served must be filed with the court as soon as possible. Remember to keep a copy for your records.

4. Service by Friend or Relative

A friend or relative who is over 18, is a resident of Wisconsin, and is not a party to the action can also serve the other party.

- You:** Complete the caption of the **Affidavit of Service (FA-4120V)** form.
- Friend or Relative:** Gives a copy of the paperwork to the other party.
- Friend or Relative:** Completes the bottom portion of the **Affidavit of Service** form.
- Friend or Relative:** Signs it in the presence of a Notary Public.

- You:** File the **Affidavit of Service** form and a set of the documents served, as soon as possible with the Clerk of Courts. Remember to keep a copy for your records.

LAST RESORT

Before attempting this last resort, you should consider seeking legal assistance. There are specific and complicated rules that must be followed to successfully serve a party by publication.

5. Service by Publication

Service by Publication is a **last resort** and can **only** be used if you failed to have the other party served by one of the methods above. You have a responsibility to make every effort to make personal service if possible, which includes gathering reasonably available information from family and friends to try and determine the other party's location.

The option of **Service by Publication** is only available to you if you can answer yes to **all** of the following:

- A. You have tried personal service through the Sheriff's Department or a private process server.
- B. You have given them as much information as possible to help them find the other person.
- C. The Sheriff's Department or private process server cannot find the other person after a diligent search.
- D. You have completed the **Affidavit of Efforts to Serve Respondent (Service by Publication) (FA-4184V)** form or have been given an **Affidavit of Due Diligence/Not Found/ Attempted Service** form by the Sheriff's Department or private process server stating that the other party could not be found. Keep this affidavit.

The **Service by Publication Packet (FA-5001V)** is available to assist individuals who are filing an action for divorce/legal separation.

Service by Mail

Serving documents on the other party by mail is allowed for certain types of forms. If service by mail is allowed, you must:

- 1. Mail copies of the documents to the other party.
- 2. Sign a sworn affidavit called the **Affidavit of Mailing (FA-4121V)** form in the presence of a Notary Public.
- 3. File with the court the **Affidavit of Mailing** form and a set of the documents served as soon as possible. Remember to keep a copy for your records.

Service upon the State of Wisconsin / Child Support Agency

If the **State of Wisconsin** is a party to the action, you must serve your local Child Support Agency either by personal service or mail.

1. Admission of Service by the State of Wisconsin / Child Support Agency

- A. Take a copy of the forms to be served and an **Admission of Service (FA-4119V)** form to the Child Support Agency.
- B. Give the papers to a representative from the Child Support Agency and ask them to “admit service”. They will complete the bottom portion of the **Admission of Service** form.
- C. File the **Admission of Service** form to the Clerk of Courts Office as proof of service. Remember to keep a copy for your records.

2. Service by Mail

- A. Mail copies of the documents to the Child Support Agency.
- B. Sign a sworn affidavit called the **Affidavit of Mailing (FA-4121V)** form in the presence of a Notary Public.
- C. File with the Court the **Affidavit of Mailing** form and a set of the documents served as soon as possible. Remember to keep a copy for your records.