



## ALL IN THE FAMILY

Legal blog on all aspects of Family Law and Divorce in Massachusetts and Rhode Island

### Accurately Completing Financial Statements When Obtaining a Divorce

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Everyone who obtains a divorce in Massachusetts will have to file a crucial document at least once in their case: a financial statement. The importance of an accurate financial statement cannot be overstated, particularly in highly-contested divorce cases. Under Rule 401 of the Supplemental Probate and Family Court Rule, parties are required to file financial statements with the Court within 45 days of service of the summons (which is the notice issued by the Court after the Complaint for Divorce is filed and which the Plaintiff must serve on the Defendant). The parties are also required to update and file new financial statements in advance of each court appearance at which financial relief is sought by either party, as well as at a pre-trial and trial. A party who earns less than \$75,000 per year will complete the [short form financial statement](#), while a party who earns \$75,000 per year or more will complete the [long form financial statement](#).

While only the long form financial statement requires notarization of the party's signature, both the short form and the long form are signed under the penalties of perjury. A party signing a financial statement must certify that the information contained therein is true, accurate, and complete. A willful misrepresentation on a financial statement can subject the party to sanctions, including criminal penalties. Although we have never seen anyone criminally punished for information contained in or missing from a financial statement, we have seen litigants suffer significant consequences from their failure to take the necessary time to accurately complete the financial statement – namely, losing credibility in front of the trial judge. If a trial judge determines a party is not credible on financial matters, this can have considerable ramifications for how the judge will rule on issues of alimony, child support, and division of assets. It can be an even bigger issue if financial statements that were filed and relied upon multiple times during the case and in issuing temporary orders turn out not to have been accurate or not to have included a full disclosure of assets, liabilities, income and expenses. It is absolutely critical to take the time to accurately fill out the financial statement and to do so with the assistance of counsel.

When completing a financial statement, it is helpful to refer to the following documents:

- Paystubs
- Tax returns
- Income Reporting Forms W2, K-1 and 1099
- Bank, investment account, and retirement account statements and screenshots showing current balances
- Loan statements
- Appraisals of real estate, jewelry, and other assets
- Credit card statements

The financial statement form contains lines for suggested sources of income, including wages, overtime, commissions, bonus, and dividends, and interest, among many others. All types of income must be listed, even if there is no line on the form for your particular type of income. In light of recent case law, you also need to list employer contributions to a 401(k) or health savings account. If you are self-employed, you must complete [Schedule A](#). If you have rental income, you must complete [Schedule B](#) for each rental property.

The financial statement also requires the disclosure of weekly expenses. When listing weekly expenses, the amount listed should not be a guess, but should be based upon real spending habits. The Court will look to expenses to determine lifestyle and need for alimony. Review six months to a year's worth of bank and credit card records to calculate your true living expenses. Keep in mind that your electric bill may be significantly higher in the summer, while your home heating oil or gas may be significantly higher in the winter, and generally, the number reported should be based on the total amount spent annually. Remember that you may regularly spend money on something that is not listed on the financial statement – be sure to add it. This may include amounts set aside for savings, which can also be a component of marital lifestyle.

The same holds true for assets. You should list all assets in which you have an interest, even if the form does not contain a category for such an asset – such as an interest in trust, ownership of a rare coin collection, ownership of a business, or even frequent flyer miles, Venmo, PayPal, Cash App, cryptocurrency, health savings or dependent care accounts, and anything else of value. All assets must be listed. If you do not have a value for a particular asset or the item is being appraised, the asset should still be disclosed with an indication that the value is presently unknown or subject to appraisal.

The accuracy and thoroughness on every single financial statement filled out over the course of your divorce are incredibly important. While it is a lot of work, taking the time to carefully and accurately fill out the form with the assistance of counsel can save you from the pain of a difficult cross-examination at trial – or worse, including an unfavorable result.