

## SECTION III DIVORCE

### A. Contents and Filing of a Complaint

1. The plaintiff in the complaint and the defendant in the answer, counterclaim, or petition raising claims must set forth each claim as a separate count.
2. If a claim for custody, partial custody, or visitation is made by either party to the action, the relevant count in the pleading must comply with the provisions set forth by Children's Court.
3. If either party makes a claim for alimony *pendente lite*, alimony or support, the party shall attach to the pleading, as an exhibit, the Family Division Support/Alimony *Pendente Lite*/Alimony Information Sheet ("Information Sheet")(Form II-8). Information Sheets may be obtained from the Support Docket Clerk, Room 3024.2.
4. All divorce and annulment complaints must be filed, and the filing fee paid, in the Department of Court Records, Civil/Family Division, 1<sup>st</sup> Floor, City-County Building, 414 Grant Street, Pittsburgh, PA, where they will be assigned a docket number. The number given to the divorce will also be assigned to all other claims subsequently filed in the action. All pleadings subsequently filed, involving the same family unit, shall also utilize the same docket number. If there is already a docket number assigned to the family, it MUST be utilized pursuant to the "one judge/one family" requirement (see Section I. C. and D.).
5. All divorce and annulment complaints must have attached as the first page a Notice to Defend and Claim Rights, substantially in the form set forth as Form III-1.
6. A party filing any secondary pleading to the divorce action must file such pleading at the Department of Court Records, Civil/Family Division, 1<sup>st</sup> Floor, City-County Building, 414 Grant Street, Pittsburgh, PA.
7. If the divorce proceeding includes a claim for support, alimony *pendente lite*, or counsel fees, any party seeking a conference/hearing on said claim must file a completed Certification and Praeipce to Schedule Conference/Hearing (Form II-9) with the Support Docket Clerk, Room 3024.2, requesting that a conference/hearing date be scheduled and further stating that there is no existing order of support and/or alimony *pendente lite* providing for the support of a spouse. The party seeking the conference/hearing shall provide two copies of the pleading raising the claim and the completed Information Sheet (Form II-8), to the Support Docket Clerk. Where there is an existing

order for support, a hearing will only be scheduled pursuant to an order obtained through motions court.

#### **B. Preliminary Objections to a Divorce Complaint**

1. Preliminary objections shall be heard by the judge to whom the case is assigned, in accordance with the "one judge/one family" rule. In the instance where the electronic docket does not indicate a Judge of Record, parties shall obtain a judicial assignment from the Judicial Docket Clerk, Room 2033, prior to filing the Preliminary Objections.
2. The original preliminary objections and brief shall be filed with the Department of Court Records, Civil Division, and a copy served on all parties and the Judge of Record.
3. Once the preliminary objections and brief are filed, the moving party shall present a Praeceptum to Schedule Argument Date on Preliminary Objections (Form II-33) to the Judicial Docket Clerk, Room 2033, for scheduling of the argument date. The Judicial Docket Clerk will schedule the argument on the next available exceptions argument list for the Judge of Record, and forward a copy of the Praeceptum to the judge.
4. The person filing the objections must serve notice on all parties of the time and place of argument.
5. Failure of Petitioner to file a brief may be cause for dismissal of the preliminary objections. If respondent (the person responding to the preliminary objections) chooses to file a brief, it shall be filed with the Department of Court Records, Civil Division, at least seven days before argument and a copy served on all parties and the Judge of Record.

#### **C. Military Service**

Except for §3301(c) claims, in all actions for divorce where the defendant is in the military service, the plaintiff shall at the time of the filing of the complaint, petition the Court to appoint an attorney to represent the defendant, setting forth in said petition the address of the defendant. A copy of the complaint must be furnished to the appointed attorney, who will then send a copy to the defendant, together with a form power of attorney authorizing the appointed counsel to appear for the defendant and to accept service of all papers.

#### **D. Proceedings by Indigent Parties**

1. Any person who believes they are indigent and who either desires to commence an action in divorce, or is already a party to a divorce pending in Allegheny County, may make an application to the Divorce Law Project, Allegheny County Bar Foundation, 11<sup>th</sup> Floor Koppers Building, 436 7<sup>th</sup> Avenue, Pittsburgh, PA 15219. The Divorce Law Project can be reached at (412) 402-6714.
2. The Divorce Law Project is authorized to assign an attorney from among its members to represent each applicant determined by it to be indigent.
3. An order permitting a party to proceed without payment of costs may provide that: 1) the Department of Court Records Civil/Family Division shall accept, file, docket and process all pleadings, orders and decrees without prepayment of costs; 2) that the Sheriff shall make service and return of service without prepayment of costs; and 3) that the master shall hear the testimony and make and file a report without prepayment of costs.
4. In the event that it is determined that the applicant, or any other person who is legally responsible for the applicant, is or has become financially able to pay the costs, an order may be entered against that person for the payment of all or any part of the costs including reasonable counsel fees.

#### **E. Discovery in Equitable Distribution Cases**

The Court recognizes the importance of discovery in Family Division matters and has worked collaboratively with the ACBA Family Law Section, Discovery Task Force, in an effort to provide guidance on discovery practice in the Division.

Discovery should commence no sooner than 30 days after service of the divorce complaint, where issues of alimony and/or equitable distribution have been raised. Counsel should utilize the parties' separation date for discovery purposes, so that at the time a Praecipe for Conciliation (see Section III. I., below) is filed, discovery is substantially underway and/or completed.

This will allow for the efficient use of the Court's time at the first conciliation, where counsel will be expected to identify: 1) what additional discovery not previously requested is needed and why no previous requests have been made; 2) what additional time is needed to obtain responses to the new discovery; and 3) what are the disputed areas of discovery. The Court will address these disputed areas at the time of the conciliation and in the Court's subsequent order.

**Counsel should not wait until the first conciliation to commence discovery**, as information obtainable through discovery will be needed by counsel to adequately prepare the Marital Asset and Liability Summary (Form III-3), a requirement for the first conciliation. **Failure to provide this information at the time of the first conciliation may result in sanctions against the parties and/or counsel.**

The Court expects that counsel and parties will follow the Rules of Civil Procedure in conducting discovery requests and responses, particularly in providing written responses to both Interrogatories and Requests for Production of Documents (see Pennsylvania Rules of Civil Procedure 4006 and 4009.12).

In situations where there is a discovery dispute in advance of the conciliation, the Court expects that if a Motion to Compel is filed, a Discovery Summary Table (Form III-4) will be appended to the Motion, clearly setting forth the specific issues in dispute unless there has been no response at all to the discovery request. In that circumstance only, the Discovery Summary Table is not necessary. Copies of the Motion to Compel and the Summary Table should be forwarded to the Court in advance, so the Court will have an opportunity to review the disputed items in advance of argument.

**F. Action to be Taken where a Party Fails to Comply with Rules of Civil Procedure 1920.31(a) or 1920.33(a)**

1. Upon Praecipe of any party who has complied with Pennsylvania Rules of Civil Procedure 1920.31(a) and 1920.33(a), a rule shall be entered upon a non-complying party to file the inventory and appraisal and/or statement of income and expense, and income tax returns within 20 days of the service of the rule.
2. The Praecipe shall state substantially the following:

The plaintiff/defendant has complied fully with Rules of Civil Procedure 1920.31(a) and/or 1920.33(a) and the opposing party has failed to do so. Plaintiff/defendant therefore requests that a rule be entered directing compliance with Rules of Civil Procedure 1920.31(a) and/or 1920.33(a), within twenty (20) days of the date of the service of the rule.

3. The Praecipe must be presented in person to the Judicial Docket Clerk in Room 2033, who will automatically issue the rule. The party filing the Praecipe is responsible for serving a copy of the rule on the opposing party.
4. After the rule is served upon a party, if it is necessary for the Court to issue a further order directing compliance with Pennsylvania Rules of Civil

Procedure 1920.31(a) and 1920.33(a), such order shall contain a provision for payment of counsel fees and costs to the moving party, unless there are compelling circumstances which prevented the party from complying with the rule.

#### **G. Petition for Exclusive Possession**

If there is a divorce pending, a party may petition for exclusive possession of the marital residence through motions court. A hearing on the petition may be scheduled at the discretion of the judge assigned to the case.

#### **H. Petition for Bifurcation**

1. In order to grant a divorce decree in a §3301(a), (b), (c) or (d) divorce prior to resolution of any economic claims, a party or his/her counsel must present a Petition to Bifurcate to the assigned judge in motions court to obtain an order granting the bifurcation.
2. **Note that a court order granting bifurcation does not waive the state or local procedural rule requirements, which must be met before a divorce decree can be granted.**
3. In addition, filing a counter-affidavit (Pa.R.C.P. 1920.72(e)) opposing entry of the divorce decree because the party now wishes to raise economic claims, will not prevent the entry of the decree unless the economic claims were additionally filed with the Department of Court Records Civil/Family Division in a pleading (e.g. Counter-claim or Petition Raising Claims) and served on the other party.

#### **I. Scheduling an Equitable Distribution Conciliation before a Judge**

Matters that are tried by a judge will not be listed for trial until a judge has conciliated the case.

To obtain a conciliation on §3301(d) divorce claims and/or any partition or equity claims, equitable distribution, and alimony claims raised in the divorce action (provided that both parties have complied with PA Rule of Civil Procedure 1920.31 or 1920.33), a Praecipe must be taken to the Judicial Docket Clerk in Room 2033, along with a completed Certification of Counsel to Accompany Praecipe for Conciliation Date on Issues of Equitable Distribution of Property; Alimony; and Final Counsel Fees (Form III-5), to obtain a date. The party or counsel presenting the Praecipe should be prepared to advise the Judicial Docket Clerk of inconvenient dates for both parties/counsel to avoid the need for a continuance. **Please note that alteration of the form may be reason for the docket clerk to refuse to schedule the case for conciliation.**

If there are complex issues or a large marital estate and additional time will be necessary for the first conciliation, a motion must be presented to the assigned judge on the case requesting an extended first equitable distribution conciliation BEFORE the Praeceptum for Conciliation Date is filed. The Order granting the extended conciliation must be attached to the Praeceptum when it is taken to the docket clerk for scheduling.

For other matters, counsel and/or a party may present a petition to the motions judge that contains the factual background, the relief sought, and a request for conciliation on the issues.

**J. Contested Claims Raised under §§3501 and 3701 of the Divorce Code**

1. A conciliation before the Court shall be scheduled when either party raises a claim of alimony and/or equitable distribution of marital property that is contested by the opposing party and (1) the parties are divorced, both parties have filed an affidavit under §3301(c) of the Divorce Code, or have been living separate and apart for at least two years and (2) there is compliance with the requirements of Pennsylvania Rules of Civil Procedure 1920.31(a) and 1920.33(a) relating to the filing of an inventory and appraisal and income and expense statements. If alimony is the only claim before the Court, there need only be compliance with Rule 1920.31(a). If both alimony and equitable distribution are raised, they will be conciliated together.
2. Once both parties have complied with the procedure described above, either party may schedule the conciliation.
3. The party scheduling the conciliation shall promptly notify the opposing party of the conciliation date utilizing the three page form scheduling order (Form III-3), provided by the Court.
4. At the time of the conciliation, all parties living within 100 miles of the Family Law Facility must be present for the conciliation. All other parties must be available by telephone.

**K. Uncontested Claims Raised under §§3501 and 3701 of the Divorce Code**

All claims for alimony and/or equitable distribution of marital property raised pursuant to 23 Pa.C.S.A. §§3501 and 3701 are first conciliated by the assigned judge. This is true even where the party raising the claims has reasonable grounds to anticipate that the opposing party does not intend to appear at any conciliation. The party raising the claims must follow the procedure above to have the case scheduled for conciliation.

**L. Scheduling a Conciliation before the Court for §§3301(a) and (b) Divorce Actions or §§3304 and 3305 Annulment Actions under the Divorce Code**

1. Contested Actions

- a) The Court shall first conciliate all contested actions for divorce or annulment. A Petition to Appoint a Master must be taken to the Judicial Docket Clerk in Room 2033, to obtain a conciliation date before the assigned judge. If the case cannot be settled at the conciliation, a master will hear the case.
- b) Unless the Court directs otherwise, the moving party shall be preliminarily responsible for paying the master's fee for trial and preparation of the master's report, the court reporter's fees, and any costs due the Department of Court Records, Civil/Family Division, all of which must be paid to the Department of Court Records prior to the hearing before the master.
- c) Within 10 days after the fees are paid to the master, the master will give written notice to the parties of a hearing date. At the time and place set forth in the notice, the master will begin the hearing and, unless the Court directs otherwise, shall continue the same from day to day until completed.
- d) All testimony will be recorded by the court reporter and a transcript will be filed of record within 30 days. The moving party shall pay any additional costs of the transcript over the amount deposited. Any delay in this payment shall be grounds for dismissal of the proceedings, unless adequate cause is shown for the delay.
- e) Within 30 days of receipt of the transcript, the master will file a report containing findings of fact, conclusions of law, and a suggested decree. The master will serve copies of the report on the parties and shall file an affidavit of service.
- f) If either party wishes to challenge the master's report, exceptions shall be filed pursuant to the local rule relating to exceptions to a master's report and recommendation (see Section III. N. 5.).

2. Uncontested Actions

- a) Uncontested fault-based divorce or annulment actions will be listed for hearing upon the filing of a Praecipe for Hearing (forms are available from the Department of Court Records, Civil/Family Division). The attorney or unrepresented party must, except as otherwise provided

by PA Rule of Civil Procedure 1920.62 (governing *In Forma Pauperis* filings), deposit the appropriate fees with the Department of Court Records, Civil/Family Division. A hearing date can then be obtained from the Divorce Processing Clerk, Room 3024.2.

- b) A Notice of Hearing will be sent to the parties and/or attorneys of record.
- c) Uncontested actions will be heard by a master as appointed by Family Division Administration.
- d) The attorney of record for plaintiff must be available and ready to proceed at the time for which the hearing is scheduled or arrange to have a substitute appear, unless: 1) the action has become contested; or 2) the hearing has been continued by Court order.
- e) If the action is contested, the procedure for contested actions will apply.
- f) If the hearing is continued, it will not be re-listed for hearing until another Praecipe for Hearing is filed, together with payment of any additional sums owed to the Department of Court Records, Civil/Family Division.
- g) If the action has not become contested or the hearing has not been continued by order, and the plaintiff does not appear at the hearing, the master will be paid from the funds deposited and the action will not be re-listed for hearing until another Praecipe for Hearing is filed together with any additional sums owed to the Department of Court Records, Civil/Family Division.
- h) The testimony shall be transcribed and filed within ten days of the hearing. Within five days after the testimony has been transcribed and filed, the master shall file a report and recommendation. The record, including the master's report and recommendation, will be submitted to the Court for disposition.
- i) In the event that the moving party does not wish to file exceptions to the Master's Report and Recommendation, the moving party shall submit a proposed decree in divorce to the Court. In the event that a party wishes to file exceptions to the report and recommendation, the party shall do so within twenty (20) days from the date the report and recommendation is filed with the Department of Court Records, Civil/Family Division. The original of the exceptions must be filed with the Department of Court Records, Civil/Family Division, 1<sup>st</sup> Floor, City-County Building, 414 Grant Street, Pittsburgh, PA, and a copy delivered to the judge assigned to the case and the opposing party



and/or their attorney. The exceptant shall also provide a copy of the exceptions to the Judicial Docket Clerk, Room 2033, in order to obtain an argument date.

**M. Scheduling a Conciliation before the Court under §3301(d)(1)(ii)**

Where the responding party has denied one or more of the allegations set forth in the moving party's affidavit under 23 Pa.C.S.A. §3301(d), either party may obtain a date for conciliation of the divorce claim by Praeceptum presented to the Judicial Docket Clerk in Room 2033. The Praeceptum must include language indicating that if a party fails to appear as ordered for a conciliation, the Court will conduct a hearing and enter an order in that party's absence. The party obtaining the date must file the original with the Department of Court Records, Civil/Family Division and serve copies on all parties of record.

**N. Local Practice and the Appointment of an Equitable Distribution Master**

1. Appointment of a master - The Court, on its own motion, may appoint a permanent master to a specific case to hear testimony and make recommendations regarding all matters that may be heard pursuant to Pennsylvania Rule of Civil Procedure 1920.51(a)(2)(i). As part of the appointment order, the Court shall set forth the number of days that the master is to schedule for the hearing.
2. Master's Fees - The equitable distribution master shall be paid \$500 for each of the first two days (or any portion thereof) that the case is heard, and \$600 for each day (or any portion of a day) thereafter.

As part of the appointment order, the Court shall designate the amount of the master's fees to be advanced by each party. The master may recommend a different apportionment of such fees in the master's report and recommendation, and the Court may reapportion the fees if this issue is preserved before the master and raised on exceptions to the report and recommendation of the master.

**The fees shall be paid within 20 days of the date of the appointment order. The master shall hold such fees in escrow until they become due to the master. Once a case is scheduled for a specific date, there will be no refund of the master fees.**

If a case is continued, cancelled, settled or discontinued, and the hearing becomes unnecessary, the party(ies) and/or attorneys must indicate the date of the hearing in the settlement order/agreement, and provide a copy to the Masters' Administrative Assistant, Room 700 ½ City County Building. In this instance, the master will retain any fees already paid and there will be no refunds.

If additional master's fees become due because a case is continued or the hearing is not completed in the number of days originally scheduled, the master will consult with the attorneys to determine the number of days needed, and direct that one or both of the parties advance the additional master's fees, in a manner consistent with the original order assigning the case to the master. The master's assignment of fees is subject to review only if either party preserves this issue before the master and raises the issue in exceptions to the master's report and recommendation. The master shall reschedule the case for hearing only after receipt of the additional master's fees. The additional fees will also be forfeited if the case settles, is withdrawn, or is continued. For half day hearings, the Court shall issue an Order of Court to Assign a Master in substantially the same format as in Form III-11.

3. Scheduling order and hearing - The docket clerk shall cause an order to be entered scheduling the case for a hearing for the designated number of days. Hearing dates are obtained from the docket clerk in Room 3024.2, Family Court Facility, 440 Ross Street, Pittsburgh, PA 15219. Once the case has been set for hearing, the parties may not change the hearing date by consent. **Any change in a hearing date shall be by leave of the master, which shall be granted only in compelling circumstances.**

After payment of the fees, the parties shall immediately supply the master with copies of their previously filed pre-trial statements and such other documents as required by the master. Parties shall provide the other party or attorney with notice of and, if the opposing party does not yet have a copy, copies of documents being forwarded to the master. When appearing for the master's hearing, it is the responsibility of the attorney or party to provide adequate copies of all exhibits. **The Court will not make copies.**

A typical master's hearing day shall be comprised of six hours between 9:00 a.m. and 4:30 p.m., with approximately one and one-half hour set aside at mid-day.

In recognition of the costs associated with the preparation of a transcript of the hearing, all parties shall be deemed to have waived such transcription prior to the filing of the master's report and recommendation, absent a specific request placed on the record at the beginning of the hearing. If such request is made, the requesting party shall pay for such transcription in advance, in accordance with arrangements made by that party with the court reporter. Should the master desire a transcript of the hearing prior to filing the report and recommendation, the master may order the same and direct that the cost be apportioned between the parties in any percentage. The parties shall comply with the master's directive, but may raise the issue of the assessment of costs in exceptions to the report and recommendation.

4. Report and Recommendation - Within 30 days after conclusion of the hearing, the master shall file a report and recommendation ("report")

containing appropriate findings of fact, conclusions of law, and a recommendation in the form of a suggested final decree adjudicating all matters heard by the master. The master shall file the report with the Department of Court Records, Civil/Family Division, serve copies upon the judge referring the case, and counsel or the party(ies), if unrepresented.

At the time the report is issued, the master shall notify counsel and/or the parties that exhibits can be obtained within 30 days by calling 412-350-3529 to make arrangements to pick the exhibits up at Room 4056 or 4050 of the Family Court Building, 440 Ross Street. If exhibits are not picked up within the allotted time, they will be discarded. If exceptions are filed, each party must submit his/her exhibits directly to the judge at the time his/her brief is submitted.

5. Exceptions - Within 20 days after the notice of the filing of the report has been mailed, exceptions may be filed by any party to the report, or any part thereof, in accordance with the procedures set forth in Pennsylvania Rule of Civil Procedure 1920.55-2. The original exceptions shall be filed with the Department of Court Records, Civil/Family Division and a copy shall be served on the judge assigned to the case, and on the opposing party, if unrepresented, or his/her counsel, if represented. If any party files exceptions, any other party may file cross-exceptions within 20 days of the date of service of the original exceptions.

Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions or cross-exceptions are deemed waived, unless prior to the entry of the final decree, leave is granted to file exceptions raising such matters.

To the extent that transcription of the hearing before the master has not been requested, the party taking the initial exceptions ("exceptant") shall immediately request and pay the deposit required for transcription of the complete record of all proceedings before the master, unless the parties stipulate in writing that it is unnecessary to transcribe all of the record for adjudication of the exceptions, or the Court upon motion orders that less than all of the record shall be transcribed. Should a written stipulation be entered providing for transcription of less than all of the record, the parties shall also set forth with specificity what portion, if any, of the record is to be transcribed. If any portion of the record is to be transcribed, the exceptant shall immediately order and pay the deposit for that portion. A copy of any stipulation and/or request for transcription entered in accordance with this paragraph shall be filed with the Department of Court Records, Civil/Family Division and served upon the judge assigned to the case and the opposing party or her/his counsel. Upon completion of the transcription of the record, the exceptant shall pay the balance due. The exceptant may seek reimbursement for the costs of the record as part of exceptions.

Exceptant shall file a brief in support of exceptions within 20 days after the filing of the record, or, if the parties have stipulated that no record is necessary for

adjudication of the exceptions, within 20 days after the filing of such stipulation. The respondent and/or cross-exceptant shall file a brief in response to exceptant's brief and, if applicable, in support of the cross-exceptions, within 20 days after the date of service of exceptant's brief. If cross-exceptions have been filed, exceptant may file a reply brief within ten days of the date of service of cross-exceptant's brief. Such reply brief shall be limited to issues raised pursuant to cross-exceptions. No brief may exceed 25 pages in length, unless leave of court is obtained for good cause shown. All briefs shall be filed with the Department of Court Records, Civil/Family Division and served upon all parties and the judge assigned to the case.

As soon as all briefs have been filed, either party may Praecepte for an argument date. The Praecepte, along with a copy, shall be delivered to the Judicial Docket Clerk in Room 3020, where an argument date shall be scheduled. After the argument date is assigned, the original shall be filed with the Department of Court Records, Civil Division, 1<sup>st</sup> Floor, City-County Building, 414 Grant Building, Pittsburgh, PA and the copy retained by the Court. Absent unusual and compelling reasons, the case shall be listed for argument within two months of the Praecepte. The party obtaining the argument date shall serve the other party and the judge assigned to the case with notice of the scheduled date.

Failure to comply with the procedure set forth above will result in the automatic termination of the exceptions or cross-exceptions because of either unreasonable inactivity or failure to comply with rules of court. Any exceptions terminated on such grounds shall not be reinstated except upon petition to the Court for good cause shown.

**O. Obtaining Decrees for Divorce Under §§3301(c) or 3301(d)**

1. If a complaint and the appropriate affidavit have been filed pursuant to 23 Pa.C.S.A. §3301(d), and 20 days after service the responding party has not filed a responsive pleading contesting the affidavit, the moving party shall mail to the responding party's current address, or otherwise deliver to the responding party, a notice of intention as required by Pennsylvania Rule of Civil Procedure 1920.42(d), giving the responding party 20 additional days in which to deny the allegations. The additional 20 days is counted from the date the notice is mailed or delivered. Registered or certified mail is not required. The moving party shall insert in the notice a date on which the Court is in session that is at least 20 days from the date of mailing or delivery.
2. If the responding party has not responded to the additional notice of intention, the moving party may file a Praecepte to Transmit the Record, in the form prescribed by Pennsylvania Rule of Civil Procedure 1920.73, after the 20 day period.

3. An affidavit of service shall be filed for both the §3301(d) complaint and the §3301(d) affidavit. Only one affidavit of service is necessary if the complaint and the §3301(d) affidavit were served at the same time.
4. In all cases, the moving party is responsible for submitting a proposed decree in the form required by Pennsylvania Rule of Civil Procedure 1920.76, prior to the Court's review of the divorce claim.
5. The party seeking a decree in divorce, after sending the notices required by the state and local rules governing actions for divorce, shall file with the Department of Court Records, Civil/Family Division, 1<sup>st</sup> Floor, City-County Building, 414 Grant Street, Pittsburgh, PA, a Praecepte to Transmit the Record, requesting that the Department of Court Records deliver the record to the Court for review and for the entry of an appropriate decree.
6. At the same time the moving party files the proposed divorce decree and Praecepte to Transmit Record, the Department of Court Records requires the moving party to also submit a completed Vital Records Form (Form III-6), to assist it in fulfilling the requirements of 35 P.S. § 450.602, in submitting monthly statistical data to the Department of Health.
7. The Family Division Divorce Processing Clerk will review the Department of Court Records record/file once the Praecepte has been filed, usually within ten work days. If an error or omission is discovered in the record, a notice (Form III-7 or III-8) will be sent to the party who filed the Praecepte to Transmit. The list of errors will be included in the Department of Court Records file. All of the errors must be corrected before the divorce decree (Form III-9) can be presented to the Court for signature. After the corrections are made, the party seeking the divorce will file a Re-transmit Form (Form III-10) directing the Department of Court Records to again transmit the record to the Family Division for final review.
8. Each year, there are a large number of divorces presented for administrative review during the month of December. Family Division requests that Praeceptes to Transmit be filed with the Department of Court Records at the earliest possible time, so that all divorce records can be reviewed and decrees signed before the end of the year. **Although every effort will be made to review and issue divorce decrees for those cases in which the records are presented during the last two weeks of December, counsel and parties need to be aware that there is a possibility that the decree will not be entered before December 31 of a given year.**

**P. Enforcement and Modification of an Equitable Distribution or Alimony Award or Agreement**

1. Agreement or Order Entered in Pennsylvania

A party seeking to modify or enforce an equitable distribution or alimony award or agreement must present a petition for modification or enforcement to the assigned judge during motions court. No petition shall be presented unless seven days' notice has been given to the respondent.

If the judge determines that a hearing is necessary, the matter may be scheduled for a hearing before the assigned judge or before a Master. If a hearing is scheduled before a Master, the party seeking enforcement will be required to pay a non-refundable \$250 fee for a one-half day hearing, subject to reallocation by the Master at the scheduled hearing. The form order attached to the Petition should be in substantially the same format as Form III-11. Once the Order is signed in motions court, the moving party responsible for advancing payment must take the order to the Administrative Assistant in Room 700 ½, City-County Building, 414 Grant Street, Pittsburgh, PA 15219, to schedule the hearing.

If the Court entered an order regarding equitable distribution and/or alimony, stating that one party may Praeceive for a hearing if the other party does or fails to do a particular action, the Praeceive for the hearing must have attached to it an affidavit, executed by the party's attorney, verifying that the condition set by the Court has been met.

Petitions for modification of alimony, which may be referred by the judge for a hearing before a Master, will be handled in the same manner as a complex support case, but without a DRO conference. The petitioner must bring a copy of the petition and the signed order to the Administrative Assistant, Room 700 ½ City-County Building, along with the non-refundable \$250, to schedule a one-half day hearing.

At an enforcement proceeding, the Master is not required to consider a request to modify the existing order unless a Petition for Modification has been filed in that case and scheduled to be heard the same day. Even if both parties consent to the Master's consideration of either party's request for modification, if the modification was not formally listed for consideration that day, the Master has the discretion to refuse to hear that issue if time does not permit, the parties have not provided adequate documentation, or for other good cause.

2. Agreement or Order Not Entered in Pennsylvania

- a. If you are seeking to enforce alimony or equitable distribution provisions of an agreement/deed not entered in Pennsylvania, you must do so pursuant to 23 Pa.C.S.A. §3705. You must proceed via motions court by presenting a Petition to Register a Foreign Decree and/or Marriage

Settlement Agreement for Enforcement (Form II-34). You must attach a copy of the decree or settlement agreement to the Petition. The party seeking enforcement will be required to pay a non-refundable fee of \$250 for a one-half day hearing, subject to reallocation by the Master at the scheduled hearing. Once the order is signed, the moving party responsible for advancing payment for the hearing must take the order to the Administrative Assistant in Room 700 ½, City-County Building, 414 Grant Street, Pittsburgh, PA 15219, to schedule the hearing.

- b. If you are seeking to enforce or modify child support provisions or spouse/child support provisions of an agreement/decreed/order not entered in Pennsylvania, the agreement/decreed/order must be registered following the process outlined in 23 Pa.C.S.A. § 7602 through § 7610. Assistance with this procedure can be provided by the Intergovernmental Department located Fifth Floor, Manor Building, 564 Forbes Avenue during normal screening/walk-in hours. A certified copy of the agreement/decreed is needed along with the following completed forms - Intake Information Questionnaire/Data Sheet (Form II-2), Affidavit of Arrears (Form II-35) and a Registration Statement (Form II-36).

**Q. Notice of Intention to Resume Prior Name**

A person who is a party to a divorce action may, at any time during the pendency of the action, elect to resume a prior surname by filing a Notice of Intention to Resume Prior Name (Form III-2) with the Department of Court Records, Civil/Family Division, 1<sup>st</sup> floor, City-County Building, 414 Grant Street, Pittsburgh, PA.