

Chapter 20

Mandatory Disclosures

In order to more accurately divide assets and debts, and to determine the amount of any child support and any maintenance, both parties are required to make extensive financial disclosures, not late than 40 days after service of the petition. And it should be done before the first status conference. CRCP 16.2 and Form 35.1. Failure to properly disclose may subject you to sanctions and attorney fees.

*MOST
IMPORTANT*

The most important and most common disclosures listed in Form 35.1 are:

1. Sworn Financial Affidavit, using the approved form;
2. Last 3 months of pay stubs;
3. Last 3 years of income tax returns;
4. Retirement plan statements;
5. Insurance coverage and cost documentation;
6. Recent bank account and investment account statements; and
7. Child day care expenses.

Use Colorado Official Form 35.1 as listed below as the official list of required disclosures.

FORM 35.1 - Reference to 16.2(e)(2)

The following documents which are to be given to the other party are not to be filed with the court, except as may be ordered pursuant to C.R.C.P. 16.2. **(Except that the Sworn Affidavit must be filed.)**

Mandatory Disclosures. (Complete and accurate copies may replace originals. Children refers to minor children of both parties.)

- (a) Sworn Financial Affidavit. Each party shall provide a complete and signed Sworn Financial Statement and (if applicable) Supplemental Schedule (JDF 1111 and/or JDF 1111SS) in the Supreme Court approved forms. A copy with an original notarized signature must be filed with the court.
- (b) Income Tax Returns (Most Recent 3 Years). Provide the personal and business federal income tax returns for the three years before filing of the petition or post decree motion. The business returns shall be for any business for which a party has an interest entitling the party to a copy of such returns. Provide all schedules and attachments including W-2's, 1099's and K-1. If a return is not completed at the time of disclosure, provide the documents necessary to prepare the return including W-2's, 1099's and K-1's, copies of extension requests and estimated tax payments.
- (c) Personal Financial Statements (Last 3 Years). Provide all personal financial statements, statements of assets or liabilities, and credit and loan applications prepared during the last three years.
- (d) Business Financial Statements (Last 3 Years). For every business for which a party has access to financial statements, provide the last three fiscal years' financial statements, all year-to-date financial statements, and the same periodic financial statements for the prior year.
- (e) Real Estate Documents. Provide the title documents and all documents stating value of all real property in which a party has a personal or business interest. This section shall not apply to post decree motions unless so ordered by the court.

- (f) Personal Debt. Provide all documents creating debt, and the most recent debt statements showing the balance and payment terms.
- (g) Investments. Provide most recent documents identifying each investment, and stating the current value.
- (h) Employment Benefits. Provide most recent documents identifying each employment benefit, and stating the current value.
- (i) Retirement Plans. Provide most recent documents identifying each retirement plan, and stating the current value, and all Plan Summary Descriptions.
- (j) Bank/Financial Institution Accounts. Provide most recent documents identifying each account at banks and other financial institutions, and stating the current value.
- (k) Income Documentation. For each income source in the current and prior calendar year, including income from employment, investment, government programs, gifts, trust distributions, prizes, and income from every other source, provide pay stubs, a current income statement and the final income statement for the prior year.

Each self-employed party shall provide a sworn statement of gross income, business expenses necessary to produce income and net income for the three months before filing of the petition or post decree motion.

- (l) Employment and Education-Related Child Care Documentation. Provide documents that show average monthly employment-related child care expense including child care expense related to parents' education and job search.
- (m) Insurance Documentation. Provide life, health and property insurance policies and current documents that show beneficiaries, coverage, cost including the portion payable to provide health insurance for children, and payment schedule.
- (n) Extraordinary Children's Expense Documentation. Provide documents that show average monthly expense for all recurring extraordinary children's expenses.

Lesson #20: Prepare to make the mandatory financial disclosures ASAP, before the first status conference. An extensive list of disclosures is required in order to divide property and debts. And to calculate any child support payments and any maintenance payments. Failure to properly disclose can subject you to sanctions and attorney fees.