

Courts and Criminal Justice – Divorce Records

The first Victorian divorce legislation was the *Divorce and Matrimonial Causes Act 1861* and was administered through the Victorian Supreme Court. Prior to this a very few Victorian residents obtained divorces under English Ecclesiastical Law. Records relating to some of these cases may be found in [VPRS 282](#) Equity Case Files, Ecclesiastical Jurisdiction.

Records relating to divorce in Victoria: a select list

The dates shown next to each series indicate the date range of records that can be accessed through PROV. Consult the following Series pages on PROV's online catalogue for more information about these records and the administration of divorce in Victoria. See the contact details at the end of this PROVguide if you are seeking divorce case files created after 1917.

VPRS 282	Equity Case Files Ecclesiastical Jurisdiction	1841 – 1883
VPRS 283	Divorce Case Files, Melbourne	1861 – 1917
VPRS 5335	Index to Divorce Cause Files [links to digitised copy]	1861 – 1924
VPRS 5334	Divorce Cause Books	1861 – 1924
VPRS 5336	Divorce and Matrimonial Court Minute Books	?1866 – ?1888
VPRS 5515	Divorce and Matrimonial Causes Jurisdiction Court Books	?1890 – ?1945
VPRS 552	Divorce Case Files [held at Ballarat Archives Centre]	1861 – 1924

The Progress of a Divorce Case

Divorce proceedings commenced when the husband or wife (the petitioner) or their legal representative (known as a proctor) lodged a petition for divorce at the Prothonotary's Office of the Supreme Court. The Prothonotary was, and still is, responsible for the administration of the Supreme Court and its records. Along with the petition, the petitioner submitted a statement outlining their reasons for seeking a divorce.

Once the petition was lodged the other party in the case and any other person accused of adultery in the case were required to lodge and answer to the petitioner's charges. The petitioner could also present additional evidence in support of their case before it went to hearing. Much of the documentation of divorce cases held at PROV, including most of the content of the case files ([VPRS 283](#)), relates to this pre-hearing process.

Once a case was ready to be heard in the Supreme Court it was entered in the Divorce Cause Books ([VPRS 5334](#)) which monitor the progress of each case. In the latter part of the nineteenth century the Supreme Court sat in its Divorce and Matrimonial Causes Jurisdiction every three months, each time for a period of one month. At the commencement of each sitting a number of cases due to be heard were listed and then heard progressively over the course of that sitting. (See [VPRS 5515](#) Divorce and Matrimonial Causes Jurisdiction Court Books for the period 1890 to 1917.)

When a judgement was handed down it was recorded in the Divorce Court Minute Books ([VPRS 5336](#)) for the period 1866 to 1888 and in the Divorce and Matrimonial Causes Jurisdiction Court Books ([VPRS 5515](#)) from around 1890. If divorce was granted, a decree or order was filed with the case papers (see [VPRS 283](#)).

Terminology

Divorce Cause: A "cause" is a Supreme Court proceeding or action. A divorce cause can be thought of as a divorce case.

Decree Nisi and Decree Absolute: Every decree for dissolution of marriage granted by the Supreme Court was in the first instance a Decree Nisi, that is a "provisional" divorce. After a certain period of time had elapsed, the petitioner was required to apply to the Court in order for a decree absolute to be granted. The parties were not free to remarry until a decree absolute had been granted.

Finding Records about a Divorce

Step One: Obtaining the Divorce Case Number

For the period **1861 to 1900** consult the Macbeth Divorce Index Victoria, a microfiche record which is available in PROV reading rooms and does not need to be ordered. Entries in the microfiche index are arranged alphabetically and provide the case number required to locate the divorce file. Note the number of the case you are researching and the year in which it commenced.

For the period **1901 to 1924** use the digitised microfiche index, [VPRS 5335](#) Index to Divorce Cause Books. Entries in this index are grouped alphabetically by surname, but not in strict alphabetical order, and provide the case number (also called the suit number). Note the number of the case you are researching, and the year it commenced. A microfiche copy of VPRS 5335 can also be accessed in PROV Reading Rooms, and does not have to be ordered. See PROV's guides to [Microfilm, Microfiche and Online Resources at the Victorian Archives Centre](#), and [Microfilm, Microfiche and Online Resources at the Ballarat Archives Centre](#) for more information about accessing records on microfilm and microfiche.

Step Two: Ordering a Divorce Case File

Most of the information to a divorce will be found on the case file located in [VPRS 283](#), Divorce Case Files. Once you have obtained the case number, and the year it commenced if after 1890, you can order the case file from PROV's online catalogue:

Go to [Search Within a Series](#) and enter the series number, 283, in the first field and the case number in the second field, eg 23.

From the search result select and order the Item you wish to access. For cases that commenced after 1890 the year of the case forms part of the case number eg. 1891/23.

Please note: a number of records in the earlier part of this series are closed under section 11 of the *Public Records Act 1973* due to the fragility of the records, and cannot be ordered.

Step Three: Related Records

The following records were created during the administration of a case and may be of interest:

Divorce Cause Books ([VPRS 5334](#)) are a summary record created to monitor the progress of divorce cases at the Court and to record the receipt of some case papers. You will need to know the year in which the case commenced to order the appropriate volume from this series. To find an entry in the Cause Books use the case number (or suit number). Both the year and case number can be obtained from the indexes mentioned in Step One above. Please note: for the period 1872 to 1876 no suit numbers are recorded in the Cause Books.

Information in the Cause Books includes the names of the two parties and their proctors, the date the case was set down as ready to go to trial, the date the case was heard, the judge's name, the grounds upon which the petition for divorce was made, the page in the Court Book upon which the judgement is recorded (see below) and sometimes the judgement itself.

Divorce and Matrimonial Court Minute Books ([VPRS 5336](#)) record the judgement delivered in a case, and cover the period 1866 to 1888. A page reference to the appropriate Court Minute Book can be obtained from the Cause Books ([VPRS 5334](#)) by noting the "page in court book" reference in the Cause Book. Alternatively, if you know the date that the case was held you can order in the appropriate volume and consult the alphabetical index at the front of the volume.

From 1890 the **Divorce and Matrimonial Causes Jurisdiction Court Books** ([VPRS 5515](#)) serve a similar purpose to the Court Minute Books. If the entry in the Divorce Cause Books ([VPRS 5334](#)) for the case you are researching does not include the judgement, note the date upon which the case was heard and order the appropriate volume from [VPRS 5515](#) Divorce and Matrimonial Causes Jurisdiction Court Books (or obtain the date from an index following Step One above). Entries within each volume are arranged by the date in which the hearing commenced.

Please note: records in VPRS 5515 for the period 1920 to 1938 were not transferred to PROV.

Divorce records 1918 - 1975

Researchers seeking access to Victorian divorce records created between 1918 and 1975 can contact the Registry of the Victorian Supreme Court for advice about access:

Supreme Court of Victoria
Level 2, 436 Lonsdale Street
Melbourne VIC 3000
Phone: (03) 9603 9297

Divorce records created after 1975

In 1976 the administration of divorce was transferred from Victoria to the Commonwealth. Researchers seeking access to Victorian divorce records created after 1975 can contact the Family Court (Victoria) for advice about access:

Family Court (Victoria)
Phone: (03) 8600 3763
Email: enquiries@familylawcourts.gov.au