



# Modify / Enforce Judgment of Divorce Procedure for Erie County

## My ex-spouse is not following the terms of the divorce decree. Is there anything that I can do?

You may bring an application to have the judge order your ex-spouse to court on a certain day and time to answer why the divorce decree is not being followed.

## How do I do this?

You will need to fill out the following forms, printing neatly and using black ink:

- Order to Show Cause
- Affidavit in Support of Motion for Contempt, Modification or Enforcement
- Affidavit of Service
- Proposed Judgment and Order
- Additional papers may be needed if the divorce was granted in another county and this enforcement application is filed in Erie County.

**FORMS ARE AVAILABLE AT THE COURT RESOURCE CENTER.**  
Check with the Court Resource Center staff to see if you need to make any additional copies.



**Do not sign the Petition until you are in front of a Notary Public!**

**A Notary is available at the Court Resource Center.**

## Do I need anything else?

You will need to bring your divorce decree and any papers which will show the court that your ex-spouse is not following what the decree says should be done.

## What do I do with the papers I filled out?

Take all papers and filing fee to the Erie County Clerk's Office, Actions & Proceedings Department, at 92 Franklin Street, Buffalo, NY. You will be given a receipt and your papers will be stamped and returned to you.



Take papers to the Supreme & County Court Chief Clerk's Office, 25 Delaware Avenue, Ground Floor, Buffalo, NY to verify name of the judge assigned to this case. You will be given the judge's name and the address where you must take all your papers.

## Will there be a fee?

The fee will depend on your situation.

- If you file your papers where the divorce was granted, only a \$45 motion fee is required.
- If you file your papers in a county different from where the divorce was granted, you will need to purchase an index number for \$210 and get a judge assigned to your case by paying \$95 for a Request for Judicial Intervention.

## What if I can't pay the fee?

You can ask the Court for an order to file without paying the fee. Please see the Poor Person Application Instructions brochure, available at the Court Resource Center.

## What happens after I drop the papers off to the Judge?

Your papers will be reviewed by the judge's staff. If the papers are ok, the judge will sign the order. The judge will fill in the date you should come to court and tell you how the papers should be given to your ex-spouse and by what date.

## What happens after I pick up the signed order?

You will receive the original signed order and one copy. Have the copy served on your ex-spouse. Anyone over 18 years old, not involved in this matter can do this and then this person MUST fill out an Affidavit of Service.

You must then file the original Affidavit of Service with the County Clerk's Office and keep a time-stamped copy.

- Bring the copy with you to prove that your ex-spouse received the papers.
- Bring the original signed Order to Show Cause papers to court on the day of your hearing.

## The court date has arrived. Now what?

- Bring all of your papers with you if you need to refer to them
- Get to court early and find the courtroom
- When the courtroom opens, go in and tell the clerk or court officer your name and case
- When your case is called, explain to the judge why you're here
- Tell the truth and don't exaggerate
- Speak slowly and loud enough so you can be heard because a court reporter will write down everything you say
- The judge will also ask your ex-spouse questions. Do NOT interrupt.
- Do not be afraid to politely ask the Judge a question if you do not understand what something means

## The judge made a decision and granted my request. What next?

You gave the judge a Judgment and Order with your paperwork for the judge to sign. It states what you asked for and what the judge decided. The judge will sign the order if your request is granted.

## The Judge signed my order, now what?

The original signed order and original Order to Show Cause and affidavit must be filed in the County Clerk's Office. You will need time-stamped copies of the order. Mail a copy of the time-stamped order to your ex-spouse.



## What if I have questions about this procedure?

Come to the Eighth Judicial District Court Resource Center with any questions you may have.

92 Franklin Street, Room 105  
Buffalo, New York 14202

Open Monday through Friday  
9:00 a.m. to 5:00 p.m.

View of a typical courtroom.

