**THE COMPLETE GUIDE**

**TO FILING YOUR OWN DIVORCE**

**Martial Settlement Agreement**

**Gathering Information**

**Property and Debts**

**Alimony**

**Child Support**

**Child Custody and Visitation**

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“irretrievably broken” or “irreparably broken.”

Typically, the complaint or petition only needs to mention that the marriage is

because one or both of the parties want one. This is referred to as a no-fault divorce.

as adultery or mental cruelty. Nowadays, however, many states allow a divorce simply

In the past, a divorce could only be granted under very specific circumstances, such

and visiting obligations with respect to any children the couple may have .

property and debts, decides who is to receive alimony, and finds out the custody, support

In a divorce, a court declares the marriage contract broken, divides the couple’s

contract. Some states call divorce, the “dissolution of marriage.”

A divorce is the most common way of terminating or breaking the marriage

**Divorce**

to-face with a rude awakening when time comes for a divorce .

Of course, most people do not realize the legal aspects of marriage, and come face -

adopt).

obligations with respect to support of any children the couple has together (or go on to

Marriage gives a husband and wife certain rights in property and it creates certain

legal proceeding.

is a creation of financial obligations and property rights, which cannot be broken with a

legal contract, binding together a man and a woman. The legal reality of marriage is that it

In legal terms, a marriage is often referred to as a contract. And it certainly is a

**What is Marriage?**

**MARRIAGE AND DIVORCE**

**CHAPTER ONE:**

4

as incest).

from bed and board.” Legal separation is not available in all states .

by your state to get a no-fault divorce. Some states refer to this procedure as “divorce

eventual divorce, by allowing the parties to live apart for whatever period may be required

couple whose religion did not permit divorce. It is also sometimes used to prepare for an

This procedure was once used to break the financial rights and obligations of a

married.

custody and support in cases where the husband and wife live separately, but remain

A legal separation is used to divide the property and provide for alimony, child

**Legal Separation**

(in case of a church procedure).

If you want an annulment, you should seek an attorney or your priest or minister

someone else (known as bigamy), or if the couple are too closely related by blood (known

wedding, or was induced to marry under fraud or duress, or was already married to

parties was too young to get married, or was mentally incompetent at the time of the

Annulments are only possible in a few circumstances, usually where one of the

prove, so it is not used very often.

never was a valid marriage. This procedure is more difficult and more complicated to

can be viewed as breaking a valid marriage, an annulment is a determination that there

It is important that you are aware of this alternative to divorce. Whereas a divorce

**Annulment**

3)

give you the basic law details in your particular state .

You will need to refer to State Law Information at the back of this kit, which will

3)

You need to go to the hearing and present the information required.

2)

You need to notify your spouse.

1)

You need to file a petition with the court clerk.

As for the divorce procedure itself, it too is simple and requires three basic steps :

4)

Who is to receive alimony? How much, and for how long ?

they should be supported.

You need to state which one of you is to have custody of your children and how

spouse.

2)

You need to show how your property is to be divided between you and your

1)

Your marriage is broken. You merely need to state this fact.

criteria need to be shown in order to get a divorce:

The basic divorce law in most states is simple and straightforward. The following

**Divorce Law**

**LEGALITIES**

**CHAPTER TWO:**

6

The main source of information will be a set of volumes that contain the laws by

All you have to do is ask.

Case Reporters, and Legal Encyclopedias. All of these the law librarian can locate for you.

You should also look for divorce law in Practice Manuals, Court Rules, Digests,

assist you get the right information.

you get the most recent version. It is best to ask the law librarian who will be happy to

Each year, the state legislatures meet and change the law. Therefore, make sure

**Code** of your state.

your state legislature. These will be referred to a s **Statutes** or

your state, in order to make sure that you are doing everything correctly .

It is important that you visit a law library and research about the divorce law in

advice.

you some guidance about the general court procedure. The clerk will not give you legal

amount of the filing fees, the location of the nearest law library, and the clerk will also give

divorce. The clerk will be able to tell you if there are any required forms you will need, the

You should also call and visit the clerk of the court where you will be filing for

you should get a lawyer whenever you stop feeling comfortable about representing

Of course, there are advantages to having a lawyer. These are :

expensive and perfectly capable of handling a divorce.

course, these fees will probably vary from state to state. And many new lawyers are less

charge an hourly rate for contested divorces, ranging from about $75 to $300 per hour. Of

uncontested divorce, and from $800 and up for a contested divorce. Lawyers usually

give you an idea, you van expect a lawyer to charge anywhere from $150 to $1000 for an

Of course, the first point you will want to consider is the cost of an attorney. To

yourself.

to get a lawyer if you have to deal with a hostile judge. The general rule of thumb is that

how much opposition you get from you spouse, or spouse’s lawyer. It is also a good idea

how comfortable you feel handling the matter yourself, how complicated your situation is,

Whether or not you need a lawyer or not will depend upon many factors, such as

**Do You Need a Lawyer?**

**ATTORNEYS**

**CHAPTER THREE:**

8

5)

The best ways to find a good attorney is to following these rules :

**Selecting a Lawyer**

through the court system.

divorce cases. If you do everything yourself, you can push the whole case faster

3)

The procedure may be faster, since lawyers are notorious for taking their time with

procedure rules.

2)

In court an unrepresented person can have a certain amount of leeway with the

1)

You save the cost of a lawyer.

As well, there are advantages to representing yourself:

of a professional.

If your case becomes complicated, it is always an advantage to have the assistance

out the forms.

4)

Your lawyer can worry about all the little details, especially when it comes to filling

professional manner, you will have no problems dealing with other attorneys .

3)

Lawyers like to deal with other lawyers. But if you conduct yourself in a calm and

worry about emotions getting in the way of the case .

2)

A lawyer can be a “buffer” between you and your ex-spouse, so you don’t have to

have attorneys.

1)

Judges and other lawyers will take you seriously. Most judges want both parties to

Once you find a three to five lawyers, make an appointment with each one and at

After the interview, ask yourself the following questions:

6)

How long will the whole procedure take?

matters? (The attorney's answer should be at least 20%).

5)

What percentage of the attorney’s cases involve divorce cases or family law

4)

How long has the attorney been in practice in your state?

3)

How long has the attorney been in practice?

2)

How will the fee be paid?

1)

How much will it cost?

the meeting ask the following questions:

recommend a divorce lawyer.

4)

Ask another lawyer. If you have used a lawyer before, ask that lawyer to

“family law” or “domestic relations.”

3)

Look for attorney ads in the Yellow Pages, and look for those that advertise

and matches you with an attorney handling divorce cases .

Referral Services” or “Attorneys.” This service is operated by the bar association

2)

Use the Attorney Referral Service. Look in the Yellow Pages under “Attorney

1)

Ask a friend to recommend a lawyer.

10

keep the following points in mind:

4)

Be patient. Be patient with the system, as well as your attorney .

to.

do any good to argue because the law or the system is not working like you want it

3)

Accept reality. Listen to what your lawyer tells you, and accept it. It’s not going to

for you, and is on your side.

without your permission. So hold nothing back. Remember, your lawyer if working

confidential. An attorney can lose his license if he or she reveals information

2)

Give your lawyer complete information. Anything you tell your lawyer is

English.

ask. If the answer is not clear, ask the lawyer to explain everything in simple

1)

Ask questions. If you want to know something, or don’t understand something,

You will work best with a lawyer if you keep an open, honest and friendly attitude. You

**Working With a Lawyer**

you can work with. Always find a lawyer you feel comfortable with .

If you get satisfactory answers to all these questions, you probably have found a lawyer

5)

Could the lawyer explain everything to your clearly?

4)

Was the lawyer straightforward?

3)

Did the lawyer seem confident in him- or herself?

2)

Was the lawyer friendly to me?

1)

Do I feel comfortable talking to the lawyer?

with your spouse, or with your spouse’s lawyer. Let your lawyer do his or her job.

hear from your lawyer, call – just to ask how things are progressing.

next step? When will this step be done? When should you call next? If you don’t

8)

Keep your case moving. Talk to your lawyer on a weekly basis. Ask: What is the

7)

Be on time. This applies to appointments with your lawyer and to court hearings .

outburst.

You can lose or damage your case if you decide to jump in with an emotional

6)

Let your attorney deal with your spouse. It’s your lawyer’s job to communicate

answer a lot of your questions, and you won’t get a bill .

information. So be friendly and get to know the secretary. Often a secretary can

5)

Talk to the secretary. Your lawyer’s secretary can be a valuable source of

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**CHAPTER FOUR:**

**TYPES OF DIVORCE PROCEDURES**

**No-Fault or Traditional Divorce**

All states have what is commonly called a “no-fault divorce.” No-fault divorce laws

generally allow you to get a divorce just because you and your spouse no longer want to

be married. This is most commonly phrased as “irreconcilable differences” or “irretrievable

breakdown of the marriage.” Some states use: “incompatibility, irrevocable breakdown” or

“irremediable breakdown.”

Some states require you to live apart for a certain length of time before you can file

for divorce. Check in the back of this kit to find out your state’s requirements for divorce .

Certain grounds for divorce are proven at the final hearing in the following manner:

you hired to investigate your spouse. Whichever “witness” you use, that person will have

Court orders for treatment of alcoholism and drug abuse are also good proofs .

other professional who has treated your spouse for alcoholism, drug abuse, or impotence.

testify in order to verify what you say. Also helpful would be testimony of a doctor or

proven by your testimony alone. It will also be helpful for you to have another person

**Cruelty, Desertion, Alcoholism, Drug Abuse, or Impotence:**

These can generally be

another person.

an affair. Of course, you can also use any admission your spouse might make to you or

person testify that they “heard” your spouse was seen with the other person, or is having

engaging in a sexual act, coming and going from a hotel room, etc. It will not do to have a

to have seen your spouse with the other person, strongly indicating adultery, such as

your spouse’s affair. This can be you, a friend, a neighbor, or even a private investigator

**Adultery:**

You will need testimony from someone who has good first-hand knowledge of

required period.

need to bring a friend to testify that you and your spouse have been living apart for the

in some types of consent procedures. If there is a separation period required, you may also

married any longer. Your spouse may also need to say the same thing in some states, and

language common in your state), and briefly tell the judge why you don’t want to be

**No-Fault:** You would testify that your marriage is irretrievably broken (or use whatever

14

**Consent Divorce**

merely have to fill our certain forms with the court and get the judge to approve your

known as a “simplified divorce,” but is not available in all states. In a consent divorce, you

work out the matters of property division, alimony, child custody and support. This is also

A consent divorce is where you and your spouse both agree to the divorce and can

·

Contested Divorce

·

Uncontested Divorce

·

Consent Divorce

can break these down into three. These are:

Technically speaking, there are two divorce procedures. But for our purposes, we

information is required by the divorce laws in your state.

of more than a certain length of time. Just be sure the papers you have state whatever

sentencing order. Some states allow divorce for felony convictions, or for prison sentences

**Imprisonment:**

You will need a certified copy of the court’s judgment of conviction and

procedures must be followed, and what needs to be proven if insanity grounds are used .

crazy.” Some states have specific laws as to what circumstances that need to exist, what

mental institution. It will not be enough for you and your friends to go to court and “He’s

documenting the insanity; or a certified copy of a court order committing your spouse to a

psychologist) who has examined your spouse; or someone with official records

**Insanity:** You will need the testimony of a mental health professional (psychiatrist or

·

combination of these things.

the children, the payment of child support or alimony, the division of your property, or any

some matter and can’t resolve it. This may be the result of disagreement over custody of

The contested divorce will be necessary if you and your spouse are arguing over

**Contested Divorce**

will grant a divorce without any testimony or proof.

default. In most states you will still need to testify and present your proof. Very few states

complaint, or can’t be found, you can continue to the final hearing and get a divorce by

with your petition or complaint. If your spouse doesn’t respond to your petition or

petition or complaint. In this case, your spouse’s answer would say that he or she agrees

spouse may also need to file an “answer” or “response,” which is a written response to the

If you need an agreement, you will file a copy of the agreement with the clerk. Your

If you can’t locate your spouse.

·

If your spouse fails to respond to the petition or complaint

·

By those who are in agreement (or can reach an agreement )

The uncontested procedure is mainly used in the following situations:

**Uncontested Divorce**

same result with an uncontested divorce procedure.

agreement. If special consent procedures are not available in your state, you can get the

16

**CHAPTER FIVE:**

**YOUR SITUATION**

**Your Spouse**

Unless you and your spouse have already agreed to divorce, it is generally not a

good idea to let your spouse know that you are thinking about getting a divorce. This is a

defense tactic. If your spouse thinks you are planning a divorce, he or she may do things to

prevent you from getting a fair result. This may include: withdrawing money from bank

accounts, hiding information about income, and hiding assets. So don’t let on that you are

collecting information in order to file with the court .

·

·

You and your spouse’s wills.

·

Life insurance policies, stocks, bonds, or other investment papers.

·

Pension or retirement fund papers and statements.

·

Health insurance cards and papers.

Deeds to real estate, and titles to cars, boats, or other vehicles.

Bank accounts or credit union statements.

·

Your spouse’s social security number and driver’s license number .

·

Names, addresses and phone numbers of your spouse’s employer,

·

close friends, and family members.

Your most recent income tax return and W-2 tax forms for you and

18

**Gathering Information**

It is extremely important that you collect all of the financial information you can

get. Make copies of as many of these papers and documents as possible, and keep them in

a safe and private place (where your spouse won’t find them). Make copies of new papers

as they come in, especially as you get closer to filing court papers, and as you get closer to

a court hearing.

The information you should gather is:

·

your spouse.

Any other income documents (stock dividends, interest, etc.).

·

Your spouse’s most recent pay stub, along with copies of all pay

·

stubs from the beginning of the year.

owe.

exchanging nonmarital property.

and inheritances during the marriage, and any property acquired during the marriage by

usually property that each party owned before getting married. It may also include gifts

Nonmarital property is considered to be owned by each party separately. This is

property into Marital and Nonmarital (sometimes called Separate or Sole) property .

by both of you together (or jointly). This is called Marital Property. Most states divide

All of the property you and your spouse acquired during your marriage is owned

Equitable Property

The two basic legal terms for property division are: Community Property and

**Property and Debts**

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Any other papers showing what you and your spouse earn, own, or

medical conditions) for yourself, your spouse, or your children.

any unusual medical expenses (including recurring or continuous

·

Copies of bills, receipts, insurance forms, or medical records, for

gas, car insurance, etc.

·

Copies of bills and receipts for regular expenses, such as electric,

debt papers.

·

Credit card statements, mortgage documents, and other credit and

information. Next, record the market value of the property.

the manufacturer. Again, don’t worry about the value.

including such things as the color, line name or style, the name of

·

Furniture. List all furniture as specifically and precisely as possible,

Don’t worry about the value of these items.

televisions, VCRs, refrigerators, lawn mowers, and power tools.

·

Appliances, electronic equipment and yard machinery. Include

you get the value of the vehicles).

vehicle (your library is a good resource. Ask your librarian to help

model, year and serial number. Get the current value of each type of

(RVs), motorcycles, boats, trailers, airplanes. Record the make,

·

Vehicles. Include cars, trucks, motor homes, recreational vehicles

together. Look at the deed of your property to get the exact

·

Real Estate. List each piece of property you and your spouse own

(Certificates of Deposit).

each account (both checking and savings). Also include any CDs

·

Cash. List the names of the institutions, and the account number for

You should include the following types of property in your list :

is nonmarital in your state, and what factors are used to divide the marital property .

various factors to divide the marital property. Find out from the law library what property

Each party will keep his or her nonmarital property, then the court will apply

20

tables, camping or fishing gear, farm animals, or machinery .

·

You should get the items that only you use.

·

Your spouse’s nonmarital property will go to your spouse.

·

Your nonmarital property will go to you.

or your spouse. When dividing the property keep in mind the following points :

settlement to the judge. Consider each item and mark it to see which item should go to you

and divide things fairly. But if this is impossible, you will need to offer a reasonable

what. The ideal situation is for both you and your spouse to go through the list together,

Once you have made your list, go through it and try to determine who should keep

and cooking utensils do not need to be listed, unless they are especially valuable.

You do not need to record your clothing and other personal effects. Pots and pans, dishes

portable spas, above-ground swimming pools, golf clubs, guns, pool

·

Other items. List anything of significant value. For example, list

as “common” or “preferred” stock or shares.

organization that issued them. Also, write down any notation such

number of shares and the name of the company or other

·

Stocks and bonds. List all paper investments. Write down the

possible.

furs, original art, gold, coin collections, etc. Be as detailed as

effects such as your wrist watch or rings. But do record silverware,

·

Jewelry and other valuable. Don’t list costume jewelry, or personal

property. This seems to be a fair arrangement in most cases. You should list each debt

**Alimony**

will be responsible for the debt after the divorce.

spouse’s name, or is it a joint account in both your names. Finally make a note as to who

the date when the loan was made, and also record if the account is in your name or your

“Christmas gift” or “Vacation”). Record the balances still owed on the debt. Write down

the account, loan or mortgage number. Also, make notes to help identify the debt (such as

When you list the debt, make sure to record the name and address of the creditor,

nonmarital debts.

responsible for your nonmarital debts and your spouse will be responsible for his or her

you were married, and is therefore your debt alone. This means that you will be

property, then that includes marital and nonmarital debt. This is any debt incurred before

owed by you and/or your spouse. If your state provides for marital and nonmarital

The general rule is that whoever gets the property also gets the debt owed on that

**Debts**

of the benefits and how they should be divided.

affair, and you will have to consult a lawyer to determine the value

·

The division of pensions and military benefits are a complicated

share, taking into consideration who would really want each item .

·

The remaining items should be divided to equalize each party’s

·

Your spouse should get the items only used by your spouse .

22

the death of the party receiving the alimony. This is typically

from getting any more later on. But you would sacrifice the alimony tax deduction.

greater share of the property instead of an alimony award, you would prevent your spouse

increased if circumstances change. Therefore, if you can persuade your spouse to take a

you would be running the risk that your spouse could get the alimony amount or duration

If you are going to be paying alimony, the alimony would be tax deductible, but

party if circumstances change, but a property division generally may not be changed later.

tax deduction for the person paying it. Alimony can be changed at the request of either

For your information, alimony is taxable income to the person receiving it, and is a

but it may also change the tax consequences of your divorce .

greater percentage of the property instead. This may be less of a hassle in the long term,

As an alternative to alimony, you might want to try to negotiate to receive (or give up) a

physical or mental illness.

awarded where one of the parties is unable to work because of

·

Permanent. This continues for a long period of time, possibly until

working during the marriage.

job. This is usually awarded where one of the partners has not been

of the spouses to get the education or training necessary to find a

·

Rehabilitative. This is for a limited time period, and is to enable one

There are two types of alimony:

there are very few cases in which a wife will be ordered to pay alimony to her husband .

state laws provide that alimony may be granted to either husband or the wife. Realistically,

Traditionally, only the wife could get alimony from her husband. But today most

paid:

work things out. Don’t leave such an important decision to a stranger .

cannot possibly know your child as well you and your spouse. So it makes good sense to

matters will be handled, you will be leaving this important decision to the judge. This judge

It’s a reality you will have to deal with. If you and your spouse cannot agree on how these

matters now stand, most judges are of the opinion that a child is better off with its mother.

reach, provided it doesn’t appear that your agreement will cause harm to your children. As

the question of custody of the children. Generally, the judge will accept any agreement you

As with everything else in divorce, things are ideal with both parties can agree on

**Child Custody and Visitation**

·

The financial ability of each parent to meet those need s

·

The needs of the child

Generally, there are two factors used to determine the proper amount of support to be

your spouse reach, as long as he is satisfied that the child will be adequately taken care of.

As with property, the judge will probably go along with any agreement you and

**Child Support**

an increase later if you need one.

instead of alimony, you would avoid paying some taxes by sacrificing your ability to seek

would have to pay taxes on the alimony your receive. If you accepted more of the property

increase in the amount or duration of the alimony, if circumstances changed. But you

If you are going to be receiving alimony, you would be able to ask the court for an

24

always making new rulings on whether an agreement is really “alimony”, or “property

**Alimony:** This can cause the most tax problems of any aspect of divorce. The IRS is

financial arrangements.

situations. You need to careful if you are transferring any tax shelters or other complicated

upon sale. The IRS has many regulations as to how property is to be treated in divorce

whoever gets a piece of property will be responsible to pay any tax that may become due

divorce. Generally, there will not be any tax to pay as a result of such a transfer. However,

**Property:** You and your spouse may be exchanging title to property as a result of your

But a few general remarks can be made to give you an idea of the tax situation .

professional or a lawyer, because tax laws of the United States are continually changing .

For the best advice on this complicated issue, it is best to get advice from a tax

**Tax Considerations**

allegations. These can do more harm than good to your case .

spouse with being unfit unless you can prove it. Judges are not impressed with unfounded

an arrest and conviction it is difficult to prove to a judge. Generally, do not charge your

abuse are probably the most common charges against a spouse, but unless there has been

where one parent is clearly unfit and the other spouse can prove it. Drug abuse and child

factors and circumstances that are particular to each and every case. The only exception is

It is hard to predict the outcome of a custody battle, because there are so many

There are simple tax rules regarding child support:

reverse this must be filed each year. Therefore, if you and your spouse have agreed that

most time during the year is entitled to claim the child as a dependent. The IRS form to

If you are sharing physical custody, the parent with whom the child lives for the

·

The parent paying child support cannot deduct it.

income.

·

The parent receiving child support does not need to report it as

different arrangement each year).

return (unless both parents file a special IRS form agreeing to a

·

Whoever has custody gets to claim the children on his or her tax

**Child Support and Custody**

arrangements.

professional if you considering any unusual or creative property settlement or alimony

it property settlement you may run into problems. The important thing is to consult a tax

payment of cash, the IRS will probably not question that it is alimony. But if you try to call

how it will view a certain arrangement. If you are simply talking about the regular, periodic

alimony, or the reverse. As the IRS becomes aware of these tax games, it issues rulings on

many couples try to show something as part of the property settlement instead of as

and as a deduction for the person paying it. In order to manipulate the tax consequences

divisions.” The basic rule is that alimony is treated as income to the person receiving it,

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you will get to claim the children (even though you don’t have custody), you should get

your spouse to sign an open-ended form that you can file each year, so that you don’t have

to worry about it each year. A phone call to the IRS can help you get answers to questions

on this point.

**CHAPTER SIX:**

**FILING FOR DIVORCE**

Final Judgment or Decree Form

**Complaint or Petition**

make changes as you need.

handwriting. Of course, if you have a computer, you can simply copy these forms and

although typing is preferred by judges and gives a more professional appearance than

It may not be absolutely necessary that you use a typewriter to fill in the forms,

the proper case style for your court.

clerk what size paper you should using to create your forms. At the same time, ask to get

Traditionally, courts use legal-size paper (8 ½” x 14”). Find out from the court

filling out these forms.

requirements of your particular state. See the General Outline of Procedures for help in

You should, of course, make sure that the format provided in these forms meets the

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Child Custody Jurisdiction Form

·

Petition or Complaint Form

·

A Financial Statement Form’

·

A Marital Settlement Agreement Form

The forms that you will need are in the back of this kit, namely :

**Legal Forms**

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examples of how these forms are properly filled out by lawyers. These files are usually

consist of a financial statement and an affidavit to comply with the Uniform Child Custody

Some states require certain papers to be filed with the complaint. These typically

**Supporting Documents**

ready for filing.

front of the notary. The notary will complete his part of the form, notary it, and it is now

before you go to the notary, but be sure NOT to sign on either line until you are actually in

type in your name, address and telephone number on the lines below the signature line,

and sign your name on the lines designated “Signature” in front of the notary. You may

Once you have completed the Complaint, take it to a notary public. Fill in the date,

open to the public.

copies from the clerk. You can also ask to seek divorce files of other people in order to get

Also, ask the court clerk if there are official forms that you have to use. If so, get

Chapter Nine).

not possible, you can still simplify matters by having your spouse file an ANSWER (see

to see if you can use a simplified procedure to file a joint complaint or petition. If this is

If you and your spouse are in agreement on all matters, check with your court clerk

name to describe this document.

Petition for Divorce. Find out what it is called in your state so you can use the correct

names for this paper are: Complaint for Divorce, Petition for Dissolution of Marriage, and

This is the basic paper that you will file to begin the divorce procedure. The most

Once the Financial Statement is completed, take it to a notary public and sign the

certain guidelines that can be used:

Although each case requires a different set of rules for negotiating, there are

**Negotiating**

agree on into a written agreement.

Settlement Agreement. Even if you don’t agree on everything, you should put what you do

an agreement, you need to put your agreement in writing. This is done through a

everything from the start or whether you’ve gone through extensive negotiations to reach

support and custody, alimony and attorney’s fees. Whether you and your spouse agreed on

This Agreement includes provisions for agreements on property division, child

**Marital Settlement Agreement**

document in front of the notary.

then multiply by 4.3.

roughly 4.3 weeks to a month). To convert from every two weeks, simply divide by 2 and

amounts to monthly amounts, just take the weekly figure and multiply it by 4.3 (there are

will be required for any of your expenses that are not paid monthly. To convert weekly

weekly, you will need to convert your income to a monthly figure. The same conversion

use the one provided at the back of this kit (A Financial Statement). If you are paid

If a financial statement is required, but there is no official mandatory form, you may

supporting documents you would need to file.

Jurisdiction Act. As always, check with the court clerk to find out what types of

30

Generally, child custody tends to be a matter that cannot be negotiated. It is more

work it out and let the judge decide. Most states won’t allow parents to

spouse won’t settle for something very close to the guidelines, give up trying to

you should ask for more, and negotiate down to what guidelines call for. If your

judge will order based upon the child support guidelines used in your state. Then

3)

If you will be receiving child support you should first work out what you think the

letting the judge decide.

the real issue is custody, you won’t be able to negotiate for it and will end up

cases, the other party probably doesn’t really want custody and won’t fight for it. If

these other matters, don’t be concerned by a threat of a custody fight. In these

something, such as more property, or lower child support. If the real issue is one of

often used as a threat, or as a weapon, by one of the parties in order to get

2)

would like to have.

don’t care about. In return, your spouse should items that you care about and

Generally, try to give your spouse things that he or she really wants and that you

have. Once you find out what is on your spouse’s list, you can begin bargaining.

and some of the things you think your spouse really cares about or would like to

want, everything you would like to have, some of the things you don’t care about,

care much about. When you begin to negotiate, clearly state: Everything you really

you really want, which items you would like to have, and which items you don’t

property division, you should review your list of property and decide which items

giving up a few things, you will end up with close to what you really want. With

1)

Always ask for more than you want. This gives you room for compromise. By

you about the possibility of losing to the judge’s decision, and would want to

judge will likely follow the child support guidelines .

7)

Keep in mind that the judge will roughly divide your property equally, and the

have three, it’s time to end the bargaining and take the offer .

property that you absolutely must have, and your spouse is only willing to let you

that you will not go beyond. If you have decided that there are four items of

6)

Know your bottom line. Before you begin negotiating you should try to set a point

give in even more.

days. But don’t be too willing to do this, or your spouse may think that you will

better offer. If not, you can always reconsider and make a different offer in a few

settle. Don’t be afraid to think it over. Maybe he or she will call back and make a

5)

Give your spouse time to think and worry. Your spouse is probably just as afraid as

figure far from yours, you know how far in the other direction to begin your bid.

mind, it will be much easier to get to your figure. If your spouse begins with a

it should be. If your spouse starts with a figure that is close to what you had in

piece of property, try to get your spouse to first name the amount he or she thinks

mention a dollar figure loses. Whether it’s a child support figure or the value of a

4)

Let your spouse start the bidding. It is often the case that the first person to

guidelines.

compromise about their child’s welfare, and the judge will insist on following the

32

petition? If there are special forms, you will need to go and pick

“Family Court”, “Family Division”, or “Filing.”

office or window to go to. You should be looking for signs that say such things as

handles many different types of cases, so be sure to look for signs telling you which

2)

Take your petition and any other papers to be filed to the clerk’s office. The clerk

·

What are the office business hours?

·

Where is the clerk’s office located?

file with the clerk?

·

How many copies of the petition and other forms do you need to

them up from the clerk’s office.

·

Does the court have any special forms that need to be filed with the

·

How much is the filing fee for a divorce case?

government section of your phone directory. Ask the clerk the following questions:

1)

Call the court clerk’s office. You will find the number under the county

You will need to take the following steps:

hire an attorney and need a copy to give to him or her. Filing is a really simple process.

yourself, and one extra copy just in case the clerk asks for two copies, or if you decide to

and form. This will give you one copy to file with the clerk, one for your spouse, one for

Once all the paperwork is prepared, make at least four copies of each document

**Filing With the Clerk**

of financial information. If your spouse tells you that he or she will not cooperate at all and

days. Offer to send your spouse another blank copy if he or she needs one .

your spouse to cooperate. If your spouse agrees to give you the information, wait a few

you are about to get these other people involved in your divorce may be enough to get

accountant), you need to let your spouse know what you are about to do. The thought that

In some states, before you send a subpoena to your spouse’s employer (or bank, or

will require you to get subpoenas issued.

up if you are able to get the information yourself and have it available at the hearing. This

contempt of court), and continue the hearing to another date. It may help to speed things

may just issue an order requiring your spouse to provide information (or be held in

You can go to the hearing and tell the judge that your spouse won’t cooperate. The judge

will not provide a Financial Statement, you may have to try to get the information yourself.

In many states the judge will require that you and your spouse provide some kind

**Collecting Information About Your Spouse**

how to correct.

types of problems they spot are usually very minor things that they can tell you

how you should correct it. Although clerks are not allowed to give legal advice, the

is incorrect, the clerk will tell you so. Ask the clerk where you made the error and

order, the clerk will ask for a filing fee, or direct you where to pay it. If something

would like to file this, please.” The clerk will examine the papers. If everything is in

3)

Once you’ve found the right place, simply hand the papers to the clerk and say, “I

34

important papers while preparing to file for divorce, you should have the information you

tax statements, or other papers at the hearing.

these items. You can always show the judge the copies of your spouse’s pay stubs. W-2

It may not be necessary to send subpoenas if have recent copies of the papers relating to

that your subpoena accurately and precisely describes what information is being requested.

expect to pay child support), and on information about the major property items. Be sure

Concentrate on income information (especially if you are asking for child support, or

so on. You can have subpoenas issued to any or all of these places. But don’t overdo it.

can be gotten from the bank. Auto loan balances can be gotten from the auto dealer. And

and bond information can be obtained from his or her stock broker. Bank account balances

Your spouse’s income information can be obtained from his or her employer. Stock

need to figure out where you need to send subpoenas.

what type of information is asked for. If you were able to do a good job making copies of

To determine where to send subpoenas, look at the Financial Statement and see

people or organizations as you need.

procedures are used in your state and county. You can send out subpoenas to as many

at your court clerk’s office, or check at your local law library to see what forms and

The procedure and forms for subpoenas vary for each state. Look at a divorce file

subpoena.

subpoena. If your spouse falls silent and does not send anything, go ahead with the

If your spouse sends the completed statement as promised, do not send the

permitted in your state, you will proceed with getting the subpoena issued by the clerk. If

filed with the circuit court.” This may scare the employer into sending you the information .

provide information requested in the subpoena in 7 days, a motion for contempt will be

provide the requested information, you can try sending a letter stating: “…unless you

how much they will cost and send a check or money order. If the employer does not

requested information. If the employer calls and tells you that you must pay for copies, ask

for the service fee. The parties subpoenaed (employer, banks, etc.) should send you the

in the subpoena. The sheriff will need at least one extra copy of the subpoena, and a check

Next, have the sheriff personally serve the subpoena to the person or place named

send out the subpoena.

and get a hearing date from the judge’s secretary. The judge will then decide if you can

to agree to give you the information, or you will have to file a Motion to Issue Subpoena,

your spouse does not send you a written objection, you will either need to get your spouse

income information), or send you a written objection to the subpoena within the time

If your spouse does not file a Financial Statement (or provide you with adequate

Production from Non-Party.

spouse. Make sure that you actually mail it on the date you indicated on the Notice of

Production from Non-Party in some states), along with a copy of the subpoena to your

The normal practice is to mail a copy of a notice form (called a Notice of

objection. Be sure to check your state’s laws before sending such a subpoena .

subpoena served until your spouse has had specific number of days to file a written

However, you should be aware that many states do not allow you to have such a

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**CHAPTER SEVEN:**

**PROTECTION ISSUES**

out of your home. This usually requires you to show that your spouse is physically abusing

It is also possible to file a motion asking the judge to order your spouse to move

police officers to arrest an abusive or harassing spouse if you have a court order.

she can then be arrested and charged with contempt of court. It is usually easier to get

spouse from physically abusing or harassing you. If your spouse violates the order, he or

Filing such a motion will result in the judge signing an order prohibiting your

against domestic violence.

clerk or from the law library. Simply ask for forms used in your state’s law on protection

be part of your divorce case. You can easily get the format for this motion from your court

You can also file a motion for a restraining order from domestic violence. This will

forms and procedures for protection from domestic violence.

laws are usually fairly simply. Many states require the court clerk to help people with the

All states have laws that protect people from family or domestic violence. These

**Protecting Yourself**

forms for each of these situations.

improperly. Check with the court clerk or with the law library to see if you need special

his or her way as possible, and prepare him or her to suffer legal consequences for acting

ways to fully protect yourself against these problems, but you can put as many obstacles in

themselves and their children during the divorce proceedings. There are no guaranteed

won’t be able to take the marital property and hide it; and how they are going to support

to protect themselves and their children from their spouse; how to be sure their spouse

When preparing to file for a divorce, people often have three major concerns: How

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If you are worried that your spouse may try to kidnap your children, you should

passport for your children.

the judge’s court order is sent to the U.S. State Department, which will not issue a

can also file a motion for the court to deny passport privileges to your children. A copy of

where passports are not required, but will prevent them from being taken overseas). You

deposit box. (However, this will not prevent them from being taken to Mexico or Canada

government will not issue another. So get their passports and lock them up in a safe

States, you can apply for a passport for each child. Once a passport is issued, the

any other relative, or friend. To prevent your spouse taking your children out of the United

and that the children are only to be released to you personally – and not to your spouse,

your children with (such as a school), are well aware that you are in the process of divorce

make sure that the day care center, baby-sitter, relative, or which ever institution you leave

**Protecting Your Children**

how to best protect yourself and take the necessary legal action .

protection method, it is always a good idea to see an attorney who can then advise you on

to a place where your spouse cannot find you. If you need to resort to this sort of a

somewhere else to live. You can ask a friend or a relative to help you, and you should go

enough to control a very violent spouse. In such a case, it is best for you and your children

These legal solutions will work with most spouses. However, they may not be

can show that your spouse’s actions are causing the children added mental stress .

even more likely to be granted if you have temporary custody of your children, and you

you, harassing you, or intimidating you from proceeding with the divorce case. This is

was there and what was taken. With other types of assets it may not be so easy to prove.

a safe deposit box without your spouse’s name on it.

Any papers, such as deeds, car titles, stock or bond certificates, should be placed in

cash you have.

without your spouse’s name on that account, and it should be kept separate from any other

away any items of property you take. Such cash should be put in a separate bank account,

Also, do not spend any cash that you take from a bank account, or sell or give

entered.

you only took these items temporarily in order to preserve them until a final judgment is

include these items in your Financial Statement. You may need to convince the judge that

Be sure to make a complete list of the property you do not take, and be sure to

written inventory of the items left or taken.

In such cases, take a witness along with you, take photographs of the assets, and make a

With a bank account, for example, it is easy to get paperwork that will show what

danger.

yourself. The best thing to do is to take only one-half of the assets you believe are in

for yourself in front of a judge, if it appears that you are trying to get the assets for

However, you need to be careful in this regard, because you can create a lot of problems

take action to protect your property before your spouse can take it away from you.

accounts and try to hide important papers showing what property you own, you should

If you are concerned that your spouse will try to remove money from bank

**Protecting Your Property**

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the payment of support for you and the children during the divorce procedure .

clerk’s office. Just follow the secretary’s instructions.

you to come in with the paperwork, or to mail it to the judge, or to give it to the court

the judge, and then ask the secretary on how you should do this. The secretary may tell

explain that you would like to submit a “Motion for temporary relief” in a divorce case to

The motion needs to be presented to the judge. Call the judge’s secretary and

(“Pendente lite is Latin for “pending litigation”).

for temporary relief” or a “Motion for relief pendente lite”, or some similar name.

Again the librarian will be able to assist you. Such a motion may also be called a “Motion

a sample order, by checking other files at the clerk’s office, or at your local law library.

Try to find a sample motion for temporary alimony, child support and custody, and

bills, and is not helping you financially, you may want to consider asking the court to order

If your spouse has left you with the children and the mortgage and the monthly

**Temporary Alimony, Child Support, and Custody**

cases as soon as the complaint is filed. So you should check with the court clerk .

destroying property. In a few states there is an automatic restraining order imposed in all

to produce certain property, or restraining your spouse from hiding or disposing of, or

You can also file a motion asking the judge to issue an order requiring your spouse

route unless it is absolutely necessary to protect the property.

your spouse can’t hide them and deny that they ever existed. However, do not take this

The idea is not to take these things for yourself, but to get them in a safe place so

**Notice of Filing the Complaint**

filed) and summons and a check or money order for the service fee to the sheriff’s office .

Deliver or mail the required copies of your complaint (together with any other papers you

many copies of the complaint and summons needs to be provided to the sheriff’s office.

and ask how much it will cost to have the sheriff served with divorce papers, and how

for signature. Then call the county sheriff’s office in the county where your spouse lives,

Copy the format of the summons form, and prepare it, and then take it to the clerk

at the clerk’s office, or check at your local law library to find the proper summons form.

form for the summons, because this varies from state to state. Again, look in a divorce file

delivers the papers to your spouse. Be sure to check with the court clerk about the proper

service,” which means that the sheriff (or someone else designated by the judge) personally

The usual way to notify your spouse that you filed for a divorce is called “personal

need to worry about this chapter.

agreement about everything, but don’t qualify for a joint petition procedure, you don’t

be obvious that he or she knows about the divorce). Also, if you and your spouse are in

about the information in this chapter. (Your spouse will have to sign the petition, so it will

are using a procedure for a joint petition allowed in your state, you do not need to worry

divorce. This gives your spouse a chance to respond to your complaint or petition. If you

In most cases, you are required to notify your spouse that you have filed for

**NOTIFICATIONS**

**CHAPTER EIGHT:**

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served, but you may need to check your court file in the clerk’s office .

of when the hearing will be. This is done by preparing a “Notice of Hearing.” Again, check

Once you get a hearing date set with the judge, you will need to notify your spouse

get the exact format used in your state, or ask the clerk, or a law librarian .

“Certificate of Service”) that you mailed copies to your spouse. Consult a divorce file to

her copies of any papers you file later. All you need to do is sign a statement (called a

Once your spouse has been served with the complaint, you may simply mail him or

**Other Notices**

clerk’s filing delay, then go to the clerk’s office and see if an answer is in your court file .

to find out when a response is due. Wait an additional five days to allow for mailing and

Once you know the date your spouse was served you can count the number of days

clerk. The deputy should also send you a copy to let you know your spouse has been

the date and time that they were delivered), and will file a copy of that form with the court

The deputy will fill out a form to verify that the papers were delivered (including

*might* be found.

sheriff information that help in having your spouse served – don’t say where your spouse

sheriff find your spouse (such as the hours your spouse works). Make sure you give the

the sheriff in which you give all the addresses and any other information that may help the

as home, work, or a relative’s place). You can do this by enclosing a letter addressed to

must give the sheriff accurate information about where your spouse might be found (such

A sheriff’s deputy will personally deliver the papers to your spouse. Of course, you

statutes or code, or in the court rules.

3)

Ask friends and relatives who might know where your spouse might be .

2)

Check directory assistance in the area where you last knew your spouse to be.

1)

Check the phone book and directory assistance in the area where you live .

following:

know what you’ve done to find him or her. In making this search, you should try the

First, you will have to show that you cannot locate your spouse by letting the court

spouse, but it appears that your spouse is hiding to avoid being served.

also includes the situation where the sheriff has tried several times to personally serve your

The court will only permit publication when you can’t locate your spouse. This

your local law library. You will be able to find the information you need in your state’s

publication vary from state to state. You will need to research your state’s requirements at

complicated legal procedure, and the requirements, forms and process for service by

have to use a method of giving notice known as “Service by Publication.” This is a

If your spouse has run off, and you have no idea where he or she might be, you will

**When You Can’t Find Your Spouse**

your spouse, file one with the court clerk, and keep one for yourself .

You will need at least three copies of the notice of hearing, so you can send one to

in your state.

a divorce file, ask the clerk, or a law librarian to get the proper format currently being used

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If you do come up with a current address, go back to personal service by the

stamped envelope when you deliver or send him these papers.

notify you what needs to be corrected. You should provide the clerk with a self-addressed

of action and return two copies to you. If the clerk finds any errors in your papers, he will

wording. The notice of action is signed by the court clerk. The clerk will sign on the notice

in the newspaper. Again ask the clerk, or consult your law librarian for the proper

You will also prepare a “Motion of action.” This is the notice that will be published

and locate your spouse, and asks for permission to publish your notice.

check at your law library. All this form does is to tell the court what you have done to try

filing a “Motion of service by publication.” Ask the court clerk for the proper form, or

Once you have made your search, you need to notify the court. This is done by

state where your spouse lives and arrange for personal service by the sheriff .

state, still have him or her personally served. To do this call the sheriff in the county and

sheriff. If not, continue with the searching process. Even if you find your spouse in another

(such as landlords, previous employers).

7)

Check with any other sources you know that may lead you to a current address

your spouse has a car registration or driver’s license.

6)

Write to your state’s motor vehicle licensing and drivers’ licensing offices to see if

spouse owns property.

5)

Check records of the property tax collector or property assessor to see if your

address. (You can ask by mail if it is too far away) .

4)

Check with the post office where he or she last lived to see if there is a forwarding

The notice of action will be published the number of times required in your state.

**How Your Spouse Responds**

your law librarian for the proper format.

action, proceed with the “Motion to Enter Default.” Again, check a divorce file, or ask

divorce procedure. If your spouse does not respond by the date indicated in the notice of

If your spouse responds to the notice published in the newspaper, just continue with the

As indicated in the notice of action, your spouse has until a certain date to respond.

number of times. File this form with the court clerk .

will send you a form certifying that the notice of action has been published the required

printed correctly. If you find an error, notify the newspaper immediately. This newspaper

Get a copy of the newspaper the first time the notice appears and check to make sure it is

copy of such a paper; or simply ask the court clerk if one exists in your county.

regular daily newspapers). If you look around the courthouse you may be able to find a

specializes in the publishing of legal announcements (at a much cheaper rate than the

action in a divorce case. Look for the cheapest paper. Most areas have a paper that

for legal announcements. If they are, ask how much they will charge to publish a notice of

county (making sure it is the same county as the court). Ask if the newspaper is approved

Yellow Pages listings under “Newspapers,” and call several of the smaller ones in your

Your next step is to have a newspaper publish your notice of action. Check the

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met waiting period requirement for your state. Many states do not allow a final hearing to

are ready to set a hearing date.

sign the form and return a copy to you. Once the default has been entered by the clerk, you

or your law librarian for guidance on how to format this motion correctly. The clerk will

to complete a “Motion to Enter Default,” and deliver it to the clerk. Again, ask the clerk

and ask the clerk to formally enter the default in your court file. To do this, you will need

You will need to notify the court clerk that your spouse has not filed an answer,

in “default.”

within the time allowed in your state after the sheriff delivers the complaint, your spouse is

If your spouse does not file an answer or join you in Marital Settlement Agreement

complaint if filed or until your spouse is served .

be conducted or a judgment to be entered until a certain amount of time after the

of your spouse, you can have the case set for a final hearing. Just be sure that you have

Once your spouse has filed an answer, and you have responded to any new claims

were made in your spouse’s answer.

correct format from the clerk or the law librarian), which will deny whatever new claims

spouse’s answer, you will need to prepare an “Answer to Counterclaim” (ask for the

frequently called a “Counterclaim,” or a “Cross-claim.” If there are new claims in your

An answer may also contain new claims that you will need to respond to. This is

way you can be prepared as to what you will need to negotiate on, or prove at the hearing.

carefully. This will tell you what your spouse agrees to, and what he or she disputes. This

If your spouse files an answer, the first thing you should do is to read the answer

from your spouse containing new claims), you will need to file an answer This is called a

property, etc.

and make new claims, such as for alimony, child custody and support, nonmarital

1)

Answer. This is where you either admit or deny what is in your spouse’s complaint,

are some of the ways to answer a complaint for divorce:

days in most states, but may be longer in some. Do not let this time period pass. Following

summons) how many days you have in which to file your answer. The time period is 20

“Response” in some states. You will be told in the papers you receive (usually in the

If you are the one being served with divorce papers (or have received an answer

states have forms available at the court clerk’s office for this purpose .

“Marital Settlement Agreement,” you can have your spouse file a simple answer. A few

If your spouse is willing to proceed to a final hearing, but does not want to sign a

**HOW TO ANSWER A COMPLAINT FOR DIVORCE**

**CHAPTER NINE:**

48

common reasons for a motion to dismiss. First, that the complaint does not contain

to specify what matters in the complaint need details. This will require a hearing, at

information to support something in the complaint that is not clear. You will need

type of motion. It simply asks your spouse to provide you with more detailed

your spouse intends to use as justification for the divorce, you will need to file this

(if traditional, fault-based grounds are used). If you want more details of the facts

divorce stated simply as “the parties have irreconcilable differences,” or “adultery”

particulars of the parties’ problems. This is why you will always see the grounds of

Particulars). Most states do not want a complaint for divorce to include the

4)

Motion for a More Definitive Statement (also known as a Motion for Bill of

neither you nor your spouse meet the residency requirements of your state .

free to file a new complaint that does meet the legal requirements. Second, that

the information required by the law of your state. If this is the case, your spouse is

the motion and tell you how many days you have to file an answer. There are two

hearing, at which time the judge will either grant your motion to dismiss or deny

take the place of an answer if it is filed within the response time. This will require a

complaint, that prevents your spouse from proceeding with the divorce. This will

3)

Motion to Dismiss. This is where you find there is situation, or some defect in the

response time to expire.

settlement agreement, which may be safer than taking a chance of allowing the

could do this instead of filing an answer. You can always file both an answer and a

sign, and file a settlement agreement within the time period for an answer, you

2)

Marital Settlement Agreement. If you and your spouse can agree, and can prepare

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which time the judge will either deny your motion, or tell you when you need to file

an answer, or grant the motion and tell your spouse when to file the paper with

detailed information, and tell you when you must file an answer. Your spouse will

then file a Bill of Particulars, or other paper containing the detailed information.

You may then either file an answer, or file any of the other three responses above .

Generally, any of these four motions will only result in a delay of the divorce.

Therefore, you may want to just file an answer and proceed with settlement or final

hearing.

In an uncontested case, a judge will usually agree with whatever you and your

sending subpoenas, or even hiring a private investigator.

2)

You may have to do some extra work to get the evidence you need, such as by

witnesses testify for you.

the hearing, you will need to present papers as evidence, and you may need to have

entitled to what you are asking for. This means that you will need a longer time for

spouse have worked out. In a contested case, you need to prove that you are

1)

There are several differences between a contested and an uncontested case .

lawyer if you find yourself in a contested divorce situation.

It can be very risky to handle a contested case by yourself. You really should get a

**Procedures**

**CONTESTED DIVORCE**

**CHAPTER TEN:**

Sometimes it may be easier to work with an attorney than with your spouse. The

inheritance.

the property before you were married, or that you acquired the property by gift or

designated as your separate or nonmarital property. This will involve proving that you had

judge a reasonable solution that looks fair. You may need to prove what items should be

does not mean that they will be divided equally in half. What you want to do is to offer the

The judge will look at your property and debts and try to divide them fairly. This

**Property and Debt**

your spouse’s attorney prepares before you sign them.

are certain you fully understand them. You should have a lawyer review any papers

yourself getting nowhere. Just be very cautious about signing any papers until you

things can be worked out. You can always hire your own attorney if you find

as reasonable. Therefore, talk things over with your spouse’s attorney first, and see

attorney will not be as emotionally involved and may see your settlement proposal

5)

Of course, you do not need to hire an attorney just because your spouse has one.

or immediately hires an attorney.

can expect a contested divorce when you spouse fights you every inch of the way,

consider hiring a lawyer, especially if the issue of child custody is involved. You

4)

When it becomes apparent that you have a contested divorce, it is probably time to

file with the court clerk.

notified of any court hearings, and that he or she is sent copies of any papers you

3)

You may have to pay extra attention to make sure that your spouse is properly

52

·

should get them. It will help if you can convince the judge of one or more of the following :

If there are items that are really important to you, you will have to prove why you

the money you get equally.

property that both of you can’t agree on, or he order you to sell the property and divide

he will not put up with arguing for too long. In the end, he will arbitrarily divide up the

At the hearing, the judge may try to get you to work out your disagreements, but

divided equally (what you both really don’t care about) .

that you will have to fight over (what you both really want), and property that can be

with little difficulty (what you really want but your spouse doesn’t care about), property

Once you’ve completed your list, you will probably know which things you can get

·

Property your spouse does not really care about.

·

Property your spouse would like to have.

Property your spouse really wants.

·

Property you don’t really care about.

·

Property you would like to have.

·

Property you really want.

·

Nonmarital property you or your spouse are entitled to keep.

will fit into more than one):

the property, and against each one state what category it fits into (probably most property

You should now prepare a Property Inventory and a Debt Inventory. Make a list of

your “would like to have” list).

1)

You bought the property before you were married (such as dated receipts).

property actually is such property. These papers should show the following :

a good idea to have any papers that prove the property you claim to be nonmarital

trying to get property you feel your spouse is wrongly claiming to be nonmarital. It is also

may be in terms of your spouse trying to get your nonmarital property, or in terms of you

Special problems can arise if a claim of nonmarital property becomes an issue. This

most likely get more of what you want than if you don’t offer any suggestions .

way). Even if the judge changes some of it to make it seem fair to your spouse, you will

be divided. Make it a reasonably fair and equal list (don’t let anger or emotion get in the

The best thing for you to do is to make a list of how you think the property should

6)

The item is needed by your children (assuming you will have custody).

item. (Of course, you will try to give up something from your “don’t care” list or

5)

You are willing to give up something else that you really want in exchange for this

4)

You use the item in your employment, business, or hobby.

3)

You are the one who primarily uses that item.

2)

You paid for the item out of your own earnings or funds.

by gift or inheritance.

1)

The item is nonmarital property, or was acquired by you either before marriage, or

54

The value of the property increased during your marriage .

collect the following types of evidence:

If you want to get at assets your spouse is claiming as nonmarital, you will need to

property.

·

You and your spouse treated the property as if it was marital

repairs, or building an addition onto a home).

maintenance, or improvement of the property (such as making

·

You made other non-financial contributions to the repair,

or improvement of the property.

·

You made financial contributions to purchase, repair, maintenance,

·

what would otherwise be your spouse’s nonmarital property:

Various states use some of the following concepts in allowing you to claim an interest in

You may want to dispute your spouse’s claim that certain property is nonmarital.

showing what was exchanged).

statement from the person you made the exchange with, or some kind of receipt

married, or for property you received as a gift or through an inheritance (such as a

3)

You got the property by exchanging it for property you had before you got

cannot be considered nonmarital property.

making the gift, or with a will or probate court order). Gifts from your spouse

2)

You received the property as a gift or inheritance (such as a letter from the person

Papers showing that the asset was improved, or increased in value during your

the other addressed to your spouse).

of the final judgment, along with two stamped envelopes (one addressed to yourself and

judgment and return a copy to you. You should send the judge the original and two copies

spouse doesn’t object to how you’ve prepared the final judgment, the judge will sign the

copy of this form), stapled to it showing the date you sent a copy to your spouse. If your

– not the court clerk – along with a completed Certificate of Service (ask the clerk of a

the final judgment, make a copy and send it to your spouse. Send the original to the judge

the law librarian for a copy) according to what the judge says. Once you have completed

the judge tells you. Afterwards, complete the Final Judgment form (ask the court clerk or

During the hearing, the judge will announce who gets which item. Make a list as

marriage. If such is the case, you can claim part of the increased value.

3)

claim part of the value.

the home, or a car your spouse had before you were married, you may be able to

2)

Papers showing that you paid for the repairs of the asset. If you paid for repairs on

of the house, you can claim some of the value of the house as a marital asset .

payments with your own checking account. Since you contributed to the purchase

house before marriage, and after marriage you made some of the mortgage

used to make payments on the asset). For example, if your spouse had purchased a

or bank statements showing that your money went into the same account that was

1)

Papers showing that you helped pay for the asset (such as a check that you wrote,

56

that will need to be answered are:

include: (Make sure you are prepared to present evidence regarding these questions )

Questions that may be asked in either a temporary or a permanent alimony situation

·

How much money is required for the training?

·

What amount of income can be expected upon employment?

·

How long will this training take?

·

What type of training is needed to become employable in that field ?

·

What has the person been trained for in the past?

person needs help until he or she can get training to enter the work force. The questions

For temporary (or “rehabilitative”) alimony, the most common reason is that the

alimony was requested.

papers) you will need to present to the judge to either support or refute the reasons

as well. You should determine what information (including testimony of witnesses and

A charge of adultery may also require a lawyer and possibly a private investigator

knowledge of an attorney.

witnesses (such as doctors, accountants, and actuaries), which requires the special

permanent alimony because of disability. Such a claim may require the testimony of expert

A dispute over alimony may require a lawyer, especially if there is a request for

**Alimony**

By a percentage of the payer’s gross or net income. The percentage increases with

amount to be paid.

information provided, use the formula to calculate the amount to be paid, and order that

income, there is not much to haggle over. The judge will simply take the income

presented is accurate, or that you have obtained accurate information about his or her

information presented to the judge. If you feel fairly that the information that your spouse

Getting a fair child support amount depends upon the accuracy of the income

payer’s’ share of the two parties’ total income.

child support amount is determined by multiplying the needs of a child by the

incomes of you and your spouse, and then consulting a table. Second, the payer’s

2)

By a two-step process. First, the child’s needs are determined by adding the

the number of children.

1)

This is usually done in two ways:

In many states, the question of child support is a matter of calculating how much.

**Child Support**

award of alimony appropriate.

·

What improper conduct on the part of the other party makes an

·

What contribution to the marriage that person made.

that led to the person not working.

·

An examination of the situation of the parties during their marriage

58

professionals, billing statements, receipts, or other papers to show the amount of these

If you become involved in this type of custody fight, you should consult a lawyer. Charges

Many custody battles center around the moral fitness of one or both of the parents.

your hearing before the judge.

how that item applies to you. This will help you establish a firm argument when you have

from your law library). Then for each item of the guidelines write down an explanation of

the custody question. (You can get a copy of these guidelines from the court clerk, or

get smug about the odds. Start out by reviewing the guidelines the judge will use to decide

Generally, if you are the wife, the odds are in your favor of getting custody. Don’t

**Child Custody and Visitation**

needs.

party to provide proof of the cost of these special needs by producing testimony of

children medical, educational, or other unusual needs. Once again, it will necessary for that

party asking for child support. Most states will allow some deviation from the formula for

The only areas open for argument are whatever special needs are claimed by the

source of income.

showing the income information you have obtained from your spouse’s employer or other

provided accurate income information, it will be up to you to prove this to the judge by

support, so there really isn’t a need to get a lawyer. If you claim your spouse has not

In most cases, there will not be much room to argue about the amount of child

they are willing to help you) to testify on your behalf. It may not be necessary for you to

secretary. If you don’t know which judge call the court clerk, give the clerk your case

be able to give you a date, but you will probably have to get a date from the judge’s

matters that require a hearing (such as a motion for temporary relief). The court clerk may

You will need to set a hearing date for the final hearing, or for any preliminary

**Preparation**

**THE COURT HEARING**

**CHAPTER ELEVEN:**

get an attorney.

have an attorney. But, if you need to subpoena unwilling witnesses to testify, you should

the child, you can always have friends, neighbors and relatives come into the hearing (if

If the only question is whether you or your spouse have been the main caretaker of

is very familiar with the rules of evidence .

lawyer who is an expert in this type of disputes, and knows how to question witnesses, and

possibility of hiring a private investigator. For such a hearing you will need to have a

require long court hearings, involving the testimony of many witnesses, as well as the

of moral unfitness (such as illegal drug abuse, child abuse, immoral sexual conduct) can

60

get the hearing. Also, it is better to over-estimate the time required, rather than not

yourself.

Mail one to your spouse, file the original with the court-clerk, and keep two copies for

forms used in your county or state. You will need four copies of the notice of hearing.

divorce file at the clerk’s office, or check your local law library for the notice of hearing

of when the hearing will be. This is done by preparing a “Notice of hearing.” Look at a

Once you get a hearing date set with the judge, you will need to notify your spouse

as the room number, floor, or other location within the building.

the secretary for the location. You will need the street address of the courthouse, as well

time for the hearing, but you will also need to know where the hearing will take place. Ask

over the time scheduled. Keep that in mind. Then, the secretary will give you a date and

schedule enough time and have to continue the hearing for several weeks. Judges never go

One rule of thumb is that the more time you need for a hearing, the longer it will take to

upon issues such as, what points you disagree about and how many witnesses will testify.

contested divorce, it could take anywhere from 30 minutes to several days, depending

the secretary that it is an uncontested divorce and ask for 10 minutes. If you have a

but you and your spouse have agreed to everything (that is, an uncontested divorce), tell

know how much time to allow for the hearing. If you cannot use a simplified procedure,

or “summary” procedure available in your state, say so, and the secretary will probably

The secretary may ask you how long the hearing will take. If you using a simplified

final hearing date for a divorce.

either call or go see that judge’s secretary and tell the secretary that you would like to set a

number, and ask for the name and phone number of judge assigned to your case. You can

think would be a witness to help your position, and who your spouse might use to hurt

interview, you want to ask the specific questions you might ask at the hearing, and allow

been lost by a witness giving surprise testimony at a hearing. For each witness you

say at the hearing. Never assume what a witness will say at a hearing. Many cases have

Your next step is to talk to each potential witness to be sure of what they would

you expect that witness to say in court.

telephone number, and a brief statement as to what fact that witness will prove, and what

Next, make a list of each potential witness, along with that person’s address and

witnesses you believe will be able to testify to that fact.

upon the issues in dispute). Beside each fact, write down the name of the witness or

First, make a list of each fact you want to prove at the hearing. (This will depend

your position.

verify the financial situation of you and your spouse. You will need to decide who you

include employers, bank officials, appraisers, friends, neighbors, and relatives who can

For financial issues (property division, alimony, and child support), witnesses may

your child’s school counselors and teachers.

neighbors, police officers, child abuse investigators, social workers, doctors, psychologists,

For child custody and visitation issues, witnesses may include relatives, friends,

at the hearing.

The witnesses you choose to testify will depend upon what you are trying to prove

**Witnesses**

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hearing. Most lawyers only take depositions of the witnesses for the opposing party. They

something that requires special training to be able to evaluate, and where a professional

training or experience (such as a doctor or psychologist). An expert witness will testify to

expert witness testify. An expert witness testifies because of his or her special education,

Sometimes, especially in custody and alimony cases, it is necessary to have an

what your witnesses will say, before you put them on the witness stand .

changes his or her story at the hearing. The important thing is that you must be sure of

interview the witness, so that person can testify to the original statements, if the witness

what they saw, heard, and know. It may help you to have someone with you when you

One alternative is to ask the witness to give you a written, signed statement of

same testimony at the hearing.

extensively question their own witnesses and tell them they will be expected to give the

is that you can use it to contradict the witness if he or she says something different at the

plus at least $100 per hour of testimony transcribed. The advantage of having a transcript

or a “transcript” of the deposition. You can expect to pay about $45 for the court reporter,

reporter to show up and record the testimony, and pay for the reporter to type up a record

reporter. Unfortunately, this can be very expensive. You will have to pay for the court

witness to appear at a specific place and time to answer questions before the court

the deposition of the witness. This is where you have the sheriff serve a notice on the

changing his or her testimony at the hearing. The best way to reduce this danger is to take

There is a danger of a witness telling you one thing before the hearing, and the

get new information and may possibly lead you to other witnesses.

the witness to describe what he or she has heard, seen, or knows. This will allow you to

subpoena. For doctors, psychologists, school teachers, police officers, it is absolutely

trouble, or becomes ill, or if he or she just cannot make it to the hearing.

will also enable you to have the hearing continued to a later date if your friend has car

subpoena. The subpoena will enable your friend to get off work to come to the hearing. It

wants to appear to testify for you, it is a good idea to have him or her served with a

have the person served by the sheriff with a subpoena. Even if your witness is a friend who

In order to force someone to appear at the hearing and testify, you will need to

proper format.

for you to use). You can also look at a divorce file, or check at your law library to get the

for a form (the subpoena must be issued or signed by the clerk, so they may have a form

use a subpoena form commonly used in your state and county. Try asking the court clerk

hearing, but no earlier than about two weeks before. If you just need the person to testify,

necessary that you serve them with a subpoena. This should be done five days before the

continue the hearing so they can testify at a later date, unless they were served with a

example, they have car trouble, or are ill on the hearing date, the judge will probably not

serve a subpoena on a witness who is willing to come voluntarily and help you. But if, for

hearing date, and that they will be a receiving a subpoena. It is not a requirement that you

them with a subpoena. It’s a good idea to call your witnesses and let them know of the

The best way to notify witnesses of your hearing date is by having the sheriff serve

you will say to the judge: “I would like this witness qualified as an expert. ”

her profession, and to describe his or her training and job experience. Once this is done,

the witness is qualified as an expert. This is usually done by asking the witness to tell his or

opinion is needed. At the hearing, it is first necessary to have the judge first determine that

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If you are using an expert witness, you will need to ask the witness about his or her

**Courtroom Manners**

to say to prove your case.

want your witnesses to get off track and ramble on. Keep them focused on what they need

Keep in mind that most judges try to finish hearings as quickly as possible, so you do not

·

The expected answer to each question

·

What the answer will prove

·

Make a list of then questions you will ask

you should:

the person as an expert in whatever area you need his or her testimony. For each witness

education, training and employment history. Afterwards you will ask the judge to qualify

·

How the witness knows it

·

What the witness knows

·

Who the witness is.

When you question a witness at the hearing, you want to show three basic things :

directive for the person receiving the subpoena to bring certain items to the hearing.

*subpoena deces tecum*. This will include a

evidence in the court, you will need to prepare a

If you want your witness to bring documents or other items to be introduced as

2)

judge and begin arguing with each other. They will turn away from the judge and

5)

Always talk to the judge, and not to your spouse. Many people get in front of a

keep quiet and let you have your say.

seem, stop talking if your spouse interrupts you. The judge will tell you spouse to

interrupt your spouse when it’s his or her turn to talk. And as difficult as it may

to talk in court. The judge can only listen to one person at a time – so don’t

4)

Only one person should talk at a time. Each person us allotted his or her own time

say.

3)

Always listen to the judge. If he interrupts, stop talking and listen to what he has to

blue jeans, shorts, or any other type of “revealing” clothing.

men, and a dress or suit for women. Do not show up in court wearing a T-shirt,

Wear appropriate clothes that show respect. This means wearing a coat and tie for

this is not proper.

Honor” when you speak to him. Although many lawyers address judges as “Judge”

judge angry at you, such as arguing with him. Be polite, and call the judge “Your

1)

Show respect for the judge. This means you should not do anything to make the

a lawyer. It will also increase the likelihood that you will get the things you request.

and professional manner, and possibly even make him forget for a moment that you are not

the years. Follow the suggestions below, so the judge will respect you for your maturity

the rules are written down, although some are unwritten customs that have developed over

rules of good conduct or good manners, and are designed to keep things orderly. Many of

There are certain rules of procedure that are used in a court. These are really the

66

7)

**Presentation**

do. All you have to do is refer to your spouse as “Mr.” Or “Ms.”

9)

Show respect for your spouse. Even if you don’t respect your spouse, act as if you

focused on the issues.

they are too emotionally charged. So make the judge happy, and keep calm and

place for these outbursts. Generally, judges don’t like family law cases because

shouting, name calling, crying or other displays of emotion. The courtroom is not a

8)

Keep calm. Judges like things to go smoothly in their courtrooms. They don’t like

answer the judge’s questions simply and briefly.

just wastes time, and aggravates the judge. So always stick to the point, and

start telling the judge all the problems with their marriage over the past years. This

Stick to the subject. Many people can’t resist the temptation to get off track and

he or she is finished you will get another chance to respond to what has been said .

chance to all that he or she came to say. Give your spouse a chance to talk. When

first. When you have finished saying all you cam to say, your spouse will have a

6)

Talk only when it’s your turn. The usual procedure is for you to present your case

have certain things. You don’t have to worry about convincing your spouse .

pretend that your spouse isn’t there. You have to convince the judge to let you

with both. So whenever you speak in a courtroom, look only at the judge. Try to

parties talk at once; both look like fools for losing control; and the judge gets angry

negative results. The judge can’t understand what either one is saying since both

face each other, and argue, as if they were in a room all alone. This has several

testimony. You need someone (it can even be you) who can identify the paper, and

and the order in which you will present them. You should make a list of each fact

what you are going to say, what documents and witnesses (if any) you will present,

5)

Preparing for the hearing. In order to prepare for the hearing, you need to decide

witness go without further damaging your case.

Don’t feel that you have to ask questions of each witness. Often it is best to let the

witnesses. If you aren’t sure what their answer will be, don’t ask the question.

answer. You should be particularly careful in cross-examining your spouse’s

explain anything. You need to ask simple questions and wait for the witness to

tend to start testifying instead of asking questions. This is not the time for you to

“direct examination”). One problem most non-lawyers have with this is that they

4)

Examining Witnesses. This refers to asking questions of your witnesses (known as

say who prepared it, and how they know who prepared the paper.

3)

Documents. All documents must be introduced at the hearing by someone’s

to testify.

apply to documents that contain statements made by someone who is not in court

2)

Hearsay. A witness cannot testify to what someone else told him. This can also

and stick to that information.

to determine what information you need to give to the judge for the issue at hand,

your witnesses should be related to the facts of that you need to prove. You need

1)

Relevancy. The documents you present to the judge and questions that you ask

Below, you will find the basic rules of evidence which are often used in courtrooms .

68

let him control the hearing. Otherwise, be ready to give a brief opening statement,

**The Judgment or Decree**

proceed.

you or your spouse). The judge will probably swear you in, then tell you to

this happens, just present your proof (which may be financial statements filed by

statement, and just ask you to present your proof. This is all done to save time. If

7)

The judge may stop you before you have a chance to complete your opening

alimony, child support and child custody).

to be decided by the judge (there are basically four issues: property division,

whether you and your spouse have reached any agreements, and what issues need

telling the judge that this is a final hearing on a complaint for divorce. Then state

Honor.” Then just follow his lead. If he starts guiding you, or asking questions, just

judge, smile and say, “Good morning, your Honor,” or “Good afternoon, your

by telling you what you need to do to present your case. When you first meet the

may help you through the hearing by asking you what he needs to know, or even

6)

Presenting your case. The judge will know that you don’t have a lawyer, and he

testify.

will want to have your written questions arranged in order you will have them

documents arranged in the order you will present them. If you have witnesses you

sure you have your notes ready to keep you on track at the hearing. Have your

you intend to prove and next to each fact write down how you will prove it. Make

judgment before the hearing, and give it to the judge to sign at the end of the hearing. If

certificate of service.

mailing the judgment after the judge signs it, in which case the secretary will sign the

you should sign and date the certificate of service. Sometimes the secretary will handle

stamped envelope addressed to yourself and to your spouse. Ask the secretary whether

deliver it to the judge’s secretary. Also, give the secretary two extra copies, along with s

Certificate of Service (ask the clerk for this form), attach it to the final judgment and

If you need to prepare the final judgment after the hearing, you will also complete a

revised form back to the judge for his signature.

prepare the final judgment the way the judge instructed. You will then need to take the

make a note of exactly what the judge requires, or what he ordered, then go home and

contested hearing, it may not be possible to prepare it at the hearing. You will need to

the judge tells you to change something major in the final judgment, or if you had a

If you and your spouse have agreed to everything, you can prepare the final

she is aware if what it says, and agrees with it.

copy of the final judgment before the hearing so that he or she can tell the judge that he or

time any items that you and your spouse have agreed upon. You should give your spouse a

hearing according to what the judge decides on each issue. You can complete ahead of

possible before the hearing. The judgment form is designed so you can complete it at the

clerk or your local law library. You should complete as much of the final judgment form as

decree according to the requirements of your state. You can get the format from the court

Make sure you find out exactly what needs to be included in the final judgment or

70

parties to get at each other. But the point to remember is that parenting does not stop with

·

Making sure the children spend time with both parents

·

Making necessary decisions on the children’s behalf

·

Taking care of the children

Custody always involves the following issues:

or after separation or divorce.

the divorce. Both the mother and the father need to share and divide responsibilities during

issue of custody. All too often the children are ignored, or are used as weapons by both

One of the hardest things to deal with in any divorce case involving children is the

**SOME CONSIDERATIONS**

**CHILD CUSTODY:**

**CHAPTER 12:**

free to go on with your life.

With the judge’s signature on the final judgment, you are now legally divorced, and

short, because they are putting a crucial and important matter into the hands of a stranger

financial issues such as dividing property, paying marital debts and providing for support.

In addition to parenting issues, divorce often requires the parents to deal with

and the parents cannot agree on a way to reduce that risk .

Court intervention is only appropriate if the children’s safety or well being is at risk

help of outside experts such as mediators, counselors and lawyers.

mistake. It is far better for parents to negotiate their own parenting agreements, with the

Most experts agree that using the court to resolve custody issues is to make a big

own views as to what is best for the children.

Still judges have considerable discretion in interpreting these guidelines and imposing their

Each state has guidelines for its judges to follow when making custody decisions.

children’s best interests in mind) within a few minutes or hours.

– the judge or a court-appointed evaluator – who has to make a wise decision (keeping the

Whenever parents take the custody issue to court, they are selling themselves

process.

the surest road to child custody litigation – a long, expensive, and emotionally draining

custody of the children. All too often the other parent responds in a similar fashion. This is

a parent’s first feeling is to use the children to get the upper hand by demanding full

and emotionally overwhelmed with both the divorce process and their own feelings. Often

When parents first turn their attention to custody, they are often both angry, hurt

spiritual, physical, and social needs.

·

Meeting the children’s medical, psychological, educational,

72

children on a daily basis.

that a certain activity is completely unsafe for the child .

children, regular arguments over key parenting issues, or one parent’s concerns

2)

Write down what problems have to solved, such as lateness at the exchange of

frequent conversations about parenting styles, or concerns about child safety.

1)

Write down what will work and what will not work, such as frequency of visits,

time to list exactly what it is that both of you need:

Once both parents reach a clear understand of what is required of each, next it is

conflicts and changing the agreement over time.

·

A clear description of the process for making decisions, resolving

·

A clear description of how both parents will take care of the

need to come to an understanding about two crucial issues :

In order to resolve the custody issue so your children are the winners, you will

that can accommodate the children.

choose to sell the family home, and use the money to rent or buy a home for each parent

if your children will be spending roughly equal amounts of time with each of you, you may

parenting responsibilities, you may decide that that parent will live in the family home. But

For example, if you choose to have one parent take on the majority of the daily

financial issues is easier.

However, if you keep your children’s best interests in mind, you may find that tackling

for in the best possible way, given your divorce situation. As well, you can realize many

5)

You will show your children that both of you can agree on some things .

have.

4)

You will always keep your children out of any arguments that the two of you may

other parent.

3)

You will help both of you to worry less about the children when they are with the

2)

You will reduce the tension between you and the other parent.

1)

You will limit the financial and emotional costs of a court fight.

other “gains” such as:

An agreement will give you peace of mind, knowing that your children are cared

you will find that the entire process becomes smoother – and less traumatic for the kids .

If you have a clear understanding of your role as a parent in a divorce situation,

and will help you build an agreement that lasts .

the other parent, as well as the needs of your children. This will give you understanding

that you clearly define your needs. In this way, you will be able to understand the needs of

parent say about what is or is not working well. It is important, however, to make sure

As you write things down, pay attention to what your children and the other

list of activities that both parents will or will not allow the children to participate in .

statement as to how exchanges will happen, a better way to solve conflicts, and a

3)

Write down what you see as the solution to all these “problems,” such as a clear

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Keep one thing in mind – custody is not about you winning over your spouse – but

it is about the welfare and well being of your children. If you keep this perspective in the

forefront as you argue and solve differences with the other parent, you will always make

sure that your children win.

**CHAPTER 13:**

**AFTER THE DIVORCE**

Once your divorce decree or judgment has been officially entered, you are legally a

single person again. A few states have a short waiting period before you can remarry.

Check with the court clerk about any waiting period in your county .

Although you and your spouse are now single, there are some very important steps

that you and your ex-spouse must take again to complete the divorce process. In effect,

you have to do all the things that you agreed to do in your Marital Settlement Agreement

and you have to begin meeting those obligations that are on going .

3)

necessary to be sure that future bills are delivered to the proper person. For joint

split, determine the amount to be paid by each ex-spouse. Change any addresses as

as of the date of your final decree. If there are utility or other bills that you must

according to the terms of your Agreement. You should determine the exact balance

be closed. The payment of the remaining outstanding bills should be arranged

5)

If you have any joint credit accounts that still remain open, these should also now

account according to the terms of the Marital Settlement Agreement.

time. Verify the balance in any joint account and then divide the amount in the

4)

If you have not yet closed all your joint bank accounts, you should do so at this

furnishings, jewelry, tools, appliances, stereos, etc.

your ex-spouse have agreed are to be the property of the other, such as,

should do so at this time. Arrange for delivery or pick-up of any items that you and

If there is any personal or household property that has not yet been exchanged, you

required in most states. Check with the court clerk in your county.

with the clerk of the court, or your state’s Department of Vital Statistics. This is

2)

Be certain that you have filed a Certificate of Divorce or Dissolution of Marriage

any transfers of property, bank accounts, loan releases, etc.

or decree for each of you. You and your ex-spouse may need these documents for

1)

From the court clerk, you should order 5-6 certified copies of your final judgment

not yet been properly transferred.

total separation of you and your ex-spouse’s affairs and to transfer any property that has

Below is a checklist for you to use to make sure that you actually complete the

76

her of liability for the debt. Be sure to notify the lender of any address or billing

ex-spouse whose duty to pay is being taken over by the other ex-spouse should try

need to supply them with a certified copy of your judgment/decree. If possible, the

lender regarding any changes required in the mortgage documents. Again, you may

required paperwork. If there is a mortgage on the property, you should contact the

contact a real estate professional or attorney for assistance in preparing the

will need to complete any necessary deeds to get the job done. You may need to

8)

If you have real estate that will need to be transferred between the two of you, you

registration and license plates to the appropriate ex-spouse at this time.

you should make any appropriate transfers of title. Be sure to also change the

7)

If you have cars or other property for which the ownership is determined by a title,

changes.

spouse should try to obtain a Release from the lending institution relieving him or

possible, the ex-spouse whose duty to pay is being taken over by the other ex-

it contains a hold-harmless and indemnification agreement from your ex-spouse. If

copy of your divorce Judgment/Decree or of your Marital Settlement Agreement if

lending institution of your divorce. You may need to supply them with a certified

6)

If you and your ex-spouse have any outstanding joint loans, you should notify the

joint debts.

spouse should each give each other any necessary account records regarding your

that from now on you will only be liable for your own debts. You and your ex -

card companies. You should advise all of your joint creditors of your divorce, and

credit card accounts, you should destroy the cards or give them back to the credit

Each of your insurance policies should be reviewed. Any beneficiary changes

legally married on the last day of the year for which you file. If you have agreed on

do so. Keep in mind, that in order to file a joint return you need to still have been

situation is to be handled. If you have agreed to file a final joint return, arrange to

11)

Be sure that both you and your ex-spouse understand how your income tax

you must do so quickly. There may be a time limit for doing this (usually 30 days) .

converting from group to individual coverage under a group health insurance plan,

decree, you should furnish the other ex-spouse with proof of the policy. If you are

are required to maintain life or health insurance as part of your agreement or

Hospitalization Policies, Children’s Insurance Policies. If you or your ex-spouse

The policies that should be reviewed include: Life Insurance Policies, Health or

should be directed to the insurance company or agent who handles your policy.

10)

profits to be divided.

expenses will be deducted from the gross proceeds of the sale to determine the

example, appraisal fees, surveys, advertising charges, brokerage fees, etc.). These

yourself. Keep a record of any expenses that are required to complete the sale (for

property is real estate, you will need to contact a broker or list the property

and your ex-spouse will now need to make the proper arrangements. If the

9)

If any of your jointly owned property is to be sold and the proceeds divided, you

(usually the county recorder) in the county where the real estate is located.

documents relating to real estate will need to be recorded in the appropriate office

the debt. Be sure to notify the lender of any address or billing changes. Any

to obtain a Release from the lending institution relieving him or her of liability for

78

states have provisions that declare the entire will of either ex-spouses to be

minor children. Divorced couples without children typically go their separate ways and

The need for legal action is more likely to occur to a divorced couple that has

modification of provisions in your divorce decree or judgment .

categories: Enforcement of provisions in your divorce decree or judgment, and

spouse well after your divorce has become final. These legal problems fall into two

Various legal problems relating to your divorce can confront you and your ex-

preparing one.

especially important. If you don’t presently have a will, you should consider

children, preparing a will which contacts adequate provisions for their future is

takes into account you and your ex-spouse’s new legal relationship. If you have

revoked upon divorce. To be absolutely safe, a new will should be prepared which

spouse in a will as automatically revoked by the divorce. Other states do not. Some

divorce on a will in different ways. Some states consider any provisions for an ex-

your new legal status as a single person. Individual states deal with the effect of

12)

If you and your ex-spouse have a will, it will need to be revised to conform with

required property settlement, alimony, or child support payments.

while you were married. You should discuss and clarify the tax status of any

the returns. Each of you should keep copies of all the tax returns that you filed

supply each other with any tax information that will be necessary for completing

over these terms with your ex-spouse. If you will file separate returns, you should

who will actually pay the tax, or who will receive any tax refund, you should go

As a result, there is a wide range of methods available to states to collect child

call this method a “Wage or Income Assignment,” in which a portion of the future wages

effect which grant similar powers to the local enforcement agencies or courts. Some states

custodial parent, a court clerk, or the local support agency. Every state now has laws in

the delinquent parent, and the employer then must give the withheld portion to either the

This type of court order will require that an employer must withhold part of the wages of

States can also use “Wage or Payroll Deductions”, or “Wage Withholding Orders.”

for easy use without a lawyer.

forms for the enforcement of child support obligations are now simplified and pre-printed

can provide assistance in obtaining and filing the proper forms. Many of the necessary

without the aid of a lawyer. Court clerks and child support enforcement agency personnel

support. The use of these techniques has been simplified and in most cases can be arranged

Support Act, which coordinates state efforts at enforcement.

to correct this problem. All states have passed the Uniform Reciprocal Enforcement of

the last few years, both federal and state governments have taken major steps in an effort

child support payments. The delinquency of child support payments is a huge problem. In

The most common legal difficulty after a divorce is the need to collect overdue

**Enforcement of Child Support**

and the ongoing responsibilities of custody.

spouse who is also a parent of a child because of continuing obligations of child support

situation is different if children are involved. There will be continued contact with an ex -

begin to lead fully independent lives with little or no interaction with an ex-spouse. The

80

Attachments. This amounts to a claim or a lien which is legally

of a child support obligation by filing for bankruptcy.

·

No discharge in bankruptcy. A defaulting parent cannot be relieved

guarantee the future payments.

·

Security of bond. This method requires a parent to post bond to

and is available for any money-based legal judgment .

·

Garnishment of wages. This is similar to a wage withholding order

method to impound funds in a bank account.

claim for overdue support is paid off first. You can only use this

“attached” to a specific piece of property. If the property is sold, the

·

Other method available to you are:

collect the payments, including seizing property and money from the delinquent parent .

support payments have failed, the IRS may also use all of its tax-collecting powers to

attractive method of collection. Also, if all other means of collection of overdue child

ability to collect overdue payments from an ex-spouse in any state is a particularly

-spouse’s federal or state income tax refund – before the refund is ever sent out. The

Intercept.” This legal method allows the support payments to be taken directly out of an e x

Another method of collection of unpaid support payments is the “Tax Refund

benefits.

retirement funds, annuities, social security, unemployment compensation, and other

to receive the support. “Wages” are broadly defined to include income from pensions,

or income of the parent ordered to pay is actually legally transferred to the parent entitled

child support, punishable by fines and/or imprisonment.

alimony and child support payments are lumped together into a single payment, all of the

also available for the collection of overdue alimony payments (see the list above). If the

Many of the same methods available in child support enforcement situations are

extent lessened the problem of collecting alimony payments over long periods of time.

alimony on a short-term basis and the training and education of an ex-spouse have to some

payments were more likely to be overdue or totally delinquent. The trend to providing

In the past, when alimony awards of long duration were more common, alimony

**Enforcement of Alimony**

enforcement and collection of your overdue payments.

your state’s own child support enforcement agency. They will be able to help you with

book for the nearest office of the federal Child Support Enforcement Administration or

If you need immediate assistance regarding collection of child support, check your phone

·

Criminal prosecution. Many states make it a crime to fail to provide

support payments.

an ex-spouse for failure to obey a court order which requires child

·

Civil contempt of court. This method can result in imprisonment of

payments were too high and have them reduced.

defaulting parent cannot convince a court that the past-due

·

No retroactive judicial reduction of child support obligations. A

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ordered custody and visitation terms of your divorce judgment/decree. This relief may take

·

Fines and imprisonment for failure to comply with a court order .

·

A court order requiring visitation.

allowed.

·

A court order suspending support payments until visitation is

·

An actual change in the custody or visitation terms of your divorce .

·

A contempt of court order against the offending ex-spouse.

the form of:

however, you can seek various types of court relief from failure to abide by the court -

Each state may view the denial of visitation somewhat differently. In most states,

effectively denying the other payment the right to reasonable visitation .

rights. A parent with custody may wish to move across the country with the child,

parent may intentionally withhold support payment because of interference with visitation

parent may deny visitation on the grounds of overdue child support payments. Another

Visitation and custody can often create legal difficulties between ex-spouses. One

**Enforcement of Custody and Visitation**

payments.

of court orders are all generally available to aid in the collection of delinquent alimony

withholding, income assignments, attachments, liens, garnishment of wages, and contempt

enforcement techniques mentioned above are available to you. However, wage

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As well, child snatching is a separate problem that has come under increasing

scrutiny of the courts and legislatures. If you have to face this situation, you can bring in

the FBI, your local district attorney, or the state attorney general. As well, it is highly

recommended that you get a lawyer.

**CHAPTER THIRTEEN:**

**THE FUTURE**

Once your divorce is final, you are of course free to get married again, because you

are legally single once more.

But if you find yourself thinking about marriage, you should be careful the second

time around. Now that you know and appreciate how difficult it can be to get out of a

marriage, you have no excuse for rushing into another one.

Therefore, if you decide to get married again, you would be wise to consider a premarital

agreement (or a prenuptial agreement). This is an agreement made before marriage, in

which both parties disclose all of their property and debts, and agree how things will be

handled in the event they separate. In brief, a premarital agreement can avoid a long and

costly divorce.

**GLOSSARY**

A charge by one person against another.

A formal written response to the charges or allegations in a complaint. This

answer is filed by a defendant in a lawsuit.

**Appeal:**

A legal proceeding in which the losing party in a lawsuit requests that a

higher court review the decision.

**Bill of Particulars:**

A document in a lawsuit which adds information to the facts

contained in a complaint or petition.

**Claim:**

**Community Property:**

All income and property which is acquired by either or both

spouses during the marriage, except property acquired by individual gift or

inheritance. Community property does not include property that was

acquired prior to a marriage. In most community property states, both

spouses are considered to own an equal share of all of the community

property.

A verbal or written resolution of disputed issues.

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**Action:**

A lawsuit or proceeding in a court of law.

**A f f i d a v i t :**

A written statements of fact which is made under oath and which is signed

before a notary public or court official.

**Agreement:**

A payment of support for one spouse provided by the other spouse. It may

**Alimony:**

be paid in periodic payments, in one lump-sum payment, or a combination

of both. It may be paid temporarily or on a permanent basis

**Annulment:**

A legal action which has the result of treating a marriage as if it had never

occurred

**Answer:**

on a variety of factors in an attempt to allocate a fair and just amount of

A legal judgment that severs the marriage of two people and restores the to

**Divorce:**

the status of single persons.

**Dissolution of Marriage:**

A legal judgment that severs the marriage of two people and

restores the to the status of single persons.

**Equitable Division:**

A method of property division in a divorce which is generally based

answered the allegations or made an appearance in the case .

property to each spouse.

**Fault Based Divorce:** A type of divorce, which may only be granted on a showing that

one of the spouses was guilty of some form of marital misconduct.

The legal basis for the divorce. The grounds may be no-fault or fault based .

**Grounds:**

**Hearing:**

Any proceeding before a court where testimony is given or arguments

heard.

upon in a contested case.

**Complaint:**

The first document filed in a divorce or dissolution of marriage. The

complaint sets out the facts of the case and the allegations against the other

spouse, and requests that the court grant the divorce or dissolution.

A divorce where at least one issue has not been settled prior to the

**Contested Divorce:**

court hearing. A court must decide any issues that have not been agreed

**Custodial Parent:**

The parent with whom a child normally lives .

The final court ruling in a case, as in a Final Decree of Divorce .

**Decree:**

**Default Order/Judgment:**

An order or judgment of a court based solely on the

plaintiff’s (or petitioner’s) case. The defendant (or respondent) has not

**Legal Separation:**

spouse prior to the marriage.

property does not generally include property that was acquired by either

by either or both spouses, except individual gifts and inheritances. Marital

dissolution. Generally, all property which was acquired during a marriage

The property which is subject to division by a court upon divorce or

**Marital Property:**

paid temporarily or on a permanent basis.

payments, in one lump-sum payments, or a combination of both. It may be

**Maintenance:** Support for a spouse provided by the other spouse. May be paid in periodic

fixed amount, but paid in specific installments.

Spousal support that is made in a single payment or is a

**Lump Sum Alimony:**

does not end the marriage.

apart. A legal separation may deal with the same issues as in a divorce, but

A legal lawsuit for support while the spouses are living separate and

A ruling or order of a court.

**Judgment:**

connection with a right of survivorship.

has an equal share in the property. Generally, a joint tenancy is used in

A form of joint ownership of property by which each joint owner

**Joint Tenancy:**

person.

**Joint Property:**

Property which is held or titled in the name of more than one

or expense based on that obligation.

to assume full liability for an obligation and protect another from any loss

A phrase used to describe an agreement by which one person agrees

**Hold Harmless:**

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not subject to division upon divorce in most states. Separate property

married. Such an agreement generally limits a spouse’s rights to property,

support, or inheritance upon divorce.

**Separate Maintenance:**

A lawsuit for support in a situation where the spouses live

separate and apart but are not presently pursuing a divorce or dissolution .

**Separate Property:**

Property considered to be owned individually by one spouse and

A legal contract signed by two people before they get

generally consists of property acquired by individual gift or inheritance

either before or during a marriage.

**Separation Agreement:**

The written version of a settlement which resolves certain

issues.

**Sole Custody:**A form of child in which one parent is given both physical custody of the

child and the right to make all of the major decisions regarding the child’s

A court official’s ruling on some matter. An order is in writing and signed

**Marital Settlement Agreement:**

A written agreement entered into by divorcing

spouses that spells out the rights and agreements regarding property,

support, and children.

A type of divorce which may be granted without the necessity of

**No Fault Divorce:**

showing that either spouse was guilty of some form of marital misconduct.

**Order:**

by the judge.

**Party:**

A person directly involved in a lawsuit; either a plaintiff/petitioner or a

defendant/respondent.

**Plaintiff:**

A person who initiates a lawsuit.

**Prenuptial Agreement:**

The right of a parent who does not have physical custody to visit a child or

they have a certain time limit in which to file an answer or response in

reply.

**Uncontested Divorce:**

A divorce proceeding in which there is no dispute as to any

of the legal issues involved. The lack of dispute may be because the other

spouse is missing, refuses to participate in the proceeding, or agrees with

the other spouse on all issues.

that the lawsuit has been filed against him or her and tells that person that

**Visitation:**

have a child visit him or her.

**Verification:**

A written statement that is signed under oath.

**Waiver:**

A written document that relinquishes a person’s rights.

Support for a spouse provided by the other spouse. It may be paid

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upbringing. Generally, the other parent is granted reasonable visitation

rights.

**Split Custody:**

A form of legal child custody in which the actual time of physical

custody is split between the parents, with both of them retaining the rights

to participate in decisions regarding the child.

**Spousal Support:**

in periodic payments, in one lump-sum payment, or a combination of both.

A document which is served upon (or delivered to) a person who is not

**Subpoena:**

directly involved in a lawsuit, requesting that person to appear in court to

give testimony.

**Summons:**

A document which is served upon (or delivered to) a person who is named

as a defendant or respondent in a lawsuit. The summons notifies a person

**PART II**

**THE NECESSARY DOCUMENTS**

In this part of the kit, you will find easy to follow instructions on how to do all the

paperwork for your divorce. The two most important documents that you will prepare are

the Marital Settlement Agreement and Financial Statements for both spouses.

In addition to your Marital Settlement Agreement and Financial Statements, there

are

four or five relatively short legal documents that you will need to prepare for submission to

the court. These documents, in general, are:

California counties require couples to submit a short form that indicates that they desire or

Summons or citation, some states may still require that a summons or citation be used as a

a

Although the legal method that is outlined in this book does not require the use of

papers.

be available from the office of the clerk of the court where you will file your divorce

wages when there are child support payments involved. Any of these types of forms should

available for use if there will be an automatic wage withholding order or assignment of

which will need to be filled out. In addition, many states have procedures and forms

through a court or government agency or official, there will be certain required forms

If you and your spouse have agreed to have any child support payments paid

common type of other form required will relate to the payment of child support payments.

child support calculations or other information relating to child support. The most

have declined marriage-counseling services. Other states may require forms, which outline

example, some

Some states or counties may require one or more other routine forms. For

·

Certificate of Divorce or Dissolution of Marriage

·

Proposed Final Judgment or Decree

·

Child Custody Jurisdiction form (if children are involved)

·

Appearance, Consent, and Waiver Form

·

Petition or Complaint

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your spouse files the written waiver of service of process. *The Appearance, Consent, and*

documents must be filed:

There are three steps that you should take initially to determine exactly what

state and county (or parish).

to file for your divorce. You will need to stick to the specific forms and procedure for your

**Part I** to find out where

documents, which are required in your jurisdiction. Refer back to

In order for the judge to properly handle your case, you must file all of the

*Waiver* form will be explained late.

you should, however, ask the clerk of the court if a summons/citation would be required if

summons/citation in the vast majority of states. When you file your actual divorce papers,

*Appearance, Consent, and Waiver form, which* takes the place of the

spouse will file an

lawsuit. Since you and your spouse are cooperating in the filing of your divorce, your

the suit has been filed and specifies a time limit in which the person must respond to the

also delivered with the summons/citation. The summons/citation notifies the person that

whom a lawsuit has been filed. The initial court papers, which are filed in a lawsuit, are

formality. A summons/citation is a document that is officially delivered to a person against

should be all that you will need to easily prepare most forms of this nature. Some areas

by phone or you may do so in person. Most court clerks are very helpful and will be

have specific state or local forms in use, which may be required. You can easily do this

any other forms are required, beyond the basic forms listed earlier. Some courts may

2.

You should ask the clerk of the court where you intend to file your divorce papers f

explained later on.

book. Simply follow the instructions for preparing and signing the divorce forms as

for filling in these types of forms will be the same as for the forms contained in this

court clerk), you should use the locally available pre-printed forms. The instructions

supply stores. If the use of these forms is customary in your locale (check with the

normally available through legal forms distributors or through stationery or office

have optional or unofficial blank legal forms for use in divorce proceedings. These are

questionnaires and in your Marital Settlement Agreement and Financial Statements

should be followed carefully. The information that you have compiled in your

there are mandatory forms, they will usually contain their own instructions and these

available directly from the clerk of the court where you will file for your divorce. If

your state has mandatory official forms, you must use them. They are generally

mandatory forms in certain situations. Other states are noted in the back of this kit. If

are examples of states that use this method. Florida has provisions for the use of

fill-in-the-blank type forms for use in filing for your divorce. Michigan and California

see if any specific additional forms are mentioned. Some states have specific mandatory

1.

First, you should carefully read through the Appendix regarding your state's laws to

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a problem. If you can't correct the problem, try later with a different clerk .

other required forms will also be included in any such records. They will provide you

will show you the exact format, which is in use in your particular county. Copies of any

court records can be very useful in your preparation of your own divorce papers. They

make your request and pick up the copies in person. The documents in these other

a copy of the court file for any other divorce, which has been filed. You will have to

states, however, seal divorce records. In most jurisdictions, you have a right to obtain

public records and are generally available to the public for a small copying fee. A few

you intend to file for your divorce. Legal documents filed with the court clerk are

divorce papers that were filed recently in an uncontested divorce in the county where

3.

Finally, you should request and obtain from the court clerk a copy of another couple's

into a particular clerk that is less than helpful, be polite and try to determine if there is

should write down any information that you receive from the court clerk. If you run

how much the filing fees are, and other technical information regarding your case. You

periods, filing requirements, the customary order in which the documents are filed,

cases. The clerk should be able to inform you regarding any time limits, waiting

the court clerk at this time about the general procedure that is followed in divorce

They are not authorized to offer legal assistance. You may also wish to inquire with

file are the correct ones, but do not ask them for answers to specific legal questions.

legal advice. They can and often will assist you in being certain that the forms that you

clerk. Court clerks, however, are not attorneys and are not allowed to provide any

glad to assist you. Remember to be courteous and respectful when you deal with the

be able to determine the name and case number of appropriate records.

newspaper, you may be able to consult the daily or weekly docket sheet s

in the

courthouse. On these calendar sheets the daily schedules for each judge or

courtroom are shown. By locating a final hearing for divorce on such

schedule,

you should

If you are unable to obtain the names of recently divorce couples from a

By using the above methods, you should be able to determine the exact documents

that are required for your divorce. A simple list of the necessary documents that

are necessary in your county should be compiled. The preparation of these

documents is explained

next.

that obtained an uncontested divorce. You will then need to pay the necessary fee.

present the list of names to the court clerk and request a copy of that couple's file

Once you have located the names of several recently divorced couples, simply

divorced. Most newspapers will list such names in a legal listing or notice section.

your local newspaper to determine the names of couples who were recently

another case in order to find a proper court file. In that case, you should consult

The clerk may require that you provide the specific names of the people involved in

court records for exactly this same purpose.

small per-page charge for copying the documents in the file. Lawyers often obtain

last six months". They should easily be able to fill this request. There will usually be a

"a copy of the court file of any uncontested divorce which was made final within the

county to obtain a divorce. To obtain such court records, ask the clerk of the court for

with a basic outline of the set of documents, which are necessary in your particular

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**Preliminary Marital Settlement Agreement Clauses**

You are now ready to begin choosing and preparing the first clauses in your

agreement.

These clauses will lay the legal groundwork that identify you, your spouse, and any

children, and they will satisfy the basic minimum legal requirements for a valid contract.

You will use these clauses to actually assemble and sign your settlement agreement. For

now, simply read through the clauses, choose those that apply to your circumstances, and

fill in the appropriate blanks.

**Title And Introductory Clause:**

This introductory clause specifies the effective date of the agreement and identifies

the

**,**

**, County of , State of**

**City of**

*(address of wife)***,**

*wife)***, the Wife, of ,**

*(name of*

**, 20\_\_\_\_ between,**

*(month)*

*(date)* **day of**

**This agreement is made on the**

**1. Title and Introductory Clause:**

**Marital Settlement Agreement**

agreements.

appropriate information. This information is important and this clause is mandatory in all

spouses, their places of residence, and the date and place of their marriage. Fill in the

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**OPTION B:**

**2. Children Identification Clause:**

Chose the clause that applies to your particular circumstances. This clause

identifies whether or not any children will be involved in the terms of the agreement. Fill in

the names and birth dates of any children. One of these clauses is mandatory. If the wife is

currently pregnant and there are already children, use both appropriate clauses.

**OPTION A:**

**There were no children born or adopted into our marriage, and none**

**are expected.**

**The Wife is currently pregnant and the expected birth date i s**

**,20\_\_\_\_.**

**OPTION C:**

**The following children were born [or adopted] into our marriage:**

**Child's name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**and**

*(name of husband)*

**, the Husband, of** *(address of husband)*

**, City of , County of , State of**

**.**

**We were married on the day of , 20\_\_\_\_, in the City of**

**, County of , State of**

**.**

:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**chance for reconciliation.**

**that our marriage is irretrievably broken and that there is no possible**

**As a result of disputes and serious differences, we sincerely believe**

**OPTION A:**

check the back of this kit for details of the language used as grounds in Louisiana. ]

You much have one explanation clause in your agreement. [Louisiana residents: please

listing at the back of this kit to determine the grounds that you will use for your divorce.

you have chosen in your state and your particular circumstances. Refer to your state's

Chose one of the following clauses that most closely fits the divorce grounds that

**3. Preliminary Explanation Clause**

**Child's Sex**

**Child's Birth Date**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Child's name**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Child's Sex**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Child's Birth Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Child's name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Child's Sex**:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Child's Birth Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**are now living apart and intend to continue to remain permanently**

***issues relating to our child(ren), including custody, visitation, and child support].***

***[and all***

**division of all of our property and bills, and spousal support or maintenance**

**We both desire to settle by agreement all of our marital affairs, including the**

covered in the agreement. If there are no children, delete the phrase in shown in italics.

**mandatory** in all agreements. Use the phrase relating to children, if any children are to be

This clause outlines the basic desire to reach an agreement. This clause is

**4. General Agreement Clause**

**apart.**

**As a result of disputes and serious differences, we have separated and**

**OPTION D:**

**and that there is no possible chance for reconciliation.**

**that there is a complete incompatibility of temperament between us**

**As a result of disputes and serious differences, we sincerely believe**

**OPTION C:**

**possible chance for reconciliation.**

**there are irreconcilable differences between us and that there is no**

**As a result of disputes and serious difficulties, we sincerely believe that**

**OPTION B:**

the clauses, which you will use, instructions will follow for the proper numbering of the

you are ready to select the appropriate clauses for your settlement agreement. The

Once you have reached an agreement on the division of your property and bills,

**Marital Settlement Agreement Clauses for Property**

**annoy, harass or interfere with the other in any manner.**

**if we were single, according to the terms of this agreement. We each agree not to**

**We both desire and agree to permanently live separate and apart from each other, as**

will be used when you prepare your Marital Settlement Agreement later on.

your situation. All of the clauses which you and your spouse have chosen in this section

clauses. For now, don’t worry about numbering, and simply choose the clauses that suit

you will use this clause. This clause is always numbered #1. After you have selected all of

they desire to separate as soon as an agreement is reached. In the vast majority of cases,

should be used in all situations in which the spouses have already separated or in which

clause

This clause states that the spouses want to live apart as if they were single. This

**5. Separation Clause (optional)**

**valuable consideration, we agree as follows:**

**THEREFORE, in consideration of our mutual promises, and other good an d**

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retirement plan that will be divided, you must use a different clause so that such a plan may

**obligations for which the other may be liable.**

**property of the other. We also agree not to incur any further debts or**

**of the property that the other now possesses is the sole and separate**

**that we may have in the property of the other. We both agree that all**

**satisfaction. We each transfer and quitclaim to the other any interest**

**have already divided all of our property and bills to our mutual**

**We both agree that our property and bills are minimal, and that we**

**OPTION A:**

property or bills, or all of your property and bills have actually been divided.

be listed and identified specifically. You may use this clause, however, if you have no

divided, you should use a different clause. Also, if you or your spouse have a pension or

furniture, appliances, etc. ) or bills owed, or if you have property that you have not yet

divided and taken care of by you and your spouse. If you have significant property (car,

property currently in his or her possession. It also provides that bills have already been

and there are no significant bills to divide. It simply allows each spouse to keep the

This clause should be used for cases where there is very little or even no property,

**6A. Property Division Clause (Property Not Listed)**

clause that nearly describes your agreement with your spouse.

following clauses cover the most common methods for dividing your property. Choose the

property. For other property, list the serial number, if available, or a clear description. If

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

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***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

***property].***

**interest that he may have in this property to the Wife: *[Here list Wife's***

**property of the Wife, and the Husband transfers and quit-claims any**

**We agree that the following property shall be the sole and separate**

**OPTION B:**

spouse and describe it fully.

either of you has a pension plan or retirement plan, list that plan under the appropriate

complete description. For real estate, list the legal description as shown on the deed to the

For each item of property, provide a

you will also need to a further clause listed later that describes the division of your bills.

etc.), and if your method of division is in the form of a trade-off. If you choose this clause,

clause should be used if you have a lot of property (home, car, appliances, major furniture,

it to the other spouse. Quitclaim means that you given up all rights over the property. This

clause provides that both of you have transferred the property mentioned and quitclaimed

property, and you are able to clearly list the property that each of you will keep. This

This clause should be used if you and your spouse have agreed to a division of

**6B. PROPERTY DIVISION CLAUSE (LIST INCLUDED)**

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***[Here list Husband's property].***

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***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**claims any interest that she may have in this property to the Husband:**

**separate property of the Husband, and the Wife transfers and quit-**

**We also agree that the following property shall be the sole and**

**\_\_\_\_\_\_\_\_\_\_\_**

*\_\_\_\_****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****\_\_\_*

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estate, the description should be the legal description as shown on the deed to the

***a description of the property to be sold]***

***[Here list***

**any expenses of the sale, will be divided equally between us:**

**and any proceeds from the sale of this property, after the deduction of**

**We agree that the following property will be sold as soon as possible**

**OPTION C:**

clause.

sale before dividing the profits. This clause may be used in conjunction with the previous

any appraisal expenses and real estate broker fees to be deducted from the proceeds of the

expenses of the sale are deducted. In the case of the sale of a home, this would allow for

property. This clause provides for an equal division of the proceeds of the sale after any

exact description of the property to be sold should be included. If the property is real

disposition of anything from items to be sold at a yard sale to the sale of your home. An

proceeds of the sale divided between you and your spouse. It may be used for the

This clause should be used if there is marital property that is to be sold and the

**6C. Division of Property (By Sale)**

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relatively significant bills (outstanding loans, unpaid credit card balances, etc.). This clause

This clause is used to specifically divide your bills. It should be used if you have

**7. Division Of Bills Clause (Bills Listed)**

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

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**from the following debts: [*Here list debts that Husband will pay*].**

**We agree that the Husband shall pay and indemnify and hold the Wife harmless**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**from the following debts: [*Here list debts that Wife will pay*].**

**We agree that the Wife shall pay and indemnify and hold the Husband harmless**

**(Property Not Listed)**], do not use this clause.

listed in this section for dividing your property and bills [ **6A. Property Division Clause**

bill, mention who owes the bill, and the amount to be paid. If you have used the first clause

neither of you will incur any more debts that the other spouse would be liable for. For each

hold the other liable for the debts (hold harmless and indemnify). It also provides that

says that you will each individually assume and pay the bills listed after your name and not

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receive alimony; (2) one spouse is to receive monthly alimony payments for a set period of

However, if this is what you have both decided is fair, then you should use this clause .

using this clause, you will be giving up forever any rights that you may have to alimony.

spouse agree that neither of you should be required to pay any alimony to the other. By

This clause should only be used if, after careful consideration, both you and your

**8A. No Alimony to Either Spouse Clause**

that closely fits your particular situation.

there are two clauses that relate to life insurance coverage. Choose the clause or clauses

time; or (3) one spouse is to receive a one-time lump-sum payment of alimony. Finally,

Agreement. These clauses deal with the following situations: (1) neither spouse is to

Select one or more of the following clauses to include in your Marital Settlement

**Marital Settlement Agreement Clauses for Alimony**

**be liable.**

**We also agree not to incur any further debts or obligations for which the other may**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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payments. You will need to decide the amount of each payment, the day of the month that

there was fraud, coercion, or threats made in reaching the agreement, or if the agreement

not be modified by a court, then a court will only modify this clause if it can be shown that

may be modified by a court in the future. If you decide that your alimony provisions may

In addition, in this clause you will need to decide if you wish that your decisions

spouse. See the clauses relating to insurance coverage later on in this section .

consider using life insurance coverage in order to protect the support of the receiving

should end with the death of either spouse (and the payment period is long), you should

the alimony payments should end for some other reason. If you decide that the payments

payments to end on remarriage, on death, or on a particular date. Or you may decide that

Also, you will need to decide when the payments will end. You may want the

each payment will be due, and the date on which the payments should begin.

should receive and one of you should pay alimony to the other in the form of monthly

This clause should be used if you and your spouse have agreed that one of you

**8B. Alimony Payable in Monthly Payments Clause**

**to alimony, maintenance, or spousal support.**

**understand that we are forever giving up any rights that we may have**

**maintenance, or spousal support from the other. We both fully**

**that we may have now or in the future to receive alimony,**

**terms of this agreement, we both agree to waive any rights or claims**

**After careful consideration of our circumstances and all of the other**

**OPTION A:**

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action against any spouse who is late with a payment, which may include garnishing

should, any problems in late or delinquent payments arise .

retain the right to have the payments made through the court or state at a later date

making the clause subject to court modification, the spouse receiving the payments will

extremely important that you make this clause modifiable by a court at a later date. By

payments to be made directly to a spouse and not through a court or state agency, it is

you must make this decision in the clause below. If you do make the decision to allow

spouse agree that the payments may be made directly to the spouse who is to receive them,

provisions that allow the spouses to opt out of the state requirement. If you and your

However, in virtually all states that allow this indirect method of payment, there are

wages, requiring a bond or deposit, or actually seizing a delinquent spouse's property.

hands of the appropriate state authorities. In fact, some states automatically take direct

action to be taken if any payments are missed. There is a clear record of payment in the

method of payment, although generally slower, has the benefit of allowing for immediate

agencies, and then be passed on to the spouse who is to receive the payment. This indirect

requires any support payments to be made through the court, or through certain state

the payments should be made. Some states have enacted legislation which allows or

Finally, through the use of this clause you will need to choose a method by which

modification of this clause.

changed circumstances in the lives of either spouse, you should allow for a future court

is obviously and grossly unfair to one spouse. In order to allow for a modification due to

**receiving alimony remarries; or (3) the**

obtain education, job skills, or training to become self-supporting. This lump-sum payment

sum payment. The funds may then be used by the spouse who receives the payment to

dealing with the payment of alimony is for one spouse to pay the other a one-time lump -

This clause should be used if you and your spouse agree that the fairest method of

**8C. Alimony Payable in a Lump-Sum Payment Clause**

**agency for payment to the spouse by such court or state agency].**

**we agree that the payments should be made through the appropriate court or state**

[Choose if appropriate]: **However, in the event of divorce or dissolution of marriage,**

**be made directly to the spouse to whom they are due.**

**be modified by a court in the future. We also both agree that these payments should**

**We both intend that the amount and the duration of the payments [may or may not]**

**date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.**

*following phrases]* **(1) the date that either of us dies; (2) the date that the spouse**

**until the first of the following occurrences:**

[*Choose two or more of the*

shall continue

**month,** payable on the \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, and the payments

**per**

**shall pay to the** \_\_\_\_\_\_*[husband or wife]*\_\_\_\_\_\_\_\_ **the sum of $**\_\_\_\_\_\_\_\_\_\_\_\_

*wife]*\_\_\_\_\_\_

**OPTION B: We both agree that, as alimony and maintenance, the\_\_***husband or*

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clause.

clause providing for one of you to be retained as beneficiary (given below), do not use this

you will be retained as beneficiaries on the other's policy, use this clause. If you use the

If you or your spouse currently have insurance policies, but agree that neither of

**9A. Insurance Clause (Neither Spouse as Beneficiary)**

**20\_\_\_\_.**

**before the** \_\_\_\_\_\_\_\_**day of** \_\_\_\_\_\_\_\_\_\_\_,

**which shall be paid on or**

**the sum of $**

\_ \_ \_ \_ \_ \_ \_ ,

[husband or wife]

**spousal** **support, or maintenance, the** [husband or wife] **shall pay to the**

**We both agree that in full payment of any claims or rights to alimony,**

OPTION C:

payment does not currently have the assets with which to pay.

spouse. This method, however, is not workable if the spouse who is to pay the lump-sum

has the benefit of not leaving one spouse subject to over-due payments from the other

you and your spouse and, thus, lessening the opportunities for problems to develop. It also

This method of spousal support has the benefit of lessening the future ties between

or equitably divided.

spouse's share of separate and marital property, after all of their property has been equally

property settlement. To be fair, this alimony lump-sum payment should be taken out of a

is separate from, and in addition to, any shift in funds or property under the terms of your

any situation where there are support obligations. It is, however, highly recommended in

[he or she] **agrees to keep this policy in full force**

**and**

**the** **amount of $**\_\_\_\_\_\_\_\_\_\_\_

[husband or wife] **is currently insured by** [name of insurance company] **in**

**The life of the**

payments will not be left destitute on the death of a long-time ex-spouse .

the life of the spouse who is to make the payments. In this way, the spouse receiving

the spouse who is to receive the payments be the beneficiary of a life insurance policy on

payments are to end on either spouse's death. In a situation of this nature, it is best to have

monthly payments; and (2) the duration of the payments is for a long period; and (3) the

the following circumstances: (1) if you have decided that alimony should be payable in

continuing maintenance or child support obligations. The use of this clause may be wise in

spouse who is due the support to collect the benefits of any insurance and apply it to the

designated as beneficiary. In the event of the supporting spouse's death, this allows the

maintains the insurance. The spouse who receives the alimony will be the spouse who is

support payments to be paid. The spouse who pays the alimony will be the spouse who

beneficiary on the other's life insurance is generally a good idea if there are continuing

remain as a beneficiary on a life insurance policy of the other. Retaining a position, as

This clause should be used if you and your spouse have agreed that one of you will

**9B. Life Insurance Clause**

**any insurance policy carried by the other.**

**We both agree that neither of us shall remain as the beneficiary on**

**OPTION A:**

114

listed four separate child custody and visitation clauses. The first is a very simplified

**10A. Sole Custody and Visitation Clause (Basic Agreement)**

which are in Italics and which are not applicable to your situation .

back to this part at that time. Also, delete those portions of the clause that you choose

when you prepare your actual Marital Settlement Agreement later on in this section. Refer

agreements. The particular child custody and visitation clause that you choose will be used

you use simple, straightforward language that you both agree clearly states your

specific provisions to these clauses that you both agree are important. You may do so if

choices regarding specific provisions of your arrangements. You may wish to add other

comfortable with. In each of the two more detailed clauses, you will be given various

should read through each of these clauses and choose the one that you feel most

comprehensive clauses. According to your particular situation, you and your spouse

clause, the second a moderately detailed clause, and the third and fourth are very

They can range from very brief to extremely complex and lengthy statements. Below are

There are many possible arrangements that may be made for custody and visitation.

**for Child Custody and Visitation**

**10. Marital Settlement Agreement Clauses**

**provide the other spouse with annual proof of such coverage.**

**sole beneficiary of this policy. The spouse obligated to provide such insurance would**

**shall be designated as irrevocable**

[husband or wife]

**We agree that the**

**until death.**

your spouse will be able to agree on the details of visitation in the future. Even if you and

your spouse are currently on friendly terms, it may be best to use a clause with a more

detailed schedule of visitation terms. You can always both agree (after the divorce) to

allow different visitation, but at least you will have a written set of basic terms. If you want

to provide for joint custody, you will need to use one of the more detailed clauses later in

this part.

OPTION A:

**We both agree that it is in the best interests of our child[ren] that the**

and feelings regarding custody and visitation; and (2) have complete faith that you and

[wife or husband]

**have sole physical and legal custody of our**

**child[ren]. We also agree that the other parent has the right to be with**

**our child[ren] on a frequent and liberal basis through reasonable**

only be used if you both: 91) feel that you have a clear understanding of each other’s views

arguments may erupt regarding interpretation of this clause. This clause should, therefore,

no definite details or dates and times of visitation provided, there is a danger that

there are

The very flexibility of this approach has some inherent dangers, however. Since

to structure as they arise.

arrangements are not spelled out at all in this clause, but are left for you and your spouse

allows a wide range of flexibility in setting up visitation and vacation arrangements. Such

relationship and it is likely that you will remain that way in the future. This approach

It should only be used if both you and your spouse are cooperative and amicable in your

your child's custody arrangements. It provides for sole custody to be given to one parent.

The following clause is a very simplified and straightforward agreement relating to

116

This clause is more detailed than clause 10A. In particular, it allows for provisions

**child[ren]. We also agree that the other parent has the right to be with**

**[wife or husband] have sole physical and legal custody of our**

**We both agree that it is in the best interests of our child[ren] that the**

**OPTION B:**

preferable, you should use one of the more detailed clauses that follow later .

the non-custodial parent. If you and your spouse have agreed that joint custody is

physical and legal custody to be given to one parent with reasonable visitation rights for

what was actually agreed upon during your discussions. This clause also provides for sole

visitation) in writing. This will greatly lessen the opportunity for future disagreements over

detailed schedule has the advantage of putting your agreements (as to how to deal with

to be made for specific times and dates for visitation with the non-custodial parent. This

**(with Visitation Schedule)**

**10B. Sole Custody and Visitation Clause**

**other parent has the right to be notified of any major decisions.**

**regarding the care and up bringing of the child[ren], but that the**

**parent with custody should have the right to make the major decisions**

**not interfere with their attendance at school. We also agree that the**

**vacations. We agree that our child[ren]'s time with either of us should**

**child[ren]'s school**

**child[ren] on holidays, birthdays, and during the**

**agree that we will share as equally as possible the right to be with our**

**visitation, at such times as we and the child[ren] can agree upon. We**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**w e e k e n d :**

**(C). On the following dates and times each [or every other]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**y e a r s :** \_ \_ \_ \_ \_ \_ \_ \_ \_

**(B). On the following holidays during odd-numbered**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**y e a r s :** \_ \_ \_ \_ \_ \_ \_ \_

(**A). On the following holidays during even-numbered**

**will have the right to be with our child[ren] as follows :**

**husband]**

**the future we are unable to agree upon visitation, the [wife or**

**visitation, at such times as we and the child[ren] can agree upon. If in**

**our child[ren] on a frequent and liberal basis through reasonable**

118

**(E). For the following vacation periods each**

**Custody)**

**10C. Custody and Visitation Clause (Joint Legal and Sole Physical**

**major decisions.**

**child[ren], but that the other parent should have the right to be notified of any**

**right to make the major decisions regarding the care and up bringing of our**

**attendance at school. We also agree that the parent with custody should have the**

**We agree that our child[ren]'s time with either of us should not interfere with**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**year:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_

**week:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**o t h e r ]**

**(D). On the following dates and times during each [or every**

**We both agree that it is in the best interests of our child[ren] that we**

**after reasonable and adequate discussion. We also agree that the**

**dental care, and welfare of our child[ren] will be decided by both of us**

**extracurricular and summer activities, religious training, medical and**

**All decisions pertaining to the education, discipline, health,**

**as we may mutually agree.**

**actual physical residence of our child[ren] may be changed at any time**

**child[ren] presently live[s] with the [wife or husband] and that the**

**have sole physical custody of our child[ren]. We acknowledge that our**

**in the best interests of our child[ren] that the [wife or husband]**

**both have joint legal custody of our child[ren]. We also agree that it is**

**OPTION C:**

rights and responsibilities are spelled out in detail.

contact with the child. Specific visitation provisions are also included, and various other

child[ren], but that the other parent will be allowed frequent and liberal visitation and

clause provides that the home of one parent shall be the primary residence of the

major decisions, and lists the general categories as to what these decisions may be. This

awarded joint or shared custody. This clause provides for both parents to share in the

you. In some states, a detailed agreement of this type is required from both parents being

decided that joint decision-making (but sole custody with one parent) is the best route for

joint custody. I t should be used in all situations in which both you and your spouse have

The following clause provides a very detailed and comprehensive agreement for

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**the natural and continuing relationship between our child[ren] and**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(A). On the following holidays during even-numbered years:**

**right to be with our child[ren] at least as follows:**

**often, the parent that does not have physical custody will have the**

**as may be agreed upon. Although visitation may be scheduled more**

**physical custody and that our child[ren] may visit that parent as often**

**as much contact as possible with the parent that does not have**

**importance and, therefore, we agree that our chi I d [ren] should have**

**We both realize that the well-being of our child[ren] is of paramount**

**the other parent.**

**child[ren]. Neither of us will do anything to hamper or interfere with**

**us has the right to any medical, dental, or school records of our**

**circumstances or decisions that affect our child[ren] and that each of**

**We also agree that each of us has the right to know of any**

**differences.**

**child[ren], we will jointly seek professional mediation to resolve our**

**unable to reach an agreement on any of the decisions affecting our**

**emergencies. We agree that if, after reasonable attempts, we are**

**day decisions affecting the child, including any medical or dental**

**parent with physical custody shall have control over the minor day-to-**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(E). For the following vacation periods each year:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**week: \_\_\_**

**(D). On the following dates and times during each [or every other]**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_ \_ \_ \_ \_ \_**

**(C). On the following dates and times each [or every other] weekend:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(B). On the following holidays during odd-numbered years:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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for visitation with the other parent. Most of the other terms of this clause are identical to

equal division of the rights to the upbringing and custody of the child.

and agreement to cooperate in raising a child, this clause may provide the most even and

name by which the child is to be known. Where there is a genuine and honest joint effort

child out of the state in which you both live. In addition, there is a provision relating to the

child. For this reason, there is an agreement included in this clause regarding taking the

clause, both parents actually have the right to retain the actual physical custody of the

clause. Legally, however, there are slight differences between these clauses. Under this

under this clause would be very similar to their lives under the terms of the preceding

the preceding clause. For practical purposes, the day-to-day lives of parents and children

clause still designates one parent's home as the primary residence of the child and provides

clause provides for both parents to share the physical and legal custody of their child. This

necessarily mean that this is the most appropriate clause in all situations. The following

This clause is the most detailed and comprehensive provided. This does not

**10D. Custody and Visitation Clause (Joint Legal and Physical Custody)**

**their entire childhood.**

**receive the most care, love, and affection possible from both parents throughout**

**We additionally agree to use our very best efforts to insure that our child[ren]**

**us has the right to any medical, dental, or school records of our**

**circumstances or decisions that affect our child[ren} and that each of**

**We also agree that each of us has the right to know of any**

**resolve our differences.**

**affecting our child[ren}, we will jointly seek professional mediation to**

**attempts, we are unable to reach an agreement on any of the decisions**

**medical or dental emergencies. We agree that if, after reasonable**

**over the minor day-to-day decisions affecting the child, including any**

**also agree that the parent with physical custody shall have control**

**decided by both of us after reasonable and adequate discussion. We**

**training, medical and dental care, and welfare of our child[ren} will be**

**health, extracurricular and summer activities, vacations, religious**

**All decisions pertaining to the place of residence, discipline, education,**

**mutually agree.**

**be changed at any time as we may**

**and that the actual physical residence of our child[ren] may**

husband]

[wife or

**child[ren] presently live[s] with the**

**acknowledge that your**

**be the primary residence of the child[ren]. We**

**the** [wife or husband]

**best interests of our child[ren] that the home of**

**agree that it is in the**

**both have joint legal and physical custody of our child[ren]. We also**

**We both agree that it is in the best interests of our child[ren] that we**

**OPTION D:**

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**us will permanently remove our child[ren} from this state without the**

**as follows:**

**of the child[ren} will have the right to be with our chi I d [ren} at least**

**often, the parent that does not live in the primary physical residence**

**as may be agreed upon. Although contact may be scheduled more**

**physical custody and that our child[ren} may visit that parent as often**

**as much contact as possible with the parent that does not have**

**importance and, therefore, we agree that our chi I d [ren} should have**

**We both realize that the well-being of our child[ren} is of paramount**

**express written permission of the other parent.**

**is vital to our child[ren}, and therefore we both agree that neither of**

**We both agree that frequent and continuing contact with both parents**

\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**of**\_\_\_\_\_\_\_\_

**We both agree that our child[ren} will be known by the last name**

**the other parent.**

**the natural and continuing relationship between our child[ren} and**

**child[ren}. Neither of us will do anything to hamper or interfere with**

**(C). On the following dates and times each [or every other] weekend:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

(**E). For the following vacation periods each year:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**week: \_\_\_**

**(D). On the following dates and times during each [or every other]**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_ \_ \_ \_ \_ \_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(B). On the following holidays during odd-numbered years:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(A). On the following holidays during even-numbered years:**

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However, in addition to selecting the amount of the payment, several other child support

enforcement techniques are explained in the first part of this kit .

the clerk of the court or some other government agency. The various child support

wage assignments and withholding of wages to having the support payments made through

payments will continue to be paid and paid on time. These methods range from automatic

federal legislation, all states have adopted various methods to attempt to insure that the

enormous rate of default on child support payments, in recent years and in response to

the

First, a decision must be reached on how the payment is to be made. In response to

issues must be addressed.

your Marital Settlement Agreement. A standard clause for this purpose is set out below.

payments should be, it is a relatively simple matter to include that provision in a clause for

Once you have determined the specific amount that the monthly child support

**11. Marital Settlement Agreement Clauses for Child Support**

**parents throughout their entire childhood.**

**child[ren] receive the most care, love, and affection possible from both**

**We additionally agree to use our very best efforts to insure that our**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

The basic child support clause provided in this book offers two alternatives for this

made through an official state agency or court official. The clause that provides for direct

late or not at all after a divorce, you should the alternative that requires the payments to be

parents were separated. But if there is any doubt as to whether the payments may be made

responsible, or has established a clear record of making the payments on time, while the

reasons are that the parent who is going to make the payments is very reliable and

have to valid reasons as to why the parents want to avoid the indirect method. Some good

Settlement Agreement. To allow the payments to be made directly to the parent, there

make the child support payments directly to the parent is in the form of a Marital

to waive any requirement that the payments be made through the state, if the agreement to

for the payments to be made directly to the other parent. Most courts will allow a couple

state agency or court official for disbursement to the other parent. The other alternative is

situation. The first is for the payments, in the event of a divorce, to be made to an official

**Basic Monthly Child Support Clause**

of the burden of enforcement off the parent who is to be paid the support.

payments that will automatically go into effect when a payment is missed. This takes much

amount and date the payment is made. Also, many states have programs to collect past due

body instead of directly to the other parent, there is an official documented record of the

made in this indirect way. By having the payment made through an official government

pays the parent who is due the payment. There are several benefits to having the payments

payments directly to the clerk of the court. Once the payment is received, the clerk then

The most common arrangement is for the paying parent to be required to make the

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**We agree that the required child support payments should be**

**will continue for each child until**

**that child has reached the age of majority, died, become self-supporting, or married.**

**We both agree that this obligation is subject to modification by a court at any time.**

**We both further agree that should the parent obligated to pay the support receive a**

**salary or income increase in the future, the amount of child support due per child**

**per month shall be increased proportionately. The parent obligated to pay support**

**agrees to notify the other parent immediately of any salary or income increase .**

[*Choose one: Either:*]

\_\_\_\_\_\_\_\_\_\_\_\_**day of** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, **20\_\_\_\_ and**

**made directly to the parent to whom they are due. However, in the event of a**

**divorce or dissolution of marriage, we agree that the required child support**

**payments are to be paid directly to the court or state official or agency so designated**

**by the laws of this state to receive and disburse such**

**payments. We both further**

**agree that, in the event of a divorce or dissolution of marriage, we wil l**

**cooperate in**

payment to the other spouse also allows the payments to be switched to collection by the

court or state, if problems arise in the future. Remember that there is a definite tendency

for child support payments to be paid late or not at all in the majority of cases .

**We both agree that the will pay to the**

[wife or husband]

**will pay to the**

[wife or

husband] ,

**for child support, the amount of $**\_\_\_\_\_\_\_\_\_\_\_\_

**per child**

**per month, for a**

**total monthly payment of $**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ .**The**

**payments will begin on the**

**assignments if required to guarantee this obligation.**

their place of employment or otherwise at a relatively low cost. The life insurance

under a health and dental insurance plan if such a plan is available to the parent through

requires that states require a parent responsible for child support to include any children

law

These provisions are highly recommended and are required in some states. Federal

health insurance coverage for the children.

(1) maintain a life insurance policy naming the children as beneficiaries; and (2) maintain

These require that, as additional child support, the parent who is to pay the support must:

Two provisions regarding insurance as additional child support are provided here.

**12. Life and Health Insurance Clauses**

**will cooperate in obtaining any necessary income withholding orders or income**

**We both further agree tat, in the event of a divorce or dissolution of marriage, we**

**payments be made directly through a court or state agency or official in the future.**

**not waive the right to request, at any time and in his or her sole discretion, that such**

**court or state agency or official. The parent receiving the payments, however, does**

**the parent to whom they are due and should not be required to be paid through any**

[*Or:*] **We agree that the required child support payments should be made directly to**

**required to guarantee this obligation.**

**obtaining any necessary income withholding orders or income assignments if**

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**such coverage.**

**12B. Additional Child Support Clause**

**coverage.**

**insurance would provide the other parent with annual proof of such**

**covered by such insurance. The parent obligated to provide such**

**any necessary medical or dental expenses of the child[ren] that are not**

**child[ren)'s benefit, pay any required deductible amount, and pay for**

**adequate health, dental, and hospitalization insurance for the**

**will carry and maintain**

**due the** [wife or husband]

**payments are**

**As additional child support, we both agree that as long as support**

**OPTION B:**

**such insurance would provide the other parent with annual proof of**

**as sole irrevocable beneficiary[ies). The parent obligated to provide**

**naming our child[ren)**

**insurance in the amount** **of $\_**\_\_\_\_\_\_\_\_\_\_\_\_\_,

**due the** [wife or husband] **will carry and maintain life**

**payments are**

**As additional child support, we both agree that as long as support**

**OPTION A:**

with protection in case of illness or injury .

the event of death of the paying parent. The health insurance protection provides the child

provision provides some measure of security and insurance protection for the children in

**As additional child support, we both agree that the**

and prepare your Marital Settlement Agreement, explained later on.

The various child support clauses that you have chosen will be used when you compil e

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**e d u c a t i o n ] :** \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_

**amount necessary for the child's college**

**[here include the terms of the agreed upon provision. For example: one-half of the**

[wife or husband] **will provide**

language to define the obligations that you have agreed upon .

religious training. For any such additional support provisions, use clear explanatory

for other needs of your children, such as summer camp fees, special educational costs, or

You and your spouse may also desire to use this clause to provide additional sums

However, parents may legally agree to provide support beyond this minimum cut-off date.

support obligation ends when the child reaches the age of majority (usually 18 years old).

additional amounts for the college education of the child. Generally, a parent's legal

clause may be used, for example, to indicate that the non-custodial parent will contribute

written agreement on any other provisions regarding the support of their children. This

Finally, a general clause is provided for those parents who wish to provide a

132

provided all of the support for your spouse for the year .

**federal dependency tax exemption for our child[ren].**

[wife or husband] **may claim the**

**We also agree that the**

[*Use if you have children*]:

[*Use if necessary*]: We both agree to file a joint income tax return for the current year .

.

**that any taxes due for the current tax year will be paid by th e** [wife or husband]

**also agree that any tax refunds for the current year will be the property of the and**

**We both agree that we will cooperate in the filing of any necessary tax returns. We**

current tax year, you may not claim your spouse as an exemption, even if you have

"head of household" return. In addition, if your divorce is finalized prior to the end of the

If your divorce is final by the end of the year, you must file either an individual return or a

the current tax year only if your divorce has not been made final before the end of the year.

household" return. You may choose to file a joint income tax return with your spouse for

(2) a separate return; or (3) you may be considered unmarried and file a "head of

final by the end of the year, you may choose to file: (I) a joint tax return with your spouse;

settlement agreement or under the terms of a separation decree but your divorce is not

tax consequences of your divorce. If you are living apart under the terms of your marital

The following clause may be used to define your various decisions regarding the

**13. Marital Settlement Agreement Taxation Clause**

such an

**15. Additional Mandatory Marital Settlement Agreement Clause**

[desired last name] .

**child[ren] will be known by the last name of**

**We both also agree that, in the event of divorce or dissolution of marriage, our**

**desires to and shall have the right to be known by the name of**

.

[Desired name]

**We both agree that, in the event of divorce or dissolution of marriage, the Wife**

agreement is contained in the following clause.

It is useful to have your spouse's agreement to such a name change request, and

by, if you did not use a clause that contained a provision for children's names .

use this clause also to state the last name that the children of your marriage will be known

request in the divorce papers and a provision in the divorce decree or judgment. You may

previous married name). The restoration of this name may be accomplished by a simple

who desires to use either her maiden name or her former name (if her former name was a

reference to the sex of the person requesting this type of change, it is generally the wife

name be restored upon divorce. Although many of these laws are now written to make no

Most states have specific laws that allow a person to request that his or her former

**14. Marital Settlement Agreement Name Change Clause**

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There are various other marital settlement agreement issues which **must**

be included in

order for your agreement to have the necessary legal force. This will always be the last

numbered clause in your marital settlement agreement. These standard legal phrases are

important and should not be altered. They cover the following points:

·

**incorporated by reference.**

**situation. We have each completed Financial Statements which are attached and**

**honestly disclosed to the other the extent of our assets, income, and financial**

**We have prepared this agreement cooperatively and each of us has fully and**

**this agreement, but that this agreement survive.**

**the terms of the judgment or decree, we both be ordered to comply with the terms of**

**subsequent decree or judgment for divorce or dissolution of marriage and that, by**

**marital settlement agreement be approved and merged and incorporated into any**

**We both desire that, in the event of our divorce or dissolution of marriage, this**

yours.

·

That your agreements will be binding on any future representatives of

rights and responsibilities; and

That you both intend that your agreement is the full statement of your

·

That you both will sign any necessary documents ;

that you both understand your legal rights;

·

That you both know that you have the right to see your own lawyers and

they are attached to your agreement;

·

That you both have prepared complete and honest Financial Statements and

the basis for your court order in the event of a divorce;

·

That you both want the terms of your marital settlement agreement to be

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**the heirs, assigns, executors, administrators, successors in interest, and**

**of**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **, 20\_\_\_\_.**

**d a y**

**Signed and dated this**

preparation of your agreement. This clause should not be numbered.

used with all Marital Settlement Agreements. This will always be the last clause used in the

**mandatory**

and must be

The following signature, witness, and Notary clause is

**16. Marital Settlement Agreement Signature and Notary Clause**

**representatives of each of us.**

**We also agree that every provision of this agreement is expressly made binding upon**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

**agreement should be interpreted and governed by the laws of the State of**

**agreement between us regarding our marital rights and obligations and that this**

**We agree that this document is intended to be the full and entire settlement and**

**or convenient to carry out all of the terms of this agreement .**

**documents, make any endorsements, and do any and all acts that may be necessary**

**agreement to be fair and reasonable. Both of us agree to execute and deliver any**

**We each fully understand our rights and we each consider the terms of this**

**We each understand that we have the right to representation by separate lawyers.**

[witness’s signature]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_

[husband’s signature]

[witness’s signature]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_

**State of** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SS.**

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_

[wife’s signature]

[witness’s signature]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_

[witness’s signature]

**My Commission expires** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of**

**Notary Public, for the County of** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Notary’s signature]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**document in my presence as a free and voluntary act for the purposes stated.**

**the persons described in** **the above document and that they signed the above**

**personally came before me and, being duly sworn, did state that they are**

\_\_\_\_\_\_\_\_

**, 20\_\_,** [wife’s and husband’s names]

[date]

**O n**

**County of** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

your complete agreement. If you are both satisfied that your choices are complete, you are

review each clause that you and your spouse have chosen, and be certain that it embodies

Before you begin to actually assemble your Agreement, you should both carefully

preparing and processing the necessary paperwork.

require agreement. The divorce procedure now becomes the rather routine matter of

your spouse have essentially worked out all of the matters relating to your marriage that

the knowledge that the most difficult decisions in your divorce are behind you. You and

with

Once you have reached this step in your divorce process, you may relax somewhat

notarized.

After it is assembled, you will be given instructions on signing and having your agreement

information in the blanks, you are ready to assemble your marital settlement agreement.

the appropriate clauses in the preceding chapters, and have filled in all of the required

After you and your spouse have reached all of the necessary decisions, have chosen

**Preparing Your Marital Settlement Agreement**

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ready to complete and finalize the Agreement. The actual preparation of your Marital

Settlement Agreement will be done in four easy steps. These steps are :

spaced on one side of clean white 81/2" X 11" paper. With your filled-in and numbered

(References to "originals" in this kit refer to any unsigned documents, even if they are

the upper left-hand comer of all of the pages of each original copy together.

original copy of each of your Financial Statements that you will prepare next. Staple

so that you will have 3 original unsigned photocopies. Attach a complete unsigned

satisfied that the Agreement is complete, make 2 photocopies of the unsigned original,

completed. If any corrections are necessary , type the entire page over. When you are

should then carefully proofread your entire Marital Settlement Agreement when it is

should be the spaces for the signatures on the final page. Both you and your spouse

your agreement. In addition, the only blank lines that should appear on your original

italics or in square or round brackets in this kit, unless it is language directly relating to

pages, Page 2 of X pages, etc. Do not type any portions of a clause which are shown in

page of the agreement should be numbered on the bottom as follows: Page 1 of X

photocopies of the clauses before you, this should be a relatively simple task. Each

type ( or have typed) each provision of the Marital Settlement Agreement double -

3.

Using a typewriter or word processor (or hiring a typist), carefully and consecutively

not number the final signature/witness/notary clause.

numbered #1; one of the property division clauses will be numbered #2; and so on. Do

consecutively that you choose. This means that the "Separation" clause will be

2.

Beginning with the "Separation" clause (Clause number 5 above), number each clause

preliminary clauses. For your convenience these clauses are numbered consecutively .

spouse have chosen to include in your Agreement. Don’t forget the mandatory

1.

Make a photocopy of each page of this kit, which contains a clause that you and your

142

sign all 3 copies of your own individual Financial Statement where indicated. Your

Statement) X 3.

signatures each (once on the Marital Settlement Agreement and once on the Financial

be signing in 2 places each on each of the 3 original documents, for a total of 6

Agreement and once each on each Financial Statement) X 3. You and your spouse will

full documents for a total of 12 notary signatures (twice on the Marital Settlement

notary fee. The notary will be signing his or her signature in 4 places on each of the 3

appropriate information, and affix a notary seal if required. There may be a small

each copy of the Financial Statement. The notary will also need to fill in the

where indicated. Finally, the notary will need to sign all 3 copies of the Agreement and

witnesses should then also sign both copies of the Marital Settlement Agreement

Call in advance and check. In front of the notary, both you and your spouse should

old. There may be acceptable people to use as witnesses at the office of the notary.

the same. They may be family members or friends, as long as they are over 18 years

the office of a local notary public. The witnesses that you and your spouse use may be

4.

Take all 3 original copies of your Agreement document along with two witnesses to

a Financial Statement completed by your spouse.

complete Marital Settlement Agreement, a Financial Statement completed by you, and

have 3 identical unsigned "original" documents. Each document will consist of a

photocopies. "Copies" refer to photocopies of signed documents). You should now

The final signed and notarized Marital Settlement Agreement (with its attached

You are not yet divorced.

yet free to remarry and you can not yet legally have sexual relations with other people.

agreement, you may begin to live your life as a single person again. However, you are not

or child support payments. Essentially, under the terms of your marital settlement

your agreement should go into effect and you may begin to make and receive any alimony

(for example: car titles, quitclaim deeds, etc.). The custody and visitation provisions of

that you have agreed to sell. Any necessary papers for transferring property may be signed

each other. You may begin to live separately. You may divide your property and sell any

the terms of your agreement, you may proceed to fulfill the promises that you made to

enforceable in a court of law if either of you break your promises in the agreement. Under

Statements) will be a valid legal contract between you and your spouse, which is

Financial

that you sign your Marital Settlement Agreement.

papers as shown in the next few chapters and sign all of those documents at the same time

divorce

In order to save time and trouble, you may wish to prepare all of the necessary

your divorce. Place the original and the photocopies in a safe place .

make at least 3 photocopies of the already-signed original for use later when you file for

The third original signed copy will be filed with your divorce papers. You will also need to

agreement.

You should each retain one of the complete signed original copies of your

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**Financial Statement**

The following Financial Statement will be your record of the disclosures that you

and your spouse have made to each other regarding your joint and individual economic

situations. It details both your monthly income and expenses and your overall net worth

(assets and liabilities). The information, which you include, on this form should be current

and should be based upon your economic situation immediately after your settlement

agreement takes effect. The monthly income that you list should be based on your current

job and sources of income, but should not include any income derived from child support

payments or alimony from your current spouse. The expenses that you include on this

statement should be based on your estimated or actual expenses while you are living

separate from your spouse. If you have physical custody of any children, any expenses

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related to their care should also be included. The assets and liabilities listed should be your

separate and marital property and bills as you and your spouse have agreed to in your

marital settlement agreement. Fill in only those items that apply to your circumstances.

The Financial Statement of each of you will become a permanent part of your

marital settlement agreement and will also become a part of your final divorce papers.

Both you and your spouse will need to prepare an individual copy of this statement. This

Financial Statement is mandatory for you to fill out and is required, in some form, in most

states. Some states have similar mandatory Financial Statement forms and you should use

such forms. This form assures that both you and your spouse are fully aware of each others

economic circumstances and that you have made your decisions and agreements based on

full knowledge of all of the facts relating to your property and income .

The method for preparation is as follows:

3.

explained already.

notarized at the same time that you sign your final Marital Settlement Agreement as

Financial Statement in front of a notary and have the final Financial statements

4.

You and your spouse will then sign all three original copies of your own individual

of signed documents).

any unsigned documents, even if they are photocopies. "Copies" refer to photocopies

unsigned, original Financial Statements.(References to "originals" in this kit refer to

side of white 81/2" x 11 paper. Make two photocopies of each of the completed, but

Each filled-in Financial Statement should then be neatly typed, double-spaced on one

sign your agreement.

employment, ownership of property, and debts, as of the day that you and your spouse

that you sign your marital settlement agreement. In other words, describe your

items that apply to their personal situation. Use information that will apply on the day

Each spouse should then take a copy of the Financial Statement and fill in all of the

2.

1.

Make 2 photocopies of the entire blank Financial Statement.

Employer:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

minus income tax

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

minus Social Security

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Gross monthly salary or wages

AVERAGE MONTHLY INCOME

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Rate of pay:

day:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Next pay

period:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Pay

Address of

by:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E m p l o y e d

\_\_\_\_\_\_

Occupation:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

EMPLOYMENT :

[Full name]

**FINANCIAL STATEMENT OF**

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Net monthly salary, wages

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Business income

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dividends, interest, etc.

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Unemployment. welfare. etc.

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Commissions, bonuses, etc.

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Monthly income from other sources

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

O t h e r

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Union dues

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Credit Union

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Insurance

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other deductions from paycheck on monthly basis

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cable television

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Water, garbage, sewer

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Electricity

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Homeowner's insurance

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Property taxes

Mortgage or rental payment

AVERAGE MONTHLY EXPENSES

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TOTAL AVERAGE MONTHLY INCOME

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other monthly income

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Rents, royalties

150

Food and grocery items

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Day care/baby sitter

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Education

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Medical, dental, prescriptions

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Clothing

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Meals outside home

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Housewares

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Pest control

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Repairs and maintenance

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cleaning and laundry

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fuel oil and natural gas

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_

Health\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Insurance:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Payments

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Insurance

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

License

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Repairs

Gasoline and oil

Automobile:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Public transportation

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Vacation expenses

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Gifts or donations

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Entertainment

152

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

Fixed debts on a monthly basis:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Any other expenses (list):

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

O t h e r

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Life

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Disability

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Real estate:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bonds:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

S t o c k s :

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

C a s h :

ASSETS:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TOTAL AVERAGE MONTHLY EXPENSES:

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Monthly payment

Any other debts:

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$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Balance due:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Balance due:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Balance due:

LIABILITIES:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TOTAL ASSETS

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other (list):

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jewelry:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Contents of home or apartment:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Automobiles:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SS.

)

State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

[signature of spouse signing this form]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Total Liabilities

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Total Assets:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Total Monthly Expenses

Total Monthly Income

SUMMARY OF ASSETS AND LIABILITIES:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TOTAL LIABILITIES

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Balance due:

$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Creditor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Balance due:

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said document was signed as a free and voluntary act .

expires\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My commission

\_

of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

S t a t e

of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, for the County

[signature of Notary Public}

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ .

foregoing document is true and correct on personal knowledge and acknowledged that

foregoing document, and, being duly sworn, verified that the information contained in the

who is personally known to me to be the same person whose name is subscribed to the

[full name of spouse]

county and state, personally appeared

On this day, before me, the undersigned authority, in and for and residing in the above

County of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)

Divorce or Dissolution of Marriage. In these cases, the spouses are both referred to as co-

completing this form. Your questionnaire answers should contain all of the necessary facts

compiled in the various questionnaires throughout this book should be used when

information that a court will need to decide your case. The information that you have

settlement agreement be used as the terms of your divorce. It will contain all of the basic

marriage be terminated. It will also include your request that the terms of your marital

The petition/complaint will contain your formal request to the court that your

petitioners).

will give you the proper titles to use. (A few states allow the filing of a Joint Petition for

plaintiff and defendant (for complaints). The listing for your state at the back of this kit

the other court documents will be either the petitioner and respondent (for petitions) or the

complaint, or declaration: check the Appendix). The names of the two spouses on this and

complaint (A few states may refer to this document as an action, application, bill of

The main document that you will file with the court may be titled a petition or a

**The Petition or Complaint**

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The date and place of your

\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_

The names and birth dates of any children born or adopted during your marriage

\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

spouse\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The age, occupation, and place of employment of you and your

separation\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The date of your

marriage\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

#s\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

You and your spouse’s Social Security

divorce\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

decided to file for

The length of time you have resided in the county and state where you have

**names\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**You and your spouse’s full**

following information:

for your petition/complaint. For preparing your petition/complaint, you will need the

the petitioner/plaintiff will sign documents, file the papers with the court, and attend the

the caption, you will use the same caption for each court document.

obtained from the clerk of the court. Once you have determined the exact information for

back of this kit), or follow the format as shown on the divorce record files that you have

you should use either the title/caption information that is required in your state (see the

own,

The following is a sample of a typical petition/complaint form. For preparing your

the most convenient county ( or parish) for you and your spouse .

either spouse to be petitioner/plaintiff if it will result in the court proceedings being held in

have bearing on which spouse is chosen as petitioner/plaintiff. You may decide to allow

state procedures relating to which county (or parish) to file your divorce papers in may

as petitioner/plaintiff and which of you serves as respondent/defendant. Your particular

court hearing, if one is necessary. Legally, it will make no difference which of you serves

respondent/defendant will have no duties other than signing documents. The spouse who is

case and which of you will be the respondent/defendant. The spouse who will be the

You will now need to decide which of you will be the petitioner/plaintiff in your

\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_

The grounds for your divorce that you have chosen from those listed for your state

\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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*divorce*;

state listing at the back of this kit.

wording in an actual sample that you got from the court, or to information contained in the

not make any alternations in the wording of this form, unless it is to comply with the

the document onto clean white typing paper, making sure to double-space every line. Do

Fill in the appropriate information on this form and then re-type (or have re-typed)

state or county, you must use those (ask the court clerk).

*maintenance* for *alimony*, etc. Of course, if mandatory official forms are in use in your

or

of this kit). You may, for example, need to substitute *dissolution of marriage* for

official legal terminology which is in use in your state wherever appropriate (see the back

information to this form or change the wording slightly. You should always substitute the

differences in this form. At most, you may be required to add a sentence or two of further

local court clerk in advance to determine any local rules, which may result in slight

acceptable in every jurisdiction in the United States. However, you should consult your

This document or a close variation of it, as prepared below, should be generally

[Use only if there are children]:

court

clerk

[Name of other spouse],

)

when

you

file]

Respondent [or Defendant]

)

)

)

)

And in the interest of:

)

)

[Name of minor children,

)

if any]

)

PETITION FOR DIVORCE

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**PETITION OR COMPLAINT**

In the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Court for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, State of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Use court title as shown in the state listing at the back]

In re: The Marriage of:

)

)

[Name of spouse],

)

Petitioner [or Plaintiff]

)

Case#: [get from

and

The Respondent [or Defendant] in this action is\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

following:

The undersigned Petitioner [or Plaintiff] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, states, under oath, the

State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, City of

\_\_\_\_\_\_\_\_\_\_\_\_\_

whose Social Security # is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and who is employed as

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

who resides at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, City of

age\_\_\_\_\_\_\_\_\_\_\_,

State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, City of

a\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

whose Social Security # is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and who is employed as

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

age\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who resides at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, City of

This action is brought by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Petitioner [or Plaintiff],

[Or title as shown in Appendix]

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been involved in any other domestic relations proceeding involving the other party in

pregnant.

marriage and the Petitioner, or Plaintiff, or Respondent, or Defendant] is not now

CHILDREN. [Use one of the following: No children were born or adopted to the

5 .

and apart without cohabitation ever since.

which time they separated and ceased to live together and they have lived separate

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_day\_\_\_\_\_\_\_\_\_\_\_\_\_of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ , at

until on or about the

the State of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and lived together as husband and wife

on the\_\_\_\_\_\_\_\_\_\_\_\_\_ day\_\_\_\_\_\_\_\_\_\_\_\_\_ of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ , in

4. MARRIAGE. The Petitioner [or Plaintiff] and Respondent [or Defendant] were married

of the Armed Forces of the United States.

this or any other jurisdiction. Neither party is currently an active member of any branch

[or Defendant] has agreed to file an Appearance in this cause. Neither party has ever

3.

JURISDICTION. The court has proper jurisdiction to hear this cause. The Respondent

this time.

of Service of Process in this cause and, therefore, no service of process is necessary at

SERVICE OF PROCESS. The Respondent [or Defendant] has agreed to file a Waiver

2.

required, state actual time of residency].

preceding\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [length of time for residency. If no time limit is

County [or Parish] of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the

of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the preceding \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and the

1.

RESIDENCY. Petitioner [or Plaintiff] has been a resident of and domiciled in the State

pregnant.

and the Petitioner [or Plaintiff] (or Respondent [or Defendant}) is not now

\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Child's Date of Birth

Child's Name

dates of birth are as follows:

[Or]: There were children born [or adopted] to the marriage and their names and

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disposition of all of their bills and obligations, the need for any alimony, maintenance

conclusions of law, a record of testimony, motion for a new trial, notice of entry of

WAIVER. The Petitioner [or Plaintiff] hereby waives any rights to findings of fact and

8.

[or Decree] of Divorce [or Dissolution of Marriage] in this cause.

incorporation and merger of said Marital Settlement Agreement into a Final Judgment

7.

CONSENT. The Respondent [or Defendant] has agreed to file a Consent to the

or force and without collusion.

Marital Settlement Agreement and Financial Statements were signed under no duress

individual Financial Statements are attached and incorporated by reference. The

of the parties listing their respective income, expenses, assets, and liabilities and the

care, and support of their children], A Financial Statement has been prepared by each

or spousal support, [(use if there are children involved:) and the custody, visitation,

the issues relating to their marriage, including the division of all of their property, the

by reference. By the terms of this Marital Settlement Agreement they have settled all of

the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_\_\_ , which is attached and incorporated

Respondent [or Defendant] have both signed a Marital Settlement Agreement, dated

6.

AGREEMENT. This proceeding is uncontested. The Petitioner [or Plaintiff] and

\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_

and which you have chosen]

5.

GROUNDS. [In a complete sentence, state the grounds which apply to your situation

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final judgment or decree, and the right to appeal, but does not waive any rights to the

future modification of any judgment or decree in this cause.

The Petitioner [or Plaintiff] respectfully requests and prays:

County of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SS.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[signature of Petitioner or Plaintiff]

On\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, [name of Petitioner or Plaintiff]

personally came before me and, being duly sworn, did state that he/she is the person

described in the above document and that he/she signed the above document in my

State of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[signature of Petitioner or Plaintiff]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

3.

That the court award the parties any other further relief as may be just and equitable .

Agreement, but that the Marital Settlement Agreement survive.

parties be ordered to comply with all terms and conditions of the Marital Settlement

Final Judgment [or Decree] of Divorce [or Dissolution of Marriage], and that the

which is attached, be approved and be incorporated, merged into, and made part of a

2.

That all of the terms and conditions of the party's Marital Settlement Agreement,

court dissolving and terminating forever the marriage between the parties.

1.

That a Divorce [or Dissolution of Marriage (check in Appendix)] be granted by the

**Appearance, Consent, and Waiver**

formal step in the process.

and signing of all of the documents to be filed with the court, there is no need for this

sheriff or some other process server. Since you have both cooperated in the preparation

process. Filing this form effectively waives the right to have papers served formally by a

made unnecessary .The delivery of the divorce papers is formally known as service of

through its use the requirement for a formal serving of the divorce papers on one of you is

for divorce or dissolution of marriage to be filed jointly. It serves several functions. First,

petition

This form will need to be filed in all cases, except those in which a state allows a

My Commission expires\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, for the County of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[signature of Notary Public]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

and voluntary act for the purposes stated.

correct on personal knowledge and acknowledged that the document was signed as a free

presence and verified that the information contained in the foregoing document is true and

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extraneous legal proceedings and technicalities. The purpose of the entire document is to

described at the end of this chapter .

your petition/ complaint. Fill in this form now and prepare the final version for signing as

Waiver. The rest of the caption portion of this document should be identical to that used in

The title to this document will normally always be Appearance, Consent, and

that spouse should be necessary for the remainder of the divorce process.

the spouse who will act as respondent/defendant has signed this form, no further action by

paperwork and often-considerable expense from the process of obtaining a divorce. Once

to join in the effort to obtain a divorce. Filing this form generally eliminates much

petition or complaint for divorce. This form is basically an agreement by the other spouse

desired. It is a formality that is required in states that require that only one spouse file the

streamline and speed up the legal process when you have both agreed to the results

waived by you in the petition/complaint in an effort to eliminate any unnecessary and

notice of entry of final judgment or decree, and right to appeal. These rights were also

right to findings of fact, conclusions of law, a record of testimony, motion for a new trial,

Settlement Agreement into the final divorce order. The other spouse also waives his or her

respondent/defendant) also offers his or her consent to the adoption of the Marital

proper authority to grant your divorce. This other spouse (officially the

This means that he or she agrees that the court in which your divorce is filed has the

officially makes a legal appearance and consents to the jurisdiction and venue of the court.

By this document, the spouse who is not designated as the petitioner/plaintiff

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In the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Court for \_\_\_\_\_\_\_\_\_\_\_\_\_\_County, State

of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Use court title as used in your region]

In re: The Marriage of:

)

)

[Name of spouse],

)

Respondent [or Defendant]

The undersigned Respondent [or Defendant] states on oath, that:

APPEARANCE, CONSENT, AND WAIVER

)

if any]

)

[Name of minor children,

)

And in the interest of:

)

)

upon filing]

)

[Name of other spouse],

court

Case #: [obtain from

)

and

)

Petitioner [or Plaintiff]

AGREEMENT. I have freely and voluntarily entered into a Marital Settlement

consent that this cause be heard on any day convenient to the court without further

6.

ADDITIONAL CONSENT. I agree that this proceeding is uncontested. I further

Marital Settlement Agreement survive.

comply with all terms and conditions of the Marital Settlement Agreement, but that the

Decree] of Divorce [or Dissolution of Marriage], and that the parties be ordered to

being approved and incorporated, merged into, and made part of a Final Judgment [or

5.

CONSENT. I consent to said Marital Settlement Agreement and Financial Statements

signed under no duress or force and without collusion.

[or Complaint]. The Marital Settlement Agreement and Financial Statements were

Financial Statement which are attached to and incorporated into the original Petition

Agreement, dated the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_, and a

4.

Statements were signed under no duress or force and without collusion.

service. and return of process in this cause and voluntarily enter my Financial

3.

APPEARANCE AND WAIVER. I waive all objections to venue and the issuance.

in it.

this cause and I have read and understand it and admit all of the allegations contained

2.

ADMISSION. I have received a copy of the Petition [or Complaint] which was filed in

for residency for your state. If no time limit is required, state actual time of residency] .

Parish] of \_\_\_\_\_\_\_\_\_\_\_\_\_\_for the preceding\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. [Length of time

\_\_\_\_\_\_\_\_\_\_\_\_\_\_for the preceding \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and the County [or

1.

RESIDENCY. I have been a resident of and domiciled in the State of

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On

[signature of Notary Public]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

for the purposes stated and that a copy of the Petition [or Complaint] has been received .

knowledge and acknowledged that the document was signed as a free and voluntary act

information contained in the foregoing document is true and correct on personal

document and that he/she signed the above document in my presence and verified that the

before me and, being duly sworn, did state that he/she is the person described in the above

came

personally

, 20\_\_, [Respondent/Defendant’s name]

[date]

County of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SS.

State of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Respondent [or Defendant]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

modification of any judgment or decree in this cause .

final judgment or decree, and right to appeal, but do not waive any rights to the future

and conclusions of law, a record of testimony, motion for a new trial, notice of entry of

7.

ADDITIONAL WAIVER. I further waive my rights to notice of trial, findings of fact

Petition [or Complaint].

notice to me and that the court enter an Order granting the relief prayed for in the

Jurisdiction Act in all states. You and your spouse will be making an official declaration

and

4

That neither of you have any knowledge of other current custody lawsuits;

3

That the child has not been involved in any previous custody lawsuits ;

dates and places each child has lived for the past 5 years ;

2

The names, sex, social security numbers, dates and places of birth, and

your upcoming divorce;

1

The number of children that you have that are subject to a custody order in

under oath to the court regarding the following matters:

children, the information on this form is mandatory under the Uniform Child Custody

jurisdiction of the court to issue orders concerning the children. If you have minor

indicated. The purpose of this form is to provide the court with information relevant to the

section. If there are children, fill in the appropriate information on this form where

adopted during the marriage. If there are no children involved in your divorce, skip this

or

This particular form should only be used if there are minor children who were born

**Child Custody Jurisdiction Form**

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, for the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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)

)

Petitioner [or Plaintiff]

)

and

[Name of spouse],

Case #:

[Obtain from

)

court

clerk

[Name of other spouse],

)

upon

filing]

lawyer's assistance will generally be essential.

That neither of you is aware of any other person with or claiming a right to

5

custody of any of your children.

This form and the law on which it is based is an attempt to be certain that only one

court

will exercise jurisdiction over the issue of child custody for a particular child. If you or

your spouse have been involved in prior custody proceedings involving any of your

children or if you are aware of any current proceedings or persons claiming custody, you

should consult a competent lawyer. You may still be able to file your own divorce, but a

In the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Court for\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, State

of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Use court title as used for your state]

In re: The Marriage of:

)

)

)

proceeding to determine the custody of a minor child, and upon oath state:

to this

We, the undersigned, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, are both parties

CHILD CUSTODY JURISDICTION ACT

DECLARATION UNDER THE UNIFORM

)

if any]

)

[Name of minor children,

)

And in the interest of:

)

[Use only if there are children]:

)

)

Respondent [or Defendant]

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1.

There \_\_\_\_\_\_\_[is/are] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[number of children] minor

child[ren] subject to this proceeding. For each child, the name, sex, Social Security

number, date and place of birth, and time and place of residence and name and

relationship of person child lived with for the past 5 years, is as follows :

1ï˜®

Dates of Residence: From:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Relationship:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Person child lived with:

residence:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Previous

Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Child's Social Security

Birth:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Place of Birth: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date of

Child:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

B. Child's Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sex of

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_To:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Relationship:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Person child lived with:

residence:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Previous

Number:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Child's Social Security

Birth:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Place of Birth: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date of

Child:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

A. Child's Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Sex of

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Dates of Residence: From:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_To:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[repeat as necessary]

[signature of Petitioner or Plaintiff]

and voluntary act for the purposes stated.

correct on personal knowledge and acknowledged that the document was signed as a free

presence and verified that the information contained in the foregoing document is true and

described in the above document and that he/she signed the above document in my

personally came before me and, being duly sworn, did state that he/she is the person

[Respondent/Defendant’s name]

, 20\_\_,

[date]

On

County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SS.

State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

this proceeding.

physical custody or claims to have custody or visitation rights of any child subject to

4.

Neither of us knows of any other person who is not a party to this proceeding who has

proceeding.

proceeding in this state or elsewhere, concerning the custody of a child subject to this

3.

Neither of us have any information concerning any other litigation or custody

custody of a child subject to this proceeding.

other litigation or custody proceeding in this state or elsewhere, concerning the

2.

Neither of us have participated as a party or a witness or in any other capacity in any

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[signature]

Notary Public, for the County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

As you prepare this document, be very careful and take your time. It must be

possible to the particular legal language used in your locale.

judges are very strict in this regard. To be safe, you should try and comply as closely as

terminology if it is clear what is intended by the particular language used. However, some

Most judges will allow some deviation from strict technical application of legal

need to substitute dissolution of marriage for divorce; or maintenance for alimony, etc.

use in your state wherever appropriate as shown in the Appendix. You may, for example,

your petition/complaint. You should substitute the official legal terminology which is in

Agreement. It should also parallel exactly what you have requested in the last section of

reflect exactly what you and your spouse have agreed upon in your Marital Settlement

prepared to

the back of this, and with the clerk of the court to determine the title in your jurisdiction.

Decree of Divorce, Decree of Dissolution of Marriage, or some other similar title. Check

court order may be called a Judgment of Divorce, Judgment of Dissolution of Marriage,

include the formal court order regarding all of the other terms of your divorce. This final

is the legal court order that declares that your marriage is officially over. It will also

divorce. It

This particular document is actually the ultimate goal your are seeking in your

**Final Judgment or Decree**

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Agreement. Then actually type into the judgment/decree the relevant portions of your

signature.

judgment/decree must then be re-typed and re-submitted to the court clerk for the judge’s

Any such changes must be noted carefully at the time of your hearing. Your

slight possibility that the judge may make some changes in the final version of the decision.

sign this document at the close of your court hearing. Although it is unlikely, there is a

prepared final judgment/ decree is common. In the vast majority of cases, the judge will

which is based on a written and signed marital settlement agreement (as yours will be), a

divorce hearing, it should be prepared in advance. In an uncontested divorce proceeding

Although this document will not be signed by the judge until the end of your

Marital Settlement Agreement which apply.

alimony, and name change will be according to or as set forth in the Marital Settlement

portions of the judgment/decree form that state that your property, custody, child support,

work typing this form. If your particular area has this requirement, simply delete those

the judgment/decree form. There should be no problem with this, other than a little more

terms and conditions which are in your Marital Settlement Agreement actually typed into

the terms of the court's order. In other words, these judges want to have all of the various

of

Judges in some localities may require that the actual judgment or decree contain all

)

)

Case#: [Obtain from

and

)

court

clerk

[Name of other spouse],

when

filing)

Respondent [or Defendant]

)

[Use only if there are children]:

)

Petitioner [or Plaintiff]

)

[Name of spouse],

)

)

In re: The Marriage of:

[Use court title for your state]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In the\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Court for \_\_\_\_\_\_\_\_\_\_\_\_\_ County, State of

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FINAL JUDGEMENT OF DIVORCE [Or title used in your state ]

being fully advised finds:

The Court, having examined the verified pleadings and heard the evidence and

otherwise appear.

appeared generally by an Appearance, Consent and Waiver duly filed and did not

The Respondent [or Defendant] waived issuance, service, and return of process and

The Petitioner [or Plaintiff] was present, in person.

this cause.

On the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , 20\_\_\_\_, a final hearing was held in

)

if any]

)

[Name of minor children,

)

And in the interest of:

That the party's property and obligations shall be distributed and apportioned

That all of the terms and provisions of the Marital Settlement Agreement between the

2.

parties and dated the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_,

which is attached and incorporated by reference, are hereby approved and

incorporated, merged into, and made part of this court order, and the parties are

ordered to comply with all terms and conditions of said Marital Settlement Agreement,

but that it shall survive this order;

3.

hereby dissolved and that they are hereby divorced;

according to the terms and conditions of said Marital Settlement Agreement ;

That alimony and maintenance shall be as set forth in said Marital Settlement

4.

Agreement;

5.

[Include if appropriate]: That the custody, visitation, care, and support of the parties

children shall be as set forth in said Marital Settlement Agreement ;

and

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That all necessary residency requirements and prerequisites of law have been legally

1.

satisfied;

That this Court has personal jurisdiction of the parties and of the subject matte r

2.

That all of the material allegations contained in the Petition [or Complaint] are true;

3.

4.

That the parties have voluntarily waived findings of fact, conclusions of law, a record

of testimony, motion for a new trial, notice of entry of final Judgment, and right to

appeal, but have not waived their rights to future modification of this Judgment .

THE COURT ORDERS, ADJUDGES, AND DECREES:

1.

That the marriage of the Petitioner [or Plaintiff] and the Respondent [or Defendant] is

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[Include if appropriate]: That the Petitioner's [or Plaintiff's] (or Respondent's [or

6.

Defendant's]) name be restored to as set forth in said Marital Settlement Agreement .

Signed and Entered this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Presiding Judge

Approved as to form and content:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Petitioner [or Plaintiff]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Respondent [or Defendant]

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**Certificate of Divorce or Dissolution of Marriage**

Most states require that a certificate be filed upon the granting of the final divorce.

This certificate is similar to a birth certificate and will generally be filed with the state's

Bureau of Vital Statistics or some similar agency. It is prepared on a official form and is,

generally, very simple to fill out. The official forms for this purpose should be available

from the clerk of the court where you file for your divorce. You must use the official

forms for your state. This form should be filled out and taken with you to the court hearing

in your case.

1 – Use the following words, all capital letters: SUPERIOR COURT FOR THE STATE

6 - Use the word "County" here.

7 - Please view the last page of this document .

ALASKA

The spouse filing the divorce must be a resident. No residency time limit is specified.

[Alaska Statutes; Title 25, Chapters 22-10.030 and 24.080).

The legal grounds necessary for a dissolution of marriage in Alaska: No-Fault:

Incompatibility of temperament which has caused the irremediable breakdown of the

marriage. [Alaska Statutes; Title 25, Chapter 24.200).

USE THESE WORDS IN CERTAIN DOCUMENTS FOR ALASKA ONLY

5 - Use these exact words, all in capital letters- JUDGEMENT FOR DIVORC E

OF ALASKA; JUDICIAL DISTRICT

2 - Use the following words, all capital letters: PETITION FOR THE DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized.

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use the following words, all capital letters: DECREE OF DISSOLUTION OF

MARRIAGE

6 - Use the word "County" here.

7 - Please view the last page of this document .

The legal grounds for divorce in Alabama are as follows: No-Fault: 1) Irretrievable

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**STATE SPECIFIC DIVORCE LAW**

ALABAMA

The requirements for a no-fault divorce in Alabama are as follows: the spouse who files for

the divorce must have been a resident of the state for at least 6 months before filing for

divorce. One can file the divorce in: 1) the county in which the defendant resides; 2) the

county in which both spouses resided at the time of separation; or 3) If defendant is a non -

resident of Alabama, the plaintiff may file in the county where he/she resides. [Code of

Alabama; Title 30, Chapters 2-4 and 2-5).

breakdown of the marriage; 2) complete incompatibility of temperament such that the

parties can no longer live together; 3) voluntary separation for over 1 year. [Code of

Alabama; Title 30, Chapter 2-1].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR ALABAMA ONLY

1 - Use these exact words, all in capital letters: IN THE CIRCUIT COURT FOR

COUNTY, ALABAMA

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

USE THESE WORDS IN CERTAIN DOCUMENTS FOR ARKANSAS ONLY

7 - Please view the last page of this document .

ARKANSAS

The spouse who files the divorce must reside in the state for 60 days and for 3 months

before a divorce will be finalized. The divorce must be filed in the county of the plaintiff. If

the plaintiff is a nonresident of Arkansas, the divorce may be filed for in the county where

the defendant resides. The venue requirements may be waived in Arkansas. [Arkansas

Code of 1987 Annotated; Title 9, Chapters 12-301 and 12-303].

Legal grounds for a no-fault divorce are: Voluntarily living separate and apart without

cohabitation for 3 years. [Arkansas Code of 1987 Annotated; Title 9, Chapter 12-301] .

6 – Use the word "County" here.

1 - Use these exact words, all in capital letters: IN THE CHANCERY COURT O F

ARKANSAS

2 – Use the words, all capital letters: COMPLAINT FOR DIVORC E

3 – Use the word "Plaintiff". Be sure the "P" is capitalized .

4 - Use the word "Defendant". Be sure the "D" is capitalized .

5 - Use the words, all capital letters: DECREE OF DIVORC E

6 – Use the word "County" here.

7 - Please view the last page of this document.

ONLY

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ARIZONA

One of the spouses must have resided in the state at least 90 days before filing for

dissolution of marriage. The divorce should be filed in the county in which the petitioner

resides at the time of filing. [Arizona Revised Statutes Annotated; Title 12, Chapter 401;

and Title 25, Chapter 312].

The legal grounds for dissolution of marriage are: No-Fault: 1) Irretrievable breakdown of

the marriage. [Arizona Revised Statutes Annotated; Title 25, Chapter 312].

USE THE FOLLOWING WORDS IN CERTAIN DOCUMENTS FOR ARIZONA

1 – Use these words, all capital letters: IN THE SUPERIOR COURT IN AND FOR THE

COUNTY OF , ARIZONA

2 - Use these exact words, all in capital letters: PETITION FOR THE DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

MARRIAGE

1 – Use the words, all in capital letters: IN THE DISTRICT COURT IN AND FOR TH E

One spouse must have been a resident of Colorado for 90 days prior to filing for

dissolution of marriage. The dissolution of marriage may be filed for in: 1) the county

where the respondent resides; or 2) the county in which the petitioner resides if the

respondent has been served in the same county or is a nonresident of Colorado. [Colorado

Revised Statutes; Article 10, Section 14-10-106; and Colorado Rules of Civil Procedure,

Rule 98].

The one and only no-fault ground for dissolution of marriage is: Irretrievable breakdown

of the marriage, [Colorado Revised Statutes; Article 10, Section 14-10-106].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR COLORADO ONLY

COLORADO

COUNTY OF AND STATE OF COLORADO

2 – Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 – Use the word "Petitioner'. Be sure the "P" is capitalized.

4 – Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

MARRIAGE

6 – Use the word "County" here.

7 - Please view the last page of this document.

1 – Use the words, all in capital letters: SUPERIOR COURT OF CALIFORNIA,

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CALIFORNIA

The spouse who files for dissolution of marriage must have been a resident of the state for

6 months and a resident of the county where the dissolution of marriage is filed for 3

months. [Annotated California Code; Section 4514).

The legal grounds for dissolution of marriage for no-fault divorce are: Irreconcilable

differences which have caused the irremediable breakdown of the marriage. [Annotated

California Code; Section 4506].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR CALIFORNIA ONLY

COUNTY OF

2 – Use the words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 – Use the word "Petitioner'. Be sure the "P" is capitalized.

4 – Use the word "Respondent". Be sure the "R" is capitalized .

5 – Use these words, all in capital letters: FINAL JUDGEMENT OF DISSOLUTION OF

MARRIAGE

6 – Use the word "County" here.

7 - Please view the last page of this document .

DELAWARE

1 – Use the words, all in capital letters: SUPERIOR COURT

2 - Use the words, all in capital letters: COMPLAINT FOR DISSOLUTION OF

MARRIAGE

3 – Use the word "Plaintiff'. Be sure the "P" is capitalized .

4 – Use the word "Defendant". Be sure the "D" is capitalized .

5 - Use the words, all in capital letters: DECREE OF DISSOLUTION OF MARRIAG E

6 - Use the word "County" here.

7 - Please view the last page of this document .

USE THESE WORDS IN CERTAIN DOCUMENTS FOR CONNECTICUT ONLY

One spouse must be a resident for 6 months immediately prior to filing for divorce. The

divorce may be filed for in a county where either spouse resides. [Delaware Code

Annotated; Title 13, Chapters 1504 and 1507].

The grounds for no-fault divorce in Delaware: 1) Irretrievable breakdown of the marriage

and reconciliation is improbable (a marriage is considered "irretrievably broken" when it is

characterized by one of the following: a) voluntary separation; b) separation caused by the

other spouse's misconduct or mental illness; or c) separation caused by incompatibility; and

46b, Chapter 40].

no reasonable prospect for reconciliation. [Connecticut General Statutes Annotated; Title

breakdown of the marriage; 2) incompatibility and voluntary separation for 18 months with

The following are legal no-fault grounds for dissolution of marriage: 1) Irretrievable

51, Chapter 349].

[Connecticut Statutes Annotated; Title 31, Chapter 348; Title 46b, Chapter 44; and Title

marriage may be filed in any county which is most convenient to both spouses.

filed in the county in which the plaintiff resides. In all other cases, the dissolution of

arose in Connecticut. If the matter involves support, the dissolution of marriage is to be

the intention of permanent residence; or if the grounds for the dissolution of marriage

of the spouses was a resident of Connecticut at the time of the marriage and returned with

of marriage will only finalize after one spouse has been a resident for one year; unless one

Either spouse may file a dissolution of marriage if they are a resident. But the dissolution

CONNECTICUT

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One of the spouses must have been a resident for 6 months prior to filing for dissolution of

COLUMBIA

1 - Use these exact words, all in capital letters: IN THE SUPERIOR COURT OF THE

DISTRICT OF COLUMBI1 - FAMILY DIVISION

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORCE

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant'. Be sure the "D" is capitalized.

5 - Use these exact words, all in capital letters: FINAL DECREE OF DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document .

FLORIDA

USE THESE WORDS IN CERTAIN DOCUMENTS FOR THE DISTRICT OF

marriage. The dissolution of marriage should be filed in either: 1) the county where the

defendant resides; or 2) the county where the spouses last lived together prior to

separating. [Florida Statutes Annotated: Chapter 61.021].

There is only one no-fault ground for dissolution of marriage in Florida: Irretrievable

breakdown of the marriage. [Florida Statutes Annotated; Chapter 61.052].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR FLORIDA

1 - Use these exact words, all in capital letters: IN THE CIRCUIT COURT IN AND FOR

THE COUNTY OF, FLORIDA

2 - Use these exact words, all in capital letters: PETITION OF DISSOLUTION OF

MARRIAGE

6 - Use the word "County" here.

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2) living separate and apart for 6 months because of incompatibility. (Delaware Code

Annotated; Title 13, Chapter 1505].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR DELAWARE ONLY

1 – Use the words, all in capital letters: IN THE FAMILY COURT FOR THE STATE O F

DELAWARE, IN AND FOR COUNTY

2 – Use the words, all in capital letters: PETITION OF DIVORCE

3 – Use the word "Petitioner'. Be sure the "P" is capitalized.

4 – Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DIVORCE

7 - Please view the last page of this document .

DISTRICT OF COLUMBIA (WASHINGTON D.C.)

One of the spouses must have been a resident of Washington D.C. for 6 months

immediately prior to filing for divorce. Military personnel are considered residents if they

have been stationed in Washington D.C. for 6 months. [District of Columbia Code

Annotated; Title 16, Chapter 9, Sections 902).

These are the grounds for no-fault divorce in the District of Columbia: 1) Mutual

voluntary separation without cohabitation for 6 months; 2) living separate and apart

without cohabitation for I year. [District of Columbia Code Annotated; Title 16, Chapter

9, Sections 904, 905, 906].

These are the grounds for no-fault divorce in Hawaii: 1) Irretrievable breakdown of the

5 - Use these exact words, all in capital letters: FINAL JUDGEMENT AND DECREE OF

DIVORCE

6 - Use the word "County" here.

7 - Please view the last page of this document .

HAWAII

The spouse filing for divorce must have been present in Hawaii for 3 months. However, a

final divorce will not be granted unless one spouse has been a resident for 6 months. The

divorce should be filed in either: 1) the judicial district where the plaintiff resides; or 2) the

judicial district where the spouses last lived together. [Hawaii Revised Statutes; Title 580,

Chapter 1].

4 - Use the word "Respondent". Be sure the "R" is capitalized .

marriage; and 2) living separate and apart without cohabitation for 2 years and it would

not be harsh or oppressive to the defendant spouse to grant the divorce. [Hawaii Revised

Statutes; Title 580, Chapter 41].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR HAWAII

1 - Use these exact words, all in capital letters: FAMILY COUR T

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

against a spouse who has been a resident of Georgia for 6 months. In such cases, the

196

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: FINAL JUDGEMENT OF

DISSOLUTION OF MARRIAGE

6 - Use the word "County" here.

7 - Please view the last page of this document .

GEORGIA

The spouse who files for divorce must have been a resident of Georgia for 6 months and

file for divorce in the county of residence. However, a non-resident may file for divorce

divorce must be filed for in the county in which the respondent resides. [Code of Georgia

Annotated; Title 30, Section 107].

The only no-fault ground for divorce by the State of Georgia is: Irretrievable breakdown

of the marriage. [Code of Georgia Annotated; Title 30, Section 102].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR GEORGIA

1 - Use these exact words, all in capital letters: IN THE SUPERIOR COURT OF

COUNTY, GEORGIA

2 - Use these exact words, all in capital letters: PETITION FOR DIVORCE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

further attempts at reconciliation are impractical and the spouses have been living separate

6 - Use the word "County" here.

7 - Please view the last page of this document .

ILLINOIS

The spouse filing for dissolution of marriage must have been a resident of Illinois for 90

days immediately prior to filing for dissolution of marriage. The dissolution of marriage

may be filed in a county where either spouse resides. [Illinois Annotated Statutes; Chapter

40, Paragraphs 104 and 401].

The following is the only no-fault ground of divorce in Illinois: Irreconcilable differences

has caused the irretrievable breakdown of the marriage and reconciliation has failed or

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

and apart without cohabitation for 2 years. (If both spouses consent, the time period

becomes 6 months). [Illinois Annotated Statutes; Chapter 40, Paragraph 401].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR ILLINOIS

1 - Use these exact words, all in capital letters: IN THE CIRCUIT COURT OF TH E

JUDICIAL DISTRICT, COUNTY, ILLINOIS

2 - Use these exact words, all in capital letters: PETITION OF DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

The following are no-fault grounds of divorce in Idaho: 1) irreconcilable differences; and

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6 - Use the word "County" here.

7 - Please view the last page of this document .

IDAHO

The spouse filing for divorce must have been a resident of Idaho for 6 full weeks

immediately prior to filing for divorce. The divorce should be filed in: 1) the county where

the defendant resides; or 2) if the defendant is not a resident of Idaho, the county where

the plaintiff resides or designates in the complaint. [Idaho Code; Title 5, Chapter 404; and

Title 32, Chapter 701 ].

2) living separate and apart without cohabitation for a period of 5 years. [Idaho Code;

Title 32, Chapters 603, 610, and 626].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR IDAHO

1 - Use these exact words, all in capital letters: IN THE DISTRICT COURT OF THE

JUDICIAL DISTRICT FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY

OF

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORCE

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

there remains no reasonable likelihood that the marriage can be preserved. [Iowa Code

6 - Use the word "County" here.

7 - Please view the last page of this document .

IOWA

There is no residency requirement for the spouse filing the dissolution of marriage papers

as long as the defendant spouse is a resident of Iowa and was personally served with the

dissolution of marriage papers. Otherwise, there is a one-year residency requirement.

Additionally, there is a 90-day waiting period prior to the dissolution of marriage

becoming final. The dissolution of marriage may be filed in a county where either spouse

resides. [Iowa Code Annotated; Sections 598.2 and 598.6].

The one and only no-fault ground for divorce in Iowa is: Breakdown of the marriage

relationship to the extent that the legitimate objects of matrimony have been destroyed and

DECREE

Annotated; Sections 598.5 and 598.17].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR IOWA

1 - Use these exact words, all in capital letters: IN THE DISTRICT COURT OF FOR

THE COUNTY OF , IOWA

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

MARRIAGE

of the marriage. (Annotated Indiana Code; Code 31, Article 1, Chapter 11.5-5.,3].

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5 - Use these exact words, all in capital letters: JUDGEMENT FOR DISSOLUTION OF

MARRIAGE

6 - Use the word "County" here.

7 - Please view the last page of this document .

INDIANA

One of the spouses must have been a resident of the state for 6 months and the county in

which the petition is filed for 3 months immediately prior to filing for dissolution of

marriage. [Annotated Indiana Code; Title 31, Article 1, Chapter 11.5-5.6].

The only no-fault ground for dissolution of marriage in Indiana is: Irretrievable breakdown

USE THESE WORDS IN CERTAIN DOCUMENTS FOR INDIANA

1 - Use these exact words, all in capital letters: COURT OF

COUNTY, INDIANA (The first line will have the word SUPERIOR, CIRCUIT, or

DOMESTIC RELATIONS in it. Each county uses a different one. Contact your County

Clerks office for further information.

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: FINAL DISSOLUTION OF MARRIAGE

1 - Use these exact words, all in capital letters: CIRCUIT COURT ,

The spouse filing for dissolution of marriage must have been a resident (or a member of

the armed services stationed in Kentucky) for 180 days prior to filing. The dissolution of

marriage may be filed in a county where either spouse usually resides. [Kentucky Revised

Statutes; Title 35, Chapters 403.140 and 452.470].

The only no-fault ground for Kentucky is: Irretrievable breakdown of the marriage. A final

dissolution of marriage will not be granted until the spouses have lived apart for 60 days.

("Living apart" is satisfied even if the spouses live in the same house but they may not

have sexual relations). [Kentucky Revised Statutes; Title 35, Chapter 403.140].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR KENTUCKY

KENTUCKY

KENTUCKY (enter the name of the Circuit Court in your area. )

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

MARRIAGE

6 - Use the word "County" here.

7 - Please view the last page of this document .

USE THESE WORDS IN CERTAIN DOCUMENTS FOR KANSAS

199

6 - Use the word "County" here.

7 - Please view the last page of this document .

KANSAS

Both spouses must be a resident of Kansas for 60 days immediately before filing for

divorce. The divorce may be filed for in a county where either spouse resides. [Kansas

Statutes Annotated; Chapter 60, Article 16, Subjects 607 and 1603].

The only no-fault divorce for Kansas is: Incompatibility. [Kansas Statutes Annotated;

Chapter 60, Article 16, Subject 1601].

1 - Use these exact words, all in capital letters: IN THE DISTRICT COURT IN AND

FOR THE

COUNTY OF KANSAS

2 - Use these exact words, all in capital letters: PETITION FOR DIVORCE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document .

Revised Statutes Annotated; Title 19, Section 691 (1)].

7 – Please view the last page of this document .

MAINE

Either spouse must be a resident of Maine, or the marriage or the grounds for divorce

must have occurred in Maine. Otherwise, a person filing for divorce must be a resident of

Maine for 6 months immediately prior to filing. The divorce may be filed for in the District

Court in the county where either spouse resides. However, the defendant spouse has the

right to have the proceeding moved to Superior Court. [Maine Revised Statutes

Annotated; Title 4, Section 155; and Title 19, Section 691].

The only no-fault ground for divorce in Maine is: Irreconcilable marital differences. [Maine

6 - Use the word "Parish" here.

USE THESE WORDS IN CERTAIN DOCUMENTS FOR MAINE

1 - Use these exact words, all in capital letters: STATE OF MAINE ,

COURT, COUNTY

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant'. Be sure the "D" is capitalized.

5 - Use these exact words, all in capital letters: JUDGEMENT OF DIVORCE

6 - Use the word "County" here.

7 - Please view the last page of this document .

MARYLAND

the filing of the divorce petition. Reconciliation is essentially the only defense to a divorce

200

LOUISIANA

Prior to filing for the dissolution of marriage, the spouse filing for dissolution of marriage

must have been a resident of Louisiana for 12. The dissolution of marriage must be filed in

the parish of the respondent/ defendant. [Louisiana Civil Code Annotated, Article 142; and

Louisiana Code of Civil Procedure, Article 42].

The only grounds for divorce is a spouse’s desire for a divorce. There are no requirements

to show marital breakdown, fault, living separate and apart, or any other basis for a

divorce. After the filing of the petition, the divorce will be granted after a period of 180

days has elapsed from the filing date and if the spouses have lived separate and apart since

sought on these grounds. [Louisiana Civil Code Annotated, Title V, Article 102].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR LOUISIANA

1 - Use these exact words, all in capital letters: JUDICIAL DISTRIC T

COURT, PARISH OF I , LOUISIANA

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner/Plaintiff'. Be sure the "P ... s are capitalized .

4 - Use the word "Respondent/Defendant". Be sure the "R & D" are capitalized .

5 - Use these exact words, all in capital letters: FINAL JUDGEMENT OF DIVORC E

B]~

MASSACHUSETTS

If the grounds for divorce occurred in Massachusetts, one spouse must be a resident. If the

grounds occurred outside the state, the spouse filing must have been a resident for one

year. The divorce should be filed for in the county in which the spouses last lived together.

If neither spouse currently lives in that county then the divorce may be filed for in a county

where either spouse currently resides. [Massachusetts General Laws Annotated; Chapter

208, Sections 4,5,6].

The one and only no-fault ground for divorce in Massachusetts is: Irretrievable breakdown

of the marriage. [Massachusetts General Laws Annotated; Chapter 208, Sections 1, 1A, 1

7 - Please view the last page of this document .

USE THESE WORDS IN CERTAIN DOCUMENTS FOR MASSACHUSETTS

1 - Use these exact words, all in capital letters: COMMONWEALTH OF

MASSACHUSETTS, THE TRIAL COURT, THE PROBATE AND FAMILY COURT

DEPARTMENT, DIVISION (contact your County Clerks office for the name of the

division in your county).

2 - Use these exact words, all in capital letters: PETITION FOR DIVORC E

3 - If you do NOT have a separation agreement incorporated into your papers, Use the

word "Petitioner". Be sure the "P" is capitalized. If you DO have a separation agreement

Section 7-103].

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Either spouse may file for divorce in Maryland, unless the grounds for divorce occurred

outside Maryland. The divorce may be filed for in a county where either spouse resides.

[Annotated Code of Maryland; Family Law, Title 7, Section 7-103; and Maryland Rules,

Rule S-70].

The no-fault grounds for divorce in Maryland are: 1) the spouses have voluntarily lived

separate and apart for one year without interruption or cohabitation and there is no

reasonable expectation of reconciliation; or 2) the spouses have lived separate and apart

without interruption for two years. [Annotated Code of Maryland; Family Law, Title 7,

USE THESE WORDS IN CERTAIN DOCUMENTS FOR MARYLAND

1 - Use these exact words, all in capital letters: IN THE CIRCUIT COURT FOR

MARYLAND

2 - Use these exact words, all in capital letters: BILL FOR DIVORCE

3 - Use the word "Plaintiff'. Be sure the "P" is capitalized .

4 - Use the word "Defendant". Be sure the "D" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

6 - Use the word "County" here.

marriage may be filed for in a county where either spouse resides. [Minnesota Statutes

JUDICIAL CIRCUIT, - COUNTY

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words, all in capital letters: JUDGEMENT OF DIVORCE

6 - Use the word "County" here.

7 - Please view the last page of this document .

MINNESOTA

One of the spouses must have been a resident of Minnesota for at least 180 days

immediately before the petition for dissolution of marriage is filed. The dissolution of

1 - Use these exact words, all in capital letters: STATE OF MICHIGAN ,

Annotated; Chapters 518.07 and 518.09].

The no-fault ground for divorce in Minnesota is: Irrevocable breakdown of the marriage

shown by 1) living separate and apart for 180 days; or 2) serious marital discord adversely

affecting the attitude of one or both of the spouses toward the marriage. [Minnesota

Statutes Annotated; Chapters 518.06 and 518.13].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR MINNESOTA

1 - Use these exact words, all in capital letters: STATE OF MINNESOTA, DISTRICT

COURT,

COUNTY OF JUDICIAL DISTRICT

Requirements for State of Michigan

202

incorporated into your papers, Use the word "CoPetitioner". Be sure the "C" and "P" are

capitalized.

4 - If you do NOT have a separation agreement incorporated into your papers, Use the

word "Respondent". Be sure the "R" is capitalized. If you DO have a separation agreement

incorporated into your papers, Use the word "CoPetitioner". Be sure the "C" and "P" are

capitalized.

5 - Use these exact words, all in capital letters: JUDGEMENT OF DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document .

Immediately prior to filing for divorce, both spouses must have been residents of Michigan

for 180 days and residents of the county where the divorce is filed for 10 days. The

residency requirement is one year if the cause of the divorce arose outside of Michigan.

[Michigan Compiled Laws Annotated; Section 552.9].

The no-fault ground for divorce in Michigan is: A breakdown of the marriage relationship

to the extent that the objects of matrimony have been destroyed and there remains no

reasonable likelihood that the marriage can be preserved. [Michigan Compiled Laws

Annotated; Section 552.6].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR MICHIGAN

6 - Use the word "County" here.

spouses by a written agreement. In addition , an affidavit must be filed stating that there is

no collusion between the spouses. [Mississippi Code Annotated; Section 93, Chapters 5-1,

5-2 and 5-7].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR MISSISSIPPI

1 - Use these exact words, all in capital letters: CHANCERY COURT OF COUNTY,

STATE OF MISSISSIPPI

2 - Use these exact words, all in capital letters: BILL OF COMPLAINT OF DIVORC E

3 - Use the word "Complainant". Be sure the "C" is capitalized .

4 - Use the word "Defendant". Be sure the "D" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DIVORCE

custody, maintenance, and property distribution arrangements have been made by the

7 - Please view the last page of this document .

MISSOURI

Before filing for dissolution of marriage, one of the spouses must be a resident of Missouri

for 90 days. The dissolution of marriage should be filed in the county where the Petitioner

resides. In addition, there is a 30-day waiting period after filing before a dissolution of

marriage will be granted. [Annotated Missouri Statutes; Title 30, Chapter 452, Sections

300.1 and 305].

The only no-fault ground for dissolution of marriage in Missouri is: Irretrievable

breakdown of the marriage and no reasonable likelihood that the marriage can be

preserved. [Annotated Missouri Statutes; Title 30, Chapter 452, Section 305].

The spouse filing for divorce must have been a resident for at least 6 months, and not have

203

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

MARRIAGE

6 - Use the word "County" here.

7 - Please view the last page of this document .

MISSISSIPPI

secured residency for the purpose of obtaining a divorce. If either spouse is a member of

the armed services then both spouses are considered residents if stationed in Mississippi. If

the grounds for divorce are irreconcilable differences, then papers should be filed in: 1) the

county where either spouse resides, if both spouses are residents of Mississippi 2) the

county where one spouse resides if the other spouse is a non-resident of Mississippi.

[Mississippi Code Annotated; Section 93, Chapter 5-5].

The only no-fault ground for Mississippi is: Irreconcilable differences. However no divorce

on these grounds will be granted unless: 1) the divorce is not contested or the

irreconcilable differences are not denied by the other spouse; and 2) adequate child

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

separate and apart for 180 days prior to filing. All three of these factors must be met to

satisfy the grounds for dissolution of marriage.

[Montana Code Annotated; Section 40, Title 1-104].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR MONTANA

1 - Use these exact words, all in capital letters: DISTRICT COURT FOR THE STATE

OF MONTANA AND FOR THE COUNTY OF

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

spouses towards the marriage and no reasonable prospect of reconciliation and living

MARRIAGE

6 - Use the word "County" here.

7 - Please view the last page of this document .

NEBRASKA

The requirements for filing for a dissolution of marriage in Nebraska are: 1) one of the

spouses must have been a resident of Nebraska for at least one year; or 2) the marriage

was performed in Nebraska and one of the spouses has lived in Nebraska for the entire

marriage. The dissolution of marriage may be filed for in a county where either spouse

resides. [Revised Statutes of Nebraska; Chapter 42, Section 348].

MARRIAGE

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USE THESE WORDS IN CERTAIN DOCUMENTS FOR MISSOURI

1 - Use these exact words, all in capital letters: IN THE CIRCUIT COURT OF

COUNTY MISSOURI

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

6 - Use the word "County" here.

7 - Please view the last page of this document .

MONTANA

Before filing for dissolution of marriage, one of the spouses must be a resident of Montana

for 90 days. The papers should be filed for in the county where the petitioner has been a

resident for the previous 90 days. [Montana Code Annotated; Section 25, Title 2-118; and

Section 40,:~Title 1-104].

The only ground for a dissolution of marriage in Montana is: Irretrievable breakdown of

the marriage and serious marital discord which adversely affects the attitude of both

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORCE

NEVADA

One of the spouses must have been a resident of Nevada for 6 weeks immediately prior to

filing for divorce. The divorce may be filed in: 1) the county where either spouse resides;

or 2) the county where the spouses last lived together. [Nevada Revised Statutes; Chapter

125, Section 020].

The only no-fault grounds for divorce in Nevada are: 1) incompatibility; or 2) living

separate and apart without cohabitation for one year. [Nevada Revised Statutes; Chapter

125, Section 010, 0302].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NEVADA

1 - Use these exact words, all in capital letters: IN THE DISTRICT COURT FOR

COUNTY, NEVADA

7 - Please view the last page of this document .

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document .

NEW HAMPSHIRE

1) Both spouses must be residents of the state the divorce is filed for; or 2) the spouse

filing for divorce must have been a resident of New Hampshire for one year immediately

prior to filing for divorce; or 3) the cause of divorce must have arisen in New Hampshire

and one of the spouses must be living in New Hampshire when the divorce is filed for. The

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NEBRASKA

205

The only no-fault ground for dissolution of marriage in Nebraska is: Irretrievable

breakdown of the marriage. [Revised Statutes of Nebraska; Chapter 42, Section 361] .

A dissolution of marriage will only be granted only if reasonable efforts for a reconciliation

have been made. If the court deems that there is some reasonable possibility of

reconciliation, dissolution of marriage actions may be transferred to a conciliation court or

the spouses may be referred to a qualified marriage counselor, family service agency, or

other agency which provides conciliation services. Official conciliation counselors are

available in counties of over 250,000 persons. [Revised Statutes of Nebraska; Chapter 42,

Sections 360 and 808].

1 - Use these exact words, all in capital letters: IN THE DISTRICT COURT FOR

COUNTY, NEBRASKA

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent'. Be sure the "R" is capitalized .

DECREE OF DISSOLUTION OF MARRIAGE

5 - Use these exact words, all in capital letters.

Page 15

6 - Use the word "County" here.

2 - Use these exact words, using -all capital letters: COMPLAINT FOR DIVORCE

Jersey, one of the spouses must have been a resident (no time limit). The divorce may be

filed for in any county in New Jersey. [New Jersey Statutes Annotated; title 2A, Chapters

34-8 and 34-10].

The one and only no-fault ground for divorce in New Jersey is: Living separate and apart

for 18 months and no reasonable prospect of reconciliation. [New Jersey Statutes

Annotated; Title 2A, Chapter 34-2].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NEW JERSEY

1 - Use these exact words, all in capital letters: SUPERIOR COURT OF NEW JERSEY ,

CHANCERY DIVISION, FAMILY PART, COUNTY

to filing for divorce; or 2) when the cause for divorce is adultery and took place in New

3 - Use the word "Plaintiff'. Be sure the "P" is capitalized .

4 - Use the word "Defendant". Be sure the "D" is capitalized .

5 - Use these exact words, all in capital letters: JUDGEMENT OF DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document .

NEW MEXICO

One of the spouses must have been a resident of New Mexico for at least six months

immediately preceding the filing for dissolution of marriage and have a home in New

COURT IN AND FOR COUNTY

206

divorce may be filed for in a county where either spouse resides. [New Hampshire Revised

Statutes Annotated; Chapters 458:5, 458:6, 458:9].

The only no-fault ground for divorce in New Hampshire is: Irreconcilable differences

which have caused the irremediable breakdown of the marriage. [New Hampshire Revised

Statutes Annotated; Chapter 458:7].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NEW HAMPSHIRE

1 - Use these exact words, all in capital letters: THE STATE OF NEW HAMPSHIRE,

SUPERIOR

2 - Use these exact words, all in capital letters: PETITION FOR DIVORC E

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document .

NEW JERSEY

1) At least one of the spouses must be a resident of New Jersey for at least one year prior

one year under the terms of a separation agreement which is in writing and signed and

only one spouse resides in New York, any of the time of filing the divorce, the residency

requirement is two years. However, that requirement is reduced to one year if 1) the

spouses were married in New York and either spouse is still a resident; or 2) they once

resided in New York and either spouse is still a resident; or 3) the grounds for divorce

arose in New York. In addition, there is no residency time limit requirement if both of the

spouses were residents of New York at the time of filing the divorce and the grounds for

divorce arose in New York. The divorce may be filed for in a county where either spouse

resides. [Consolidated Laws of New York Annotated; Domestic Relations Laws, Sections

230 and 231; and New York Civil Practice Laws and Rules, Rule 503] .

The legal grounds for divorce in New York are: No-Fault: 1) living separate and apart for

To obtain a no-fault divorce in the State of New York, any of the following must apply: If

notarized. Proof of compliance with the terms of the settlement agreement must be

submitted when the divorce is filed. In addition, a copy of the agreement or a brief

memorandum of the agreement must be filed in the office of the clerk of the county; or 2)

living separate and apart for one year under the terms of a judicial separation decree.

[Consolidated Laws of New York Annotated; Domestic Relations Law, Section 170].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NEW YORK

1 - Use these exact words, all in capital letters: SUPREME COURT OF THE STATE OF

NEW

YORK, COUNTY

COURT, COUNTY

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Mexico. The dissolution of marriage may be filed in any county where either spouse

resides. [New Mexico Statutes Annotated; Article 4, Section 40-4-5].

The only ground for dissolution of marriage in New Mexico is: Incompatibility because of

discord and conflicts of personalities such that the legitimate ends of the marriage

relationship have been destroyed preventing any reasonable expectation of reconciliation.

[New Mexico Statutes Annotated; Article 4, Sections 40-4-1 and 40-4-2].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NEW MEXICO

1 - Use these exact words, all in capital letters: STATE OF NEW MEXICO, IN THE

DISTRICT

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words, all in capital letters: DECREE OF DISSOLUTION OF

MARRIAGE

6 - Use the word "County" here.

7 - Please view the last page of this document .

NEW YORK

Code; Volume 3A, Chapter 1407-07).

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document.

NORTH DAKOTA

The spouse filing for divorce must be a resident of North Dakota for at least six months

prior to the entry of the final divorce. The divorce must be filed in the county where the

defendant resides if the defendant is a resident of North Dakota. If the defendant is not a

resident, the divorce may be filed for in any county that the plaintiff designates in the

complaint. [North Dakota Century Code; Volume 3A, Chapters 14-0517 and 28-04-05] .

Separation agreements are specifically authorized by statute. [North Dakota Century

4 - Use the word "Defendant'. Be sure the "D" is capitalized.

The only no-fault ground for divorce in North Dakota is: Irreconcilable differences. [North

Dakota Century Code; Volume 3A, Chapter 14-05-03).

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NORTH DAKOTA

1 - Use these exact words, all in capital letters: STATE OF NORTH DAKOTA,

COUNTY OF

, IN THE DISTRICT COURT, - JUDICIAL DISTRICT

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words, all in capital letters: DECREE OF DIVORC E

[General Statutes of North Carolina; Chapter 50, Section 50-8].

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2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words, all in capital letters: JUDGEMENT FOR DIVORC E

6 - Use the word "County" here.

7 - Please view the last page of this document .

NORTH CAROLINA

One spouse must have been a resident of North Carolina for at least six months prior to

filing for divorce. Divorce may be filed for in the county of residence of either spouse.

The only no-fault ground for divorce in North Carolina is: Living separate and apart

without cohabitation for one year. [General Statutes of North Carolina; Chapter 50,

Section 50-5.6].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR NORTH CAROLINA

1 - Use these exact words, all in capital letters: IN THE GENERAL COURT OF

JUSTICE,\_

DIVISION, NORTH CAROLINA, COUNTY

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

7 - Please view the last page of this document.

USE THESE WORDS IN CERTAIN DOCUMENTS FOR OHIO

1 - Use these exact words, all in capital letters: IN THE COURT OF COMMON PLEAS

OF COUNTY, OHIO

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized .

4 - Use the word "Co- Petitioner". Be sure the "C" and "P" are always capitalized.

5 - Use these exact words: DECREE OF DISSOLUTION OF MARRIAGE. Be sure to

use capital letters only when placed as the title of your final document .

6 - Use the word "County" here.

[Ohio Revised Code Annotated; Sections 3105.03, 3105.10, 3105.61 - 65].

OKLAHOMA

Either spouse must have been a resident of Oklahoma for six months immediately prior to

filing for divorce. The divorce may be filed for in the county in which the plaintiff has been

a resident for 30 days or in the county where the defendant resides. [Oklahoma Statutes

Annotated; Title 43, Sections 102 and 103].

The only ground for a no-fault divorce in Oklahoma is: Incompatibility. [Oklahoma

Statutes Annotated; Title 43, Section 101].

Separation agreements are specifically authorized by statute. [Oklahoma Statutes

Annotated; Title 43, Section 205].

Annotated; Section 3105.01].

209

6 - Use the word "County" here.

7 – Please view the last page of this document .

OHIO

The spouse filing for the dissolution must have been a resident of Ohio for at least 6

months and a resident of the county for at least 90 days immediately prior to filing. [Ohio

Revised Code Annotated; Section 3105.03 and Ohio Rules of Civil Procedure, Rule 3] .

The grounds for a no-fault divorce in Ohio are: 1) incompatibility; or 2) living separate and

apart without cohabitation and without interruption 'for one year. [Ohio Revised Code

Both spouses may jointly file a petition for dissolution of marriage. The petition must: 1)

be signed by both spouses; 2) have attached to it a separation agreement which provides

for a) division of property, b) alimony (including the authorization of the court to modify

any alimony terms), and c) custody, visitation, and child support, if there are any minor

children. Between 30 and 90 days after filing such a petition, both spouses must appear in

court and state under oath that he or she: 1) voluntarily signed the agreement; 2) is

satisfied with the agreement; and 3) seeks dissolution of the marriage. In addition, marital

settlement agreements are also authorized by statute and may be used in a divorce

proceeding. There may be local court rules which apply to divorce proceedings for Ohio.

use capital letters only when placed as the title of your final document .

spouses will only be considered when child custody is an issue or if necessary to prove

irreconcilable differences. [Oregon Revised Statutes; Volume 2, Section 107.025].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR OREGON

1 - Use these exact words, all in capital letters: IN THE CIRCUIT COURT FOR THE

STATE OF OREGON FOR THE COUNTY OF

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words: DECREE OF DISSOLUTION OF MARRIAGE. Be sure to

spouses which have caused the irretrievable breakdown of the marriage, Misconduct of the

6 - Use the word "County" here.

7 - Please view the last page of this document.

PENNSYLVANIA

Either spouse must have been a resident of Pennsylvania for at least six months before

filing. The divorce may be filed for in a county where 1) the defendant resides; 2) the

plaintiff resides, if the defendant does not live in Pennsylvania; 3) where the marriage home

was, if the plaintiff continuously resided in the same county; 4) prior to six months after

separation, and if the defendant agrees, where the plaintiff resides; 5) prior to six months

after separation, and if neither spouse lives in the county of the marriage home, where

7 - Please view the last page of this document.

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USE THESE WORDS IN CERTAIN DOCUMENTS FOR OKLAHOMA

1 - Use these exact words, all in capital letters: STATE OF OKLAHOMA, IN THE

DISTRICT COURT, COUNTY

2 - Use these exact words, all in capital letters: PETITION FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized .

4 - Use the word "Defendant". Be sure the "D" is capitalized .

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

OREGON

Unless the marriage was performed in Oregon, one of the spouses must have been a

resident of Oregon for six months immediately prior to filing. If the marriage was

performed in Oregon and either spouse is a resident at the time of filing, there is no

residency requirement. The dissolution of marriage may be filed in a county where either

spouse resides. There is a 90-day waiting period before a hearing will be scheduled which

begins after the respondent has been served with papers or has filed an Appearance.

[Oregon Revised Statutes; Volume 2, Sections 14.070, 107.065, 107.075].

The only ground for no-fault divorce in Oregon is: Irreconcilable differences between the

Either spouse must have been a resident of Rhode Island for one year prior to filing for

COUNTY, PENNSYLVANIA

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORCE

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

7 - Please view the last page of this document.

RHODE ISLAND

1 - Use these exact words, all in capital letters: COURT OF COMMON PLEAS,

divorce. Divorce may be filed for in the county of residence of the plaintiff, unless the one-

year residency requirements has been satisfied by the defendant's residence. In such case,

the divorce must be filed for in the county of the defendant’s residence. [General Laws of

Rhode Island; Title 15, Chapter 15-5-12].

The no-fault grounds for divorce in Rhode Island are: 1) irreconcilable differences which

have caused the irremediable breakdown of the marriage; or 2) living separate and apart

without cohabitation for three years. [General Laws of Rhode Island, Title 15, Chapters 1 5

-5-1, 15-5-3, 15-5-5].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR RHODE ISLAND

The grounds for divorce are irretrievable breakdown of the marriage. If both spouses

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either spouse lives; and 6) after six months after separation, where either spouse lives.

[Pennsylvania Consolidated Statutes Annotated, Title 23, Section 3104].

The grounds for no-fault divorce in Pennsylvania are: 1) irretrievable breakdown of the

marriage with the spouses living separate and apart without cohabitation for two or more

years; or 2) irretrievable breakdown of the marriage and the spouses have both filed

affidavits that they consent to the divorce. In the case of no-fault ground #2, 90 days must

elapse after the filing for divorce before the court will grant a divorce. [Pennsylvania

Consolidated Statutes Annotated, Title 23, Section 3301].

consent to the divorce, it will be handled in an expedited manner. There are official sample

forms for filing a complaint for divorce on the grounds of irretrievable breakdown of the

marriage. There are also official forms available for filing the required affidavit of consent.

There are also other sample divorce proceeding forms available in Pennsylvania Rules of

Civil Procedure, Actions of Divorce of Annulment Section, Rule 1920.01+. In addition,

separation agreements are expressly authorized. [Pennsylvania Consolidated Statutes

Annotated, Title 23, Section 3301; and Pennsylvania Rules of Civil Procedure, Rules

1920.01+]

USE THESE WORDS IN CERTAIN DOCUMENTS FOR PENNSYLVANIA

7 - Please view the last page of this document.

20-3-10).

USE THESE WORDS IN CERTAIN DOCUMENTS FOR SOUTH CAROLINA

1 - Use these exact words, all in capital letters: STATE OF SOUTH CAROLINA, TH E

COURT OF THE JUDICIAL CIRCUIT

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

without cohabitation for one year. [Code of Laws of South Carolina; Chapter 3, Section

SOUTH DAKOTA

The spouse who files for divorce must be a resident of South Dakota or a member of the

Armed Forces stationed in South Dakota at the time of the filing. They must remain a

resident until the divorce is final. There is no durational residency requirement. The

divorce may be filed for in the county where either spouse resides, but the defendant has

the right to have it transferred to his or her county of residence if desired. In addition,

there is a 60-day waiting period after filing before a hearing will be held or the divorce will

be granted. [South Dakota Codified Laws, Title 25, Chapters 25-4-30, 25-4-30.1, 25-4-

34].

SOUTH CAROLINA

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1 - Use these exact words, all in capital letters: STATE OF RHODE ISLAND, FAMILY

COURT, DIVISION

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff'. Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: FINAL JUDGEMENT OF DIVORCE. Be sure to use capital

letters only when placed as the title of your final document .

6 - Use the word "County" here.

7 - Please view the last page of this document.

If both spouses are residents, the spouse filing must only have been a resident for three

months. Otherwise, the spouse filing for divorce must have been a resident of South

Carolina for at least one year, There is a required 90-day delay from the time of filing to

the time of the final decree of divorce. The divorce may be filed for in 1) the county where

the defendant resides, 2) the county where the plaintiff resides if the defendant does not

live in South Carolina; or 3) the county where the spouses last lived together if both still

live in South Carolina. [Code of Laws of South Carolina; Chapter 3, Sections 203-30, 20-

3-60, 20-3-80].

The only ground for no-fault divorce in South Carolina is: Living separate and apart

Annotated; 0lume 6A, Title 36, Section 36-4-101].

divorce arose. If the grounds for divorce arose outside the state and the petitioner resided

outside of Tennessee, either spouse must have been a resident for six months prior to

filing. The divorce may be filed for in any of the following counties: 1) the county in which

both spouses lived at the time of their separation; 2) the county in which the respondent

lives, where he or she is a resident of Tennessee; or 3) the county in which the petitioner

lives if the respondent is a non-resident of Tennessee. [Tennessee Code Annotated;

Volume A, Title 36, Sections 36-4-104 and 36-4-105].

The no-fault grounds for divorce in Tennessee are: 1) irreconcilable differences; or 2)

living separate and

7a art without cohabitation for 2 years when there are no minor children. [Tennessee Code

The spouse filing for divorce must have been a resident of Tennessee when the grounds for

USE THESE WORDS IN CERTAIN DOCUMENTS FOR TENNESSEE

1 - Use these exact words, using all capital letters: IN THE COURT OF

COUNTY, TENNESSEE

2 - Use these exact words, all in capital letters: PETITION FOR DIVORC E

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words: FINAL DECREE OF DIVORCE. Be sure to use capital letters

only when placed as the title of your final document .

6 - Use the word "County" here.

7 - Please view the last page of this document .

1 - Use these exact words, all in capital letters: STATE OF SOUTH DAKOTA, COUNTY

213

The only no-fault ground for divorce in South Dakota is: Irreconcilable differences which

have caused the irretrievable breakdown of the marriage. [South Dakota Codified Laws,

Title 25, Chapters 25-4-2, 254-17.2, 25-4-18].

If both spouses consent to the use of "irreconcilable differences" as grounds for divorce,

the court may grant the divorce based entirely on affidavits of the spouses which establish

the required residency and grounds for divorce. In such cases, a personal appearance in

court by either of the spouses will not generally be required. [South Dakota Codified

Laws; Title 25, Chapters 25-4-17.3]

USE THESE WORDS IN CERTAIN DOCUMENTS FOR SOUTH DAKOTA

OF

IN THE CIRCUIT COURT, JUDICIAL DISTRICT

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

5 - Use the word "County" here.

7 - Please view the last page of this document.

TENNESSEE

JUDICIAL DISTRICT, IN AND FOR COUNTN~ STATE OF UTAH

Prior to filing, the spouse must have been a resident of Utah (or a member of the Armed

Forces stationed in Utah) and a resident of the county where the divorce is filed for more

than 3 months immediately prior to filing. In addition, there is a 90-day waiting period

after filing before a divorce will be granted. (Utah Code Annotated; Sections 30-3-1 and

30-3-18].

The no-fault grounds for divorce in Utah are: 1) irreconcilable differences of the marriage;

or 2) living separate and apart without cohabitation. for 3 years under a judicial decree of

separation. [Utah Code Annotated; Section 30-3-1].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR UTAH

1 - Use these exact words, all in capital letters: IN THE DISTRICT COURT OFTH E

UTAH

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORCE

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

7 - Please view the last page of this document.

VERMONT

Before the divorce is filed, one of the spouses must have been a resident of Vermont for at

least 6 months. Additionally, either spouse must have been a resident for one year before

Chapters 3.01 and 3.06].

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TEXAS

One of the spouses must have resided in Texas for six months prior to filing and in the

county where the divorce is filed for 90 days prior to filing. In addition, there is a 60-day

waiting period after filing before a divorce will be granted. [Texas Codes Annotated;

Family Code, Chapters 3.21 and 3.60].

The no-fault grounds in Texas are: 1) the marriage has become insupportable because of

discord or conflict of personalities that has destroyed the legitimate ends of the marriage

relationship and prevents any reasonable expectation of reconciliation; or 2) living separate

and apart without cohabitation for 3 years. (Texas Codes Annotated; Family Code,

USE THESE WORDS IN CERTAIN DOCUMENTS FOR TEXAS

1 - Use these exact words, all in capital letters: IN THE DISTRICT COURT O F

COUNTY, TEXAS, JUDICIAL DISTRICT

2 - Use these exact words, all in capital letters: PETITION FOR DIVORCE

3 - Use the word "Petitioner'. Be sure the "P" is capitalized .

4 - Use the word "Respondent". Be sure the "R" is capitalized .

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

7 - Please view the last page of this document.

OF (the first blank line will be filled in with either CIRCUIT or JUVENILE; the

filing for divorce. The divorce may be filed for in: 1) the county in which the spouses last

lived together; or 2) the county where the defendant resides; or 3) if the defendant is a non

-resident of Virginia, the county where the plaintiff resides. [Code of Virginia; Title 8,

Section 8.01-261; and Title 20, Sections 20-96 and 20-97].

The no-fault grounds for divorce in Virginia are: 1) living separate and apart without

cohabitation for one year; or 2) living separate and apart without cohabitation for 6

months if there are no minor children and the spouses have entered into a separation

agreement. [Code of Virginia; Title 20, Section 20-91].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR VIRGINIA

1 - Use these exact words, all in capital letters: VIRGINIA: IN THE COUR T

One of the spouses must have been a resident of Virginia for at least 6 months prior to

second line will Fe-e-i-tfier DOMESTIC RELATIONS COURT or EXPERIMENTAL

FAMILY COURT. Contact your county clerk’s office to find out which to use. )

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff'. Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

7 - Please view the last page of this document.

1 - Use these exact words, all in capital letters: STATE OF VERMONT, FAMILY

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the divorce is made final. There is a 6-month waiting period after the defendant has been

served with the divorce papers before a hearing will be held. The divorce may be filed for

in any county where either or both of the spouses reside. [Vermont Statutes Annotated;

Title 15, Sections 592 and 593; Vermont Rules for Family Proceedings, Rule 4] .

The only no-fault ground for divorce in Vermont is: Living separate and apart without

cohabitation for 6 consecutive months and the resumption of marital relations is not

reasonably probable. [Vermont Statutes Annotated; Title 15, Section 555].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR VERMONT

COURT, COUNTY

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff'. Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

7 - Please view the last page of this document.

VIRGINIA

The no-fault grounds for divorce in West Virginia are: 1) irreconcilable differences have

5 - Use these exact words: DECREE OF DISSOLUTION OF MARRIAGE. Be sure to

use capital letters only when placed as the title of your final document .

6 - Use the word "County" here.

7 - Please view the last page of this document.

WEST VIRGINIA

One of the spouses must have been a resident of West Virginia for at least one year

immediately prior to filing. However, if the marriage was performed in West Virginia and

one spouse is a resident when filing, there is no durational time limit. The divorce should

be filed for in: 1) county in which the spouses last lived together; or 2) the county where

the defendant lives if a resident; or 3) the county where the plaintiff lives, if the defendant

is a nonresident. [West Virginia Code; Sections 48-2-6, 48-2-7, 48-2-8].

4 - Use the word "Respondent". Be sure the "R" is capitalized .

arisen between the spouses; or 2) living separate and apart without cohabitation and

without interruption for one year. [West Virginia Code; Section 48-2-4].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR WEST VIRGINIA

1 - Use these exact words, all in capital letters: CIRCUIT COURT OF COUNTY,

WEST VIRGINIA

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORC E

3 - Use the word "Plaintiff". Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

The spouses must file a Washington Department of Human Services Certificate with the

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WASHINGTON

The spouse who files for dissolution of marriage must be a resident of Washington or a

member of the Armed Forces stationed in Washington. The dissolution of marriage may be

filed for in any county where either the petitioner or respondent resides. In addition, the

court will not act on the petition until 90 days has elapsed from the filing and the service of

summons on the respondent. [Revised Code of Washington Annotated; Title 26, Chapter

26.09. 010 and 26.09.030].

The only no-fault ground for divorce in Washington is: Irretrievable breakdown of the

marriage. (Revised Code of Washington Annotated; Title 26, Chapter 26.09.030] .

petition. There are also certain local court rules which apply to dissolution of marriage.

These are found in Washington Local Court Rules, Rule 94.04. [Revised Code of

Washington Annotated; Title 26, Chapters 26.09.080.]

USE THESE WORDS IN CERTAIN DOCUMENTS FOR WASHINGTON

1 - Use these exact words, all in capital letters: IN THE COURT OF THE STAT E

OF WASHINGTON, IN AND FOR THE COUNTY OF (the first blank lin e

will be filled in with SUPERIOR COURT, or FAMILY COURT upon request) .

2 - Use these exact words, all in capital letters: PETITION FOR DISSOLUTION OF

MARRIAGE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

There is a waiting period of 20 days after filing before a divorce will be granted.

5 - Use these exact words: DECREE OF DIVORCE. Be sure to use capital letters only

when placed as the title of your final document.

6 - Use the word "County" here.

7 - Please view the last page of this document.

WYOMING

1) The spouse filing for divorce must have been a resident of Wyoming for 60 days

immediately prior to filing; or 2) the marriage must have been performed in Wyoming and

the spouse filing must have resided in Wyoming from the time of the marriage until the

time of the filing The divorce may be filed for in the county where either spouse lives.

4 - Use the word "Respondent". Be sure the "R" is capitalized .

[Wyoming Statutes Annotated; Title 20, Chapters 20-2-104, 20-2-107 and 20-2-108].

The only ground for a no-fault divorce in Wyoming is irreconcilable differences. [Wyoming

Statutes Annotated; Title 20, Chapter 20-2-104].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR WYOMING

1 - Use these words, all in capital letters: IN THE DISTRICT COURT IN AND FO R

\_\_\_\_\_\_\_\_\_\_COUNTY, WYOMING

2 - Use these exact words, all in capital letters: COMPLAINT FOR DIVORCE

3 - Use the word "Plaintiff'. Be sure the "P" is capitalized.

4 - Use the word "Defendant". Be sure the "D" is capitalized.

The irretrievable breakdown of the marriage may be shown by: 1) a joint petition by both

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6 - Use the word "County" here.

7 - Please view the last page of this document.

WISCONSIN

One of the spouses must have been a resident of Wisconsin for six months and the county

where the divorce is filed for 30 days immediately prior to filing. No hearing on the

divorce will be scheduled until 120 days after the defendant is served the summons or after

the filing of a joint petition. [Wisconsin Statutes Annotated; Sections 767.05 and 767.083] .

The ground for no-fault divorce in Wisconsin is: irretrievable breakdown of the marriage.

spouse's requesting a divorce on these grounds; or 2) living separate and apart for 12

months immediately prior to filing; or 3) if the court finds an irretrievable breakdown of

the marriage with no possible chance at reconciliation. [Wisconsin Statutes Annotated;

Section 767.07].

USE THESE WORDS IN CERTAIN DOCUMENTS FOR WISCONSIN

1 - Use these exact words, all in capital letters: STATE OF WISCONSIN: CIRCUIT

COURT, COUNTY

2 - Use these exact words, all in capital letters.- PETITION FOR DIVORCE

3 - Use the word "Petitioner". Be sure the "P" is capitalized .

218

5 - Use these words: DECREE OF DIVORCE. Be sure to use capital letters only when

placed as the title of your final document.

6 - Use the word "County" here.

7 - Please view the last page of this document.

7 - Please select one clause from the four choices below that best describes the grounds

on which you seek your divorce. You must choose one.

a. As a result of irreconcilable differences and disputes, we both believe that our marriage

should be terminated because there is absolutely no possibility that we can reconcile our

differences. or

b. As a result of irreconcilable differences and disputes, we both believe that our marriage

should be terminated because our personalities and temperaments are not compatible with

one another and there is absolutely no possibility that we can reconcile our differences. o r

c. As a result of irreconcilable differences and disputes, we have both decided to separate

and live apart and it is our intention to remain separate permanently .