

SUPERIOR COURT

STATE OF ALASKA

DISSOLUTION of MARRIAGE

ADULT CHILDREN

With or Without Property

Control Number AK-004-D

This packet contains the following:

1. Information about Divorce
2. Form List
3. Form Explanations
4. Instructions and Steps
5. Checklist
6. Access to Law Summary

**You and your spouse must agree to all terms of the divorce to use this packet.
All forms to be filed with the clerk must be printed on bond paper.**

INFORMATION ABOUT DIVORCE

1. **WHO MAY USE THESE FORMS:** You may use the forms in this package only when all of the following facts are true:
 - (a) Either the husband or wife (or both) must be domiciled in Alaska. That means the person claims residency in Alaska. The person must be physically present in Alaska and intend to remain indefinitely. No minimum number of days of residency is required. In addition, military personnel who do not claim to be Alaska residents may file for dissolution if they have been continuously stationed at a military base or installation in Alaska for at least 30 days. AS 25.24.900.
 - (b) Incompatibility of temperament between the spouses has caused the irremediable breakdown of the marriage.
 - (c) There are no minor children of the marriage.
 - (d) You and your spouse agree on all terms of the divorce.
 - (e) The property and spousal maintenance agreements must be fair and just and must take into consideration the factors listed in AS 25.24.160(a)(2) and (4) so that the economic effect of the dissolution is fairly allocated.

2. **THE BASICS:** An action for divorce in Alaska is filed in the **Superior Court**, in the county of either spouse's residence. If the action is based upon the no-fault grounds permitted in Alaska, the action is entitled a Petition for Dissolution of Marriage. The party filing the action is the Petitioner, and the other party is the Respondent.
AS 25.24.210

3. **RESIDENCY REQUIREMENTS:** Alaska requires that the spouse filing for divorce be a resident of the state. There is no residency time limit for filing of divorce actions.
AS 25.24.080

4. **GROUND FOR DIVORCE:** Alaska permits "no-fault" divorces, or dissolution of marriage, to be awarded on the grounds of "incompatibility of temperament which has caused the irremediable breakdown of the marriage." *AS 25.24.200-260*

5. **LEGAL SEPARATION:** This package contains forms for DISSOLUTION OF MARRIAGE, not for Legal Separation. This information on Legal Separation is provided for your information only. A legal separation cannot be obtained using the forms in this package.

A legal separation is different than Dissolution of Marriage. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation **does not terminate the marital status** of the parties, and the parties are **not** free to marry again. For more information on legal separation, contact a local attorney.

6. **WAITING PERIODS:** Your final divorce hearing may not be scheduled for a date sooner than 30 days after the filing of your *Petition*.

7. **DISTRIBUTION OF PROPERTY:** In a divorce, the property such as land, house, buildings, and items of personal property owned by the couple is divided between the parties. Debts owed are also allocated to one party or the other, or both. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Petition for Dissolution*. If you agree to something but do not write it down in your petition, it will not be included in the court's decree of dissolution and will therefore be unenforceable.

You may agree to divide the property any way you like, as long as a basic fairness is maintained, and you both agree. Ordinarily, the fairest division of property is an equal division. However, there may be some circumstances, such as marriage of very short duration, which would justify something other than an equal division of all items acquired during the marriage.

Your property division agreement must fairly allocate the economic effect of the dissolution. It must take into consideration the following factors listed in Alaska Statute **25.24.160(a)(4)**:

- (a) The length of the marriage and station in life of the parties during the marriage;
- (b) The age and health of the parties;
- (c) The earning capacity of the parties, including their educational backgrounds, training, employment skills, work experiences, length of absence from job market, and custodial responsibilities for children during marriage;
- (d) The financial condition of the parties, including the availability and cost of health insurance;
- (e) The conduct of the parties, including whether there has been unreasonable depletion of marital assets;
- (f) The desirability of awarding the family home, or the right to live in it for a reasonable period of time, to the party who has primary physical custody of children;
- (g) The circumstances and necessities of each party;
- (h) The time and manner of acquisition of the property in question; and

- (i) The income-producing capacity of the property and the value of the property at the time of the division.

Note: The court may not award to one spouse real or personal property acquired by the other spouse before the date of the marriage, unless the spouses expressly agree otherwise or the court determines that the property should be made available (by sale or other conveyances) to ensure the best interests of the children are provided for. **AS 25.24.230(g)**

If you cannot agree on any item of the division of property, the dissolution of marriage transforms into a **contested divorce**. A contested divorce is outside the scope of this packet.

- 8. **ALIMONY:** Because this is an agreed dissolution, you will decide issues of spousal “alimony”-- the periodic payment of money from one spouse to the other on a temporary or permanent basis. The forms in this no-fault dissolution package assume that no alimony will be paid and none will be sought-- but you may add provisions for alimony to the *Petition for Dissolution* if you desire. In a contested case, the court might award alimony. A contested divorce is beyond the scope of this agreed dissolution package. **You should consult a local attorney regarding the possibilities concerning alimony if you have questions or foresee conflict regarding this issue.** For more information, see, **AS 25.24.160.**

- 9. **NAME CHANGE:** In a judgment of divorce, the court may allow changing the name of either party. **AS 25.24.165**

For more information, see the Alaska Divorce Law Summary.

FORMS LIST

The following forms are included in this package:

1. Petition for Dissolution of Marriage (**AK-DR-100**)
2. Appearance and Waiver of Notice of Hearing (**AK-DR-110**)
3. Information Sheet (**AK-DR-314**)
4. Mediation Information (**AK-PUB-15**)
5. Certificate of Divorce, Dissolution of Marriage or Annulment
(Obtain from court or Alaska Bureau of Vital Statistics)

Note: Depending on your County, additional forms may be required that are County-specific. These forms will be available from the Clerk.

FORM EXPLANATIONS

All forms included in this package are identified and described below.

1. **Petition for Dissolution (AK-DR-100)** – This document contains the legal details of your request for the court to dissolve your marriage. You and your spouse set out the agreed division of all assets, property and debts in this form.

2. **Entry of Appearance and Waiver of Notice of Hearing (AK-DR-110)**
– This form must be completed, signed and filed if one spouse does not wish to attend the final hearing. At least one spouse must attend. Both spouses should attend. The Instruction and Steps section below provides detailed instructions on use of this form.

3. **Information Sheet (AK-DR-314)**- This form is used to provide necessary information about the parties, their marriage, and any children of the marriage to the court.

4. **Mediation Information (AK-PUB-15)** – This is an informational brochure providing answers to commonly asked questions regarding mediation.

5. **Certificate of Divorce, Dissolution of Marriage or Annulment** – You may obtain this form at the court or at the Bureau of Vital Statistics. You must use an original form (printed on archival-quality, acid-free paper). **You may not use a photocopy.**

INSTRUCTIONS AND STEPS

Note: All forms containing a space for the signature of a Notary Public must be signed by the appropriate party or parties in front of a Notary Public. Make several copies of the documents that you prepare. You and your spouse should have a copy of everything you file, stamped "filed" by the clerk.

STEP 1: In cooperation with your spouse, fill out the following forms:

Form 1 - *Petition for Dissolution of Marriage (AK-DR-100)*

Parts A. – C. Gross Income, Deductions and Net Income: When completing the Petition, both parties must provide complete and up to date income and expense information, as well as current information regarding all assets and debts. Each party must attach a copy of his or her most recent federal tax return and most recent pay stubs to verify income and deductions.

Part D. Monthly Expenses: List average expenses per month.

Part E. Assets: Describe all assets of both parties acquired during the marriage plus any premarital property which should be divided in order to be fair to both parties.

Part E.3 Retirement Benefits

One special type of personal property which you must agree about is retirement benefits. If, during your marriage, either spouse has accrued the right to some day receive retirement benefits as a result of employment or military service, you will need to decide how to divide the value of those benefits between you. You ordinarily need to do this even if the employee spouse has not yet "vested" in the retirement program.

Depending on the type of retirement plan, there may be several other requirements or items which should be covered by the agreement and order. Because retirement plans vary, contact the administrator of your plan to make sure all the required information is included in your agreement.

Part F. Debts: Describe all debts of both parties. List to whom each debt is owed and the amount owed.

Form 4 - Certificate of Divorce, Dissolution of Marriage or Annulment

You may obtain this form at the court or at the Bureau of Vital Statistics. You must use an original form (printed on archival-quality, acid-free paper). **You may not use a photocopy.** To receive a certified copy of a certificate of divorce/dissolution or annulment that occurred in Alaska, you must complete the required form. You may obtain a copy of the form from the court or from the Alaska Bureau of Vital Statistics at this website link:

<http://www.hss.state.ak.us/dph/bvs/divorce>

STEP 2: Make at least 3 copies of your completed documents. Once the *Petition* is signed by the first signing party, you have 60 days to file it with the court.

Go to the courthouse and FILE your completed documents and any required copies with the clerk.

You must pay filing fees of \$150.00 at this time - call ahead to verify the amount and acceptable forms of payment.

Keep extra stamped “filed” copies of your documents. Mail or deliver one set of copies to your spouse.

Ask the clerk’s office for instructions on setting a hearing date. The hearing must be at least 30 days after the *Petition* is filed.

STEP 3: At least one party must attend the hearing. Both parties should attend. If one party decides not to attend, he or she **MUST** complete **Form 2 - the Appearance and Waiver of Notice of Hearing (DR-110)**, sign it in front of a court clerk or notary public, and file it with the court clerk, prior to the hearing.

If any of the following are true, both parties must attend the hearing unless excused by the court:

- (a) One party is represented by counsel and the other is not, or
- (b) There is evidence that a party committed a crime involving domestic violence during the marriage, or
- (c) If any of the following has been issued or filed during the marriage by or regarding either spouse as defendant, participant, or respondent:
 - i. a criminal charge of a crime involving domestic violence,
 - ii. a domestic violence protective order under **AS 18.66.100 – 18.66.180**,
 - iii. injunctive relief against domestic violence under former **AS 25.35.010 or 25.35.020**, or

- iv. a domestic violence protective order issued in another jurisdiction and filed with the court in this state under **AS 18.66.140**, or
- v. there is a minor child of the marriage, or
- vi. there is a patently inequitable division of the marital estate.

In order to be excused by the court in one of these situations, the party must show that it would be a **significant hardship** for the party to attend the hearing. The party must explain the hardship on the form mentioned above, *Appearance and Waiver of Notice of Hearing (AK-DR-110)*, and file the form with the court. The court will then decide whether the hardship is significant enough to allow the party not to appear. If the court allows the party not to appear in person, the court may still require the party to be available by telephone to answer questions during the hearing. The absent party must pay the costs of the telephone call.

It is much easier to simply attend the hearing.

Each party may have a lawyer at the hearing, but you are not required to have one.

At the hearing, the Judge will ask you the questions to determine whether you fully understand the nature and consequences of the proceeding; whether the terms of all your written agreements are fair and just; and whether all the requirements have been met.

The Judge may amend the agreements between spouses, but only if the husband and wife agree in writing (or in person at the hearing) with the amendment.

At some court locations, hearings are held before a Superior Court Master instead of a Judge. A master cannot grant a Decree. A master can only recommend to a Judge whether or not a Decree should be granted.

Although in some cases the decree may be granted at the hearing (if the hearing is before a judge rather than a master), usually the decree is not entered until a few days later. Do not assume a Decree has been granted until you receive your copy.

STEP 4: You must carry out any agreements made in your petition or otherwise required by the decree. This might include, for example, transferring title to property or notifying the administrator of a retirement plan about the effect of the decree on a spouse's retirement benefits. You will probably need to contact a lawyer to prepare the necessary deeds and other legal documents to make these transfers. The court does not do this for you.

CHECKLIST

- Forms AK-DR-100 and the Certificate of Divorce completed, signed and notarized, as per instructions.
- Forms are filed with the clerk of court.
- Filing Fee Paid.
- Hearing date obtained.
- Form AK-DR-110 filed if necessary.
- Attend final hearing.
- Certified copy of Decree of Dissolution obtained.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet may contain “form fields” created using Microsoft Word. “Form fields” facilitate completion of the forms using your computer. They do not limit your ability to print the form “in blank” and complete with a typewriter or by hand.

If you do not see the gray shaded form fields, go the View menu, click on Toolbars, and then select Forms. This will open the forms toolbar. Look for the button on the forms toolbar that resembles a shaded letter “a”. Click in this button and the form fields will be visible. If they do not become visible, then they were not included in this form package.

To complete the forms click on the gray shaded areas and type. You may also change other words in the document if the document is not locked. The separation agreement is a good example of a document that is not locked and allows you to make modifications outside the gray shaded areas.

Some forms may be locked which means that the content of the forms cannot be changed while the form is locked. You can only fill in the information in the fields. If you need to make any changes in the body of the form, it is necessary for you “unlock” or “unprotect” the form. **IF YOU INTEND TO MAKE CHANGES TO THE CONTENT, DO SO BEFORE YOU BEGIN TO FILL IN THE FIELDS. IF YOU UNLOCK THE DOCUMENT AFTER YOU HAVE BEGUN TO COMPLETE THE FIELDS, WHEN YOU RELOCK, ALL INFORMATION YOU ENTERED WILL BE LOST.** To unlock, click on “Tools” in the Menu bar and then selecting “unprotect document”. You may then be prompted to enter a password. If so, the password is “uslf”. That is uslf **in lower case letters without the quotation marks**. After you make the changes relock the document before you begin to complete the fields. After any required changes re-lock the document, then click on the first form field and enter the required information. You will be able to navigate through the document from form field to form field using your tab key. Tab to a form field and insert your data. If you experience problems, please let us know.

LAW SUMMARY

You may access the law summary for your State by using the link below:

<http://secure.uslegalforms.com/lawsummary/AK/AK-004-D.htm>

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