

SELF-SERVICE CENTER
PROCEDURES FOR GETTING A DEFAULT DECREE
WITHOUT A HEARING

IN FAMILY COURT CASES THAT DO NOT INVOLVE MINOR CHILDREN

REQUIREMENTS

Sometimes a court hearing is not required to get a default decree. This procedure may be used if you meet the following requirements:

- ✓ Husband and wife **both must** be legally competent and sane.
- ✓ There are **no** minor children common to the parties **or** adopted by the parties during the marriage.
- ✓ Wife is **not** pregnant with husband's child.
- ✓ Neither husband nor wife is making a claim for spousal maintenance/support (alimony).

YOU CANNOT USE THIS PROCEDURE IF . . .

- the responding party was served by publication,
- if the other party is insane or incompetent, or
- if the other party has filed a response.

For a list of requirements, read the *"Motion and Affidavit for a Default Without a Hearing"*.

PROCEDURES

1. **BEFORE YOU REQUEST A DEFAULT DECREE WITHOUT A HEARING, CHECK TO BE SURE THAT YOU HAVE:**
 - Properly served the other party and filed the proof of service. (Service cannot be done by publication), **AND**
 - Completed and filed the *"Application and Affidavit for Default,"* and mailed a copy to the other party; **AND**
 - Completed and notarized *"Service Member Civil Relief Act Waiver"* if the other party is on active duty in the United State Military, **AND**
 - Waited at least **61** days **after** the completion of service.
2. **COMPLETE** the *"Motion and Affidavit for Default Decree Without a Hearing"* and make one copy.
3. **FILE YOUR MOTION:** Hand the original *"Motion and Affidavit for Default Decree Without a Hearing"* and the copy to the Clerk at the filing counter. The Clerk will keep the original, date stamp the copy and return the copy to you.
4. **HAND-DELIVER OR MAIL THE FOLLOWING DOCUMENTS AS INDICATED BELOW:**
 - **One** (1) file stamped copy of the *"Motion and Affidavit for Default Decree Without a Hearing"*
 - The **original** and **two (2) copies** of the *"Decree"* for signature by the Judge;
 - **Two** (2) 9" x 12" envelopes, **with sufficient postage**, one addressed to you, and one addressed to the other party.

<u>Central Court Building</u> 201 West Jefferson, 3 rd floor Phoenix, Arizona 85003 (To <i>Family</i> Court Administration)	<u>Southeast Court Complex</u> 222 East Javelina Avenue, 1st floor Mesa, Arizona 85210 (To <i>Family</i> Court Administration)
<u>Northwest Court Complex</u> 14264 West Tierra Buena Lane Surprise, Arizona 85374 (To Judge's in-box)	<u>Northeast Court Complex</u> 18380 North 40 th Street Phoenix, Arizona 85032 (To Judge's in-box)

5. THERE IS A REVIEW PROCESS upon receipt of your paperwork. This process can take as long as 4-6 weeks. You can call (602) 372-3332 between the hours of 8:00 a.m. and 5:00 p.m. to check on the status of your case. Please wait at least four (4) weeks before checking the status.

The Judicial Officer will review your file and the documents you have submitted. If the Judicial Officer determines that everything is in order they will sign the final decree. The Courtroom Clerk will file stamp your copies and they will be mailed to you and the other party in the envelopes you have provided.

If the Judicial Officer finds any deficiencies in your court file or paperwork, your documents will be returned to you in the envelope you have provided along with a coversheet describing the deficiency and in most cases how it can be corrected. Below is a list of the most common reasons why your paperwork might be returned to you unsigned:

- The **“Decree”** was not fully completed and not all applicable boxes were marked.
- Items asked for in the **“Decree”** were not the same as the items asked for in the **“Petition.”**
- The original **“Decree”** and copies were not submitted with the **“Motion and Affidavit for Default Decree Without Hearing”**.
- Did not mark all boxes on the **“Motion and Affidavit for Default Decree Without Hearing”** as true statements.
- Did not provide a notarized **“Service Members Civil Relief Act Waiver”**

Arizona Rules of Family Law Procedure (ARFLP), Rule 44(B)1(b), allows for application for a default decree *without hearing* in Family Court cases not involving minor children, for divorce, legal separation, *and annulment*, but be WARNED:

- There are special legal requirements involved in qualifying for an annulment.
- If your court papers do not fully explain how you meet those requirements, it could result in your case being delayed or dismissed.
- Consulting an experienced attorney about whether your situation *and your papers* indicate you qualify for an annulment may help you to avoid unnecessary expense, delay, and disappointment.