

(REVISED 5/01)

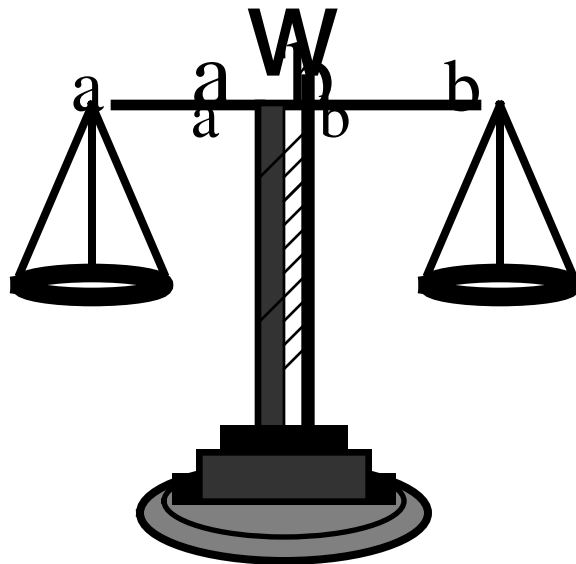
HAMPSHIRE PROBATE AND FAMILY COURT

11

SAMPLE SEPARATION

AGREEMENT

(For Parties With Minor Children)



ALERT

READ THIS CAREFULLY

BEFORE USING THE SEPARATION AGREEMENT FORM

This prototype Separation Agreement was prepared by the Court as a service to those who must submit a written agreement with their uncontested no-fault divorce but cannot afford the assistance of an attorney. Even though it has been reviewed by attorneys and judges, you must be aware that:

1. A separation agreement is a very important document. It will establish permanent rights and obligations between you. This form provides basic provisions but may not be sufficient for your particular needs.
2. Some parts of divorce law are detailed and technical. It is your responsibility to make sure that your separation agreement is complete and that it conforms to the law and to your own needs BEFORE you file it with the Registry.
3. If the agreement is incomplete or contains inconsistent provisions or is not in accord with the law, the judge at the hearing may ask you to make changes in the agreement or may reject it altogether. The judge could also reject all or part of the agreement if he or she believes that you don't understand it.
4. Even if you cannot afford legal representation to prepare the separation agreement and appear in court with you, we strongly urge you to have an attorney review any agreement BEFORE you sign it so that you can understand it fully. It is best if a separate attorney reviews the agreement for each of you.

[PLEASE PRINT OR TYPE]

**COMMONWEALTH of MASSACHUSETTS
The Trial Court
Probate and Family Court Department**

Hampshire, ss.

Docket No. _____

_____ Plaintiff/Petitioner

_____ Defendant/Petitioner

SEPARATION AGREEMENT APPLICABLE TO ALL DIVORCES

AGREEMENT made between _____
(Name of Husband)

of _____
(Street Address) (City/Town, State, Zip)

(referred to as the Husband), and _____
(Name of Wife)

of _____
(Street Address) (City, Town, State, Zip)

(referred to as the Wife.)

The Husband and Wife were married in _____
(City/Town & State)

on ____/____/____ and last lived together as Husband and Wife at _____
(Date of Marriage) (Street Address)

_____ on ____/____/____
(City/Town, State) (Date of Separation)

- No children were born of this marriage.
- None of the children born of this marriage are under the age of eighteen years or are dependent on the parties for support
- The following dependent child[ren] was/were born of this marriage (list names and dates of birth on the following page):

Separation Agreement - Page Two

- 1) _____ date of birth ____ / ____ / ____
- 2) _____ date of birth ____ / ____ / ____
- 3) _____ date of birth ____ / ____ / ____
- 4) _____ date of birth ____ / ____ / ____
- 5) _____ date of birth ____ / ____ / ____
- 6) _____ date of birth ____ / ____ / ____

This Separation Agreement is made in order to settle and determine:

- a) the property and support rights of the husband and wife; and
- b) the care, custody, support, maintenance and education of the minor and/or dependent child[ren] of this marriage (attach Schedule A); and
- c) all other rights and obligations arising from the marital relationship.

In consideration of the mutual promises contained in this Separation Agreement, the Husband and Wife agree that:

PROPERTY DIVISION AND DEBTS

A. Real Estate:

- Neither party holds any interest in real estate.
- The parties have already divided their interest in the marital home located at: _____
- The disposition of the parties' real estate shall be as follows: _____

B. Personal Property:

The parties hereby agree that:

- there has been a full and satisfactory division of all other personal property and each party shall hold full right, title and interest in all items of personal property now in his/her possession.

- Husband shall have full right, title and interest in the following items:

- Wife shall have full right, title and interest in the following items:

C. Pension/Retirement Benefits:

- The parties have no retirement or pension benefits to be divided.
- The retirement or pension benefits of the parties shall be divided as follows: _____

D. Stocks/Bonds

- The parties have no interest in stocks or bonds.
- The stocks and bonds of the parties shall be divided as follows:

E. Bank Accounts:

The parties hereby agree that the:

- Husband shall have full right, title and interest in the following bank accounts: _____
- Wife shall have full right, title and interest in the following bank accounts: _____

F. Debt:

- The Husband will be responsible for his individual debts and liabilities as listed on his financial statement dated ____/____/____
 - The Wife will be responsible for her individual debts and liabilities as listed on her financial statement dated ____/____/____
 - The marital debts of the parties shall be paid as follows: _____
- _____
- _____
- _____

ALIMONY

- Each party hereby waives past and present alimony from the other and reserves the matter of future alimony for consideration by the Court should the need arise.
 - Each party hereby waives past, present, and future alimony from the other.
 - The _____ shall pay to the _____ the sum of \$_____ each and every week, beginning - ____/____/____, - as alimony. Payments of alimony shall end:
 - on ____/____/____
 - when the following event(s) occur(s): _____
- _____

HEALTH INSURANCE FOR PARTIES

The Wife's health insurance coverage will be provided:

- by the Wife
- by the Husband
- by the Husband for so long as it is available to him, and if there is any additional cost to continued coverage for the insurance:
 - the additional out of pocket cost shall be paid by - Husband - Wife
 - the Wife shall have the option of choosing to provide her own health insurance coverage and shall notify the Husband in writing if she elects to do so

The Husband's health insurance coverage will be provided:

- by the Husband
- by the Wife
- by the Wife for so long as it is available to her, and if there is any additional cost to continued coverage for the insurance:
 - the additional out of pocket cost shall be paid by - Husband - Wife
 - the Husband shall have the option of choosing to provide his own health insurance coverage and shall notify the Wife in writing if he elects to do so

The cost of all reasonable uninsured and unreimbursed medical, dental, hospital, optical, prescription medication and therapeutic counseling services for the Wife shall be paid:

- by the Wife
- _____ % by Wife;
- _____ % by Husband

The cost of all reasonable uninsured and unreimbursed medical, dental, hospital, optical, prescription medication and therapeutic counseling services for the Husband shall be paid:

- by the Husband
- _____ % by Husband;
- _____ % by Wife

The part of your Separation Agreement involving health care coverage is an important provision. A guide has been developed by Health Law Advocates (HLA) and the Massachusetts Attorney General's Office to inform divorce litigants of their health insurance rights and options. "Staying Healthy: A Guide to Keeping Health Insurance After Divorce" is available at the Probate Court or on the internet at www.hla-inc.org/public/staying_health02.pdf.

LIFE INSURANCE

- The Husband shall maintain life insurance in the face amount of:
\$ _____ , naming _____ as the beneficiary, and shall be required to keep the life insurance in effect until _____
- The Wife shall maintain life insurance in the face amount of:
\$ _____ , naming _____ as the beneficiary, and shall be required to keep the life insurance in effect until _____
- Neither party shall be required to maintain life insurance for the benefit of the -other.

OTHER PROVISIONS

GOVERNING LAW

This Separation Agreement shall be construed and governed according to the laws of the Commonwealth of Massachusetts.

FULL DISCLOSURE OF ASSETS AND LIABILITIES

The Husband and Wife hereby represent that they have each made full disclosure to the other party of their individual assets. Each party represents that s/he has provided the other with a current financial statement on the form promulgated pursuant to Supplemental Probate Court Rules, Rule 401, which discloses fully and completely all of her/his income, expenses, assets and liabilities. By executing this Separation Agreement, the parties represent that the terms and provisions of this agreement are fair, just and reasonable and are not the product of fraud, coercion or undue influence, and that each signs this agreement freely and voluntarily.

SUBMISSION OF AGREEMENT TO COURT

The Husband and Wife each agree that this Separation Agreement shall be submitted to the Hampshire Division of the Probate and Family Court for a judge's approval of the terms and entry of a Judgment of Divorce.

The parties further agree that the terms and provisions of this Separation Agreement shall be: (Choose one of the following)

- incorporated and merged into the Judgment of Divorce Nisi of the Court.
- incorporated, but not merged, into the Court's judgment, and shall survive and remain as an independent contract, except for the terms and provisions relating to the care, custody, support and education of the minor child[ren], (attach Schedule A) which terms and provisions shall merge in said Judgment.
- incorporated, but not merged, into the Judgment of Divorce Nisi, and shall remain as an independent contract between the parties.

EXECUTION

Signed on _____
(Date)

(Husband)

Signed on _____
(Date)

(Wife)

Commonwealth of Massachusetts

_____, ss.

Date: _____

Then personally appeared the above-named _____, and acknowledged that - he - she - signed this separation agreement as - his - her - free act and deed.

Notary Public - My Commission Expires: _____

Commonwealth of Massachusetts

_____, ss.

Date: _____

Then personally appeared the above-named _____, and acknowledged that - he - she - signed this separation agreement as - his - her - free act and deed.

Notary Public - My Commission Expires: _____

SCHEDULE A - CHILD RELATED MATTERS

LEGAL CUSTODY (which parent(s) make(s) major decisions for the child[ren], for example, health care, religion, education, etc.)

- The parties shall have shared legal custody of the minor child[ren].
- The Father shall have sole legal custody of the minor child[ren].
- The Mother shall have sole legal custody of the minor child[ren].
- _____ shall have legal custody of the minor child[ren].
(Name of Third Party)

PHYSICAL CUSTODY (where the child[ren] live(s) and which parent makes the day-to-day decisions regarding the child[ren])

- The Father shall have sole physical custody of the minor child[ren].
- The Mother shall have sole physical custody of the minor child[ren].
- The parties shall have shared physical custody of the minor child[ren] of the parties in accordance with the following schedule: _____

- The parties shall have split physical custody as follows:
The Mother will have physical custody of _____

AND

The Father will have physical custody of _____

- _____ shall have physical custody of _____
(Name of Third Party)

PARENTING SCHEDULE

The Father shall have the right and opportunity to spend time with the child:

at all reasonable times upon _____ advance notice

on the following days and times: _____

The Mother shall have the right and opportunity to spend time with the child:

at all reasonable times upon _____ advance notice

on the following days and times: _____

school holidays shall be shared as follows: _____

summer vacation shall be as follows: _____

the child[ren]'s birthdays shall be shared as follows: _____

the parties' birthdays shall be shared as follows: _____

Schedule A - Page Three

Mother's Day and Father's Day shall be shared as follows:

transportation will be provided by:

the parties will meet to exchange the child[ren] at:

any additional provisions: _____

CHILD SUPPORT

Starting on ____/____/____ the ____ shall pay child support as follows:
(insert Date) (Mother / Father)

The sum of \$ _____ each and every _____
(Week - Two Weeks - Month)

by Wage Assignment which (choose ONE):

shall be payable directly _____ and will be SUSPENDED
(Mother / Father)

OR

shall be payable through DOR and implemented IMMEDIATELY

The parties acknowledge that the child support order which would result from the application of the Child Support Guidelines is \$ _____ per week.

Schedule A - Page Four

- The agreed amount of support is different than the Guidelines amount because:

Child support shall terminate:

- upon the youngest child having attained the age of eighteen (18) years.
-

Child support for a child or children over the age of eighteen who are principally domiciled with one parent and dependent upon the parents for support:

- Shall continue at the above rate until _____
- Shall increase to \$_____ and terminate _____
- Shall decrease to \$_____ and terminate _____
- Shall be determined by the Court at that time by filing a Complaint for Modification

MEDICAL INSURANCE FOR CHILD[REN]

The _____ shall be responsible for providing health insurance for the minor child[ren]:
(Mother / Father)

- through his/her employment.
- by obtaining and maintaining a private health insurance policy.

Schedule A - Page Five

The cost of all reasonable uninsured and unreimbursed medical, dental, hospital, orthodontic, optical, prescription medication and therapeutic counseling services for the minor child[ren] shall be **(Choose one of the following)**:

- paid the first \$100.00 per calendar year by the custodial parent, who is, _____, with the remainder to be paid equally by the parties
- shared and paid equally by the parties.
- paid as follows: _____% by Father, _____% by Mother.

LIFE INSURANCE

- The Father shall maintain life insurance in the face amount of:
\$ _____, naming _____ as the beneficiary, and
shall be required to keep the life insurance in effect until _____
- The Mother shall maintain life insurance in the face amount of
\$ _____, naming _____ as the beneficiary, and
shall be required to keep the life insurance in effect until _____
- Neither party shall be required to maintain life insurance for the benefit of the child[ren].

TAX DEPENDENTS

- The Mother shall claim the following child[ren] as her dependent(s) for state and federal income tax purposes, _____
- The Father shall claim the following child[ren] as his dependent(s) for state and federal income tax purposes: _____
- The parties shall alternate years in claiming the children as dependents for state and federal income tax purposes as follows:

The _____ shall claim the child[ren] for odd years,
(Mother / Father)

AND

The _____ shall claim the child[ren] for even years
(Mother / Father)

INCORPORATION OF THIS SCHEDULE A INTO THE SEPARATION AGREEMENT

The parties sign and date this Schedule A in the same manner as their Separation Agreement, to which it is attached, and the parties agree that the provisions of this Schedule A shall be considered to be fully incorporated into the Separation Agreement and incorporated -and merged into any Judgment of Divorce that may be- entered by the Hampshire Division of the Probate and Family Court.

EXECUTION

Signed on _____
(Date)

(Husband)

Signed on _____
(Date)

(Wife)

Commonwealth of Massachusetts

_____, ss

Date: _____

Then personally appeared the above-named _____, and acknowledged that - he - she - signed the foregoing as - his - her - free act and deed.

Notary Public - My Commission Expires: _____

Commonwealth of Massachusetts

_____, ss

Date: _____

Then personally appeared the above-named _____, and acknowledged that - he - she - signed the foregoing as - his - her - free act and deed.

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