

## Instructions for Joint Petition for Dissolution of Marriage With Children

### **Where Do We File?**

File in the County where you or your spouse live now. To file for Marriage Dissolution (Divorce) in Minnesota, you must have lived in Minnesota for at least the past 180 days. There is a limited exception to the residency requirements for same sex couples who were married in Minnesota but no longer reside in Minnesota. See Minn. Stat. § 518.07, subd. 2 (2013). Court administration staff cannot assist you with questions on where to file your dissolution action. You may wish to seek legal advice if you have questions.

### **Who Can Use this Form?**

You can use this form if you and your spouse agree on everything and there is /are joint child(ren) born to you and your spouse. A joint child is a child you and your spouse have together, including children born of you and your spouse before or during the marriage, and children adopted into your marriage. This form may not address all of your needs or concerns. Real estate, pensions, businesses, and other types of property can be handled many different ways. There may be serious negative consequences and tax implications from your decisions on how to divide your property and handle the issues in your divorce.

These forms and instructions do not explain the many legal and financial issues involved in divorce and cannot warn you of specific problems. Please see an attorney if you have questions.

**Do not** use this form if:

- a) you and your spouse are not in agreement on all issues, or
- b) if you and your spouse have no joint children together (a child is defined as a person under age 18, or under age 20 and still in high school, or
- c) a person over 18 who by reason of physical or mental condition are incapable of self-support).

### **Filling out the forms:**

The Joint Petition has two sections. The first section includes Questions 1 through 31 and the second section is the “Agreement,” which has Provisions 1 through 17. Print very neatly or the court may return your forms to you. Use black or dark blue ink.

Answer every question and agreement provision completely. You must disclose all financial information so the Judge can determine if your proposed child support obligation is in the best interests of the child and the division of property and debt is “fair and equitable.” Include property/debts you own separately and together. For example, if you have a car and only your name is on the title, you still must list the car.

### **Information you will need:**

- Pay stubs or tax return for you and your spouse
- Medical Insurance information

- Records of bank accounts and investments
- Pension information
- Legal description of any real estate and details about the mortgage and value of the real estate
- Descriptions of vehicles, their value and monthly payment amounts and total owed
- Information about credit card and other debt
- Information on child care expenses

### **Answering the Questions about Children**

Questions 10 through 15 ask about all children, including children both you and your spouse have together AND all children from other relationships (nonjoint children). It is important that these questions are completed thoroughly. A joint child is a child born to you **and** your spouse born before or during your marriage, or adopted by you **and** your spouse during the marriage – it does NOT include stepchildren. A nonjoint child is a legal child born to you **or** your spouse, or adopted by you **or** your spouse – it does NOT include stepchildren.

**Complete the Questions on Custody and Parenting Time.** Questions 16 and 17 in the petition and paragraph 2 through 4 of the Agreement tell the Court who you and your spouse think should have legal custody and physical custody of the joint child(ren) and establish a parenting time schedule. The Court will decide who should have custody based on what is best for the child(ren).

Legal Custody identifies which parent(s) has / have the right to make decisions regarding the upbringing of the child(ren), including education, health care, and religious training. Legal Custody can either be sole or joint. Sole Legal Custody means that only one parent has a right to make major decisions regarding the upbringing of the child(ren). Joint Legal Custody means both parents share in the decision-making.

Physical Custody identifies which parent will handle the routine daily care and control of the child(ren). Generally, the child lives with the parent who has physical custody. Physical custody can either be sole or joint. If Sole Physical Custody is awarded, the parent with whom the child does not live with will have scheduled parenting time (visitation) rights unless the court "reserves" parenting time. If parenting time is "reserved" there is no order made for parenting time. You must give the court reasons why parenting time should be reserved. Joint Physical Custody means that the child(ren) lives with both parents based upon a schedule that best meets the needs of the child(ren) and parents, and that the parents have joint responsibility and control in the daily care of the child(ren). If you request joint physical custody, you must be able to show that you and the other parent can cooperate and work together to resolve problems that arise in raising your children. The court may require you and the other parent to agree to mediate any disputes regarding joint physical custody before bringing a custody dispute back to court.

Parenting Time. Question 17 tells the Court what type of parenting time you and your spouse believe is in the best interests of the joint child(ren). Paragraph 4 of the Agreement is where you will write down what parenting time arrangements you agree upon. It should be clear from your schedule which parent is taking care of each child at all times (24 hours a day/7 days a week). Include the time of day that the child will be exchanged. For example, a weekday schedule might be "the children are with Petitioner A every Monday through Friday, except that Petitioner B has parenting time every Wednesday from 4pm to 8am Thursday." What is appropriate for parenting time can depend on the age of the child. For more information, read "A Parental Guide to Making Child-Focused Parenting Time Decisions." Child development experts and Judges wrote this pamphlet to help parents and Judges understand the needs of children and how those needs change as a child gets older. This pamphlet is available from court administration and can be found on the court's website at:

[http://www.mncourts.gov/documents/0/Public/Court\\_Information\\_Office/PARENTING\\_TIME\\_PAMPHLET.pdf](http://www.mncourts.gov/documents/0/Public/Court_Information_Office/PARENTING_TIME_PAMPHLET.pdf).

After you have set out the weekday and weekend schedule, you can agree to a different schedule for summer, holidays, birthdays, or school release days. Some parents include transportation details in the parenting time schedule. If you want to say who is responsible for transporting the child for parenting time, enter that under "Other". It is also possible to request "reasonable parenting time." With reasonable parenting time, there is no schedule in the divorce decree. Instead, the parents work out parenting time themselves, on an on-going basis. If you want "reasonable parenting time" write that phrase under "Other" and leave the rest of the schedule blank.

Child Support. When there are children in dissolution actions, the court must make an order regarding child support. Child support includes costs for the children for basic support for daily living expenses, health care coverage, uninsured and unreimbursed health care expenses, and child care expenses if child care is needed so the parent can work or attend school. The Minnesota Department of Human Services has created an online calculator for figuring out an amount for child support at:

<http://childsupportcalculator.dhs.state.mn.us>

You need income information for yourself and your spouse to use the calculator. This calculator will produce a dollar amount for support based on Minnesota law. Enter this information at paragraph 5 of the Agreement. If you think the amount of support should be higher or lower than what the calculator figured out, mark the box that says the amount is a "deviation" in child support. You may need to research the law or get help from a lawyer if you wish to request a deviation.

Child Care Support. Minnesota law requires parents to share work-related and school-related childcare costs. Question 26 is where you will tell the Court the costs for child care, if any. The child support calculator will calculate the share each parent should pay, based on their relative incomes. If you or your spouse do not have child care expenses at this time, check the box to reserve the issue in Agreement paragraph 9.

### **Public Assistance**

Question 18 asks about “Public assistance” paid by the State of Minnesota. Public Assistance means MFIP, Tribal TANF, General Assistance, MinnesotaCare, Medical Assistance, or Child Care Assistance. Check YES or NO. If YES, write in the name of the county paying the assistance. Minnesota law requires you, as the petitioner, to notify the public authority paying assistance that you are filing a divorce action. Use the form called “*Notice to County Support and Collections*” (Court Form DIV813) to notify the county of your divorce action. The county attorney for the public authority must sign off on the Joint Petition and Agreement before being submitted to the court for the court’s approval and signature. Be sure to contact the county attorney’s office to make arrangements for the county attorney to review your Joint Petition and Agreement.

### **Answering the Income Questions:**

Questions 21 and 25 ask for monthly gross income (before taxes and deductions).

Do not guess at income. Look at your pay stub or tax return.

If you are paid monthly, enter the amount shown on your paycheck for gross income.

If you are paid twice a month, multiply gross income by 2 to get the monthly amount.

If you are paid every two weeks, multiply gross income by 2.17 to get the monthly amount.

If you are paid every week, multiply gross income by 4.33 to get the monthly amount.

If you are self-employed, or you work only part of the year, or your earnings vary, divide your yearly income by 12 to reach an average monthly income figure and write on the petition that you are averaging your income.

**Complete the questions and agreement paragraphs about medical and dental insurance.** The court needs to know what coverage you, your spouse and your joint children have now and what it costs. If the children do not have health coverage, the court needs to know if you or your spouse can afford to purchase health care coverage.

**NOTE:** If you, your spouse, or your child(ren) are covered by medical or dental insurance through your job or your spouse’s job, that coverage can be continued even after the divorce. If you want the insurance coverage to continue after the divorce, call the Employment Benefits Office of you or your spouse’s employer and ask for “COBRA” coverage.

Medical Support. Question 27 tells the court about health care coverage you and your spouse currently have and the costs for that coverage. Agreement paragraphs 6, 7, and 8 tell the court how you and your spouse will handle the health insurance coverage costs for you, your spouse, and the joint child(ren). (COBRA coverage exists under federal law and it allows a spouse to continue to be covered under the other spouse’s work insurance even after the divorce. For more information on costs, whether this coverage is available, and how to get it, check with the employer of the person who has health coverage. Unreimbursed costs are expenses for treatment not covered by the health plan. These costs are part of the child support obligation. The child support calculator provides a percentage allocation for costs of health care costs based on the relative incomes of the parents.

Income Withholding. Minnesota law requires an employer or other source of funds to withhold spousal maintenance and/or child support from the employee's paycheck when a party is receiving or has applied for public assistance, or spousal maintenance or child support enforcement services. The employer will send it to the county where you are getting the divorce. The county will then send the spousal maintenance / child support to the parent who is supposed to receive it. Upon filing your Joint Petition for Marriage Dissolution, court administration will mail out a Notice of Services that explains child support and maintenance services available through the public authority, including income withholding and the fees for such services.

Confidential Information. To keep certain financial information private and not available to the public, you must attach Form 11.2 as a cover sheet to documents that contain confidential information. See Rule 11 of the Minnesota General Rules of Practice for more information. One Form 11.2 can be used for all documents containing confidential information. Examples of documents that have confidential information include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

To protect your privacy, the other parties, and your child(ren), all social security numbers, employer identification numbers, and financial account numbers must be submitted on Form 11.1.

Both Form 11.1 and Form 11.2 can be found under the Court Form Category of Confidential Information on the court's website at [www.mncourts.gov/forms](http://www.mncourts.gov/forms).

### **Do You or Your Spouse Own Real Estate?**

You must include real estate that you and your spouse own together, separately, or with other people. **WARNING:** Be sure to copy the legal description **exactly** as it is on the Deed, Contract for Deed, or Certificate of Title. You must fill out Attachment "C", which is included at the back of the Joint Petition With Children. You will need to make a copy of Attachment "C" if there is more than one property that must be listed. Use a separate Real Estate Attachment sheet for each parcel of real estate. **Use the correct legal description** – do not guess or abbreviate. There are many ways to handle real estate and many potential problems. You should talk to an attorney if you own real estate. For example, you may want the real estate awarded to one person with a lien in favor of the other person. An attorney can help you understand the legal consequences and necessary language.

### **Do You Want to Change Your Name?**

You and/or your spouse can ask for a legal change of name in the Joint Petition. If you want to change your name and you have been convicted of a felony, you must get the handout "Felon Name Change Instructions" and follow the steps in the handout.

## **Modifying the Joint Petition**

You may make changes to the Joint Petition to fit your situation, but do not omit any paragraphs. It is recommended that you consult with an attorney before making any changes to the Joint Petition.

## **What to Do After Completing the Forms**

Sign and Notarize: Both Petitioners (you and your spouse) must sign the “Joint Petition, Agreement, and Judgment and Decree”. It is not necessary for both spouses to sign the document at the same time, but both signatures must be notarized. You may go to a notary public, or to the courthouse. A deputy court administrator can notarize your signature at the courthouse. Picture identification will be required.

### File with the Court:

The completed “Joint Petition, Agreement, and Judgment and Decree,” including the Asset Sheet, the Debt Sheet, and the Real Estate sheet. File Form 11.1 - Confidential Information with names, social security numbers, and financial account numbers, and Form 11.2 - Sealed Financial Source Documents with all confidential documents attached.

Pay: The District Court filing fee.

Wait: You are not divorced until the Judge signs the Decree and the Court Administrator “enters” the Decree. Wait to receive a Notice from the Court telling you that you are divorced. The Judge will decide if a court hearing is necessary and court administration will notify you if a hearing must be scheduled.

**If you have real estate**, there are additional steps required to transfer the title, including filing the “Joint Petition, Agreement, and Judgment and Decree” and all Attachments in the Real Estate Records, after the Decree is signed by the Judge and entered by the Court Administrator. In the alternative, you can file a Summary Real Estate Disposition Judgment and avoid putting all of your asset and debt information into the Real Estate Records. For more information about the Summary Real Estate Disposition Judgment, see Minnesota Statutes §518.191.

## **Questions?**

If you have questions about the Joint Petition, you should ask an attorney. Court staff can give you limited help with procedures and cannot give you legal advice. Only an attorney can give you legal advice.

Helpful materials may be found at your public county law library. For a directory, see <http://www.lawlibrary.state.mn.us/clipubdir.rtf> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.