

FAMILY COURT
STATE OF HAWAII
UNCONTESTED DIVORCE - ADULT CHILDREN
With or Without Property
Control Number HI-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) The marriage is irretrievably broken;
 - (b) There are no minor children of the marriage;
 - (c) You and your spouse agree on all terms of the divorce;
 - (d) You satisfy the *residency requirements*.

2. **THE BASICS:** Actions for divorce in the State of Hawaii are filed in the Family Court. The name of the action initiating the divorce is the *Complaint for Divorce*, while the title of the document granting the divorce is referred to as the *Decree of Divorce*. The party who files the action is the Plaintiff, while the other party to the action is the Defendant. ***HRS 580-1***

3. **RESIDENCY REQUIREMENTS:** At least one of the parties to the action for divorce must have resided within the State of Hawaii for six (6) months immediately prior to the filing of the action. The action is filed in the Family Court of the Circuit for the island where the party has resided for at least three months prior to the commencement of the action. ***HRS 580-1***
 - 1st Circuit – Oahu
 - 2nd Circuit – Maui, Lanai, and Molokai
 - 3rd Circuit – Hawaii (Hilo and Kona Divisions)
 - 5th Circuit – Kauai

4. **GROUND FOR DIVORCE:** Hawaii law allows an uncontested divorce based on the marriage being “irretrievably broken.” This package is only good for this ground. ***HRS 580-41***

5. **LEGAL SEPARATION/ SEPARATION FROM BED AND BOARD:** This package contains form for DIVORCE, 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 known as “Separation from Bed and Board” in Hawaii. It is different than a divorce. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship which has been temporarily disrupted. A decree of legal separation lasts for only two years

(maximum) and does not terminate the marital status of the parties, and the parties are not free to marry again. For more information, see, **HRS 580-71**.

6. **WAITING PERIODS:** There is no divorce-specific waiting period in Hawaii.

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 *Decree of Divorce* that ultimately ends your marriage. You may agree to divide the property any way you like, as long as a basic fairness is maintained, and you both agree. If you cannot agree on any item of this division, 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 divorce, 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 divorce package assume that no alimony will be paid and none will be sought-- but you may add provisions for alimony to the *Decree of Divorce* if you desire. In a contested case, the court might award alimony. A contested divorce is beyond the scope of this divorce 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, **HRS 580-47**.

9. **NAME CHANGE:** Upon request, the court may include in the decree that a party may resume use of a former or maiden name. To request a name change, fill in the appropriate blanks in the forms. **HRS 574-5**

For more information, see the Hawaii Divorce Law Summary.

FORMS LIST

The following forms are included in this package:

1. Complaint for Divorce (“Complaint”) – HI-801D
2. Summons to Answer Complaint (“Summons”) – HI-802D
3. Matrimonial Action Information Sheet (“MAI”) – HI-803D
4. Appearance and Waiver – HI-804D
5. Income and Expense Statement of Plaintiff (you) – HI-805D
6. Income and Expense Statement of Defendant (your spouse) – HI-806D
7. Asset and Debt Statement HI-807D
8. Divorce Decree – HI-808D
9. Affidavit of Plaintiff For Uncontested Divorce HI-809D
10. Certificate of Absolute Divorce or Annulment (not included- you must obtain from court.)

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 are identified and described below.

1. **Complaint for Divorce (HI-801D)** – This document contains the legal details of your request for the court to dissolve your marriage.

2. **Summons to Answer Complaint (HI-802D)** – This form formally notifies your spouse of the filing of the action for dissolution of marriage.

3. **Matrimonial Action Information Sheet (HI-803D)** – This is an information sheet for use by the court.

4. **Appearance and Waiver (HI-804D)** – This form must be signed by your. It indicates that your spouse waives all formalities in the case and agrees to the divorce.

5. **Income and Expense Statement (you) (HI-805D)** – You must fill out all required information related to your finances on this form.

6. **Income and Expense Statement (your spouse) (HI-806D)** – Your spouse must fill out all required information related to his or her finances on this form

7. **Asset and Debt Statement (HI-807D)** – Both spouses must cooperate in completing this document, listing all individual and jointly held property and debts.

8. **Decree of Divorce (HI-808D)** – This document must be completed by both spouses. All asset and debt division must be agreed to and both parties must sign. When the Judge approves and signs this document, your divorce is complete.

9. **Affidavit of Plaintiff For Uncontested Divorce (HI-809D)** – You must complete this document after completing forms 1-8. It confirms your desire to have an uncontested divorce and asks that the papers be approved without a hearing.

10. **Certificate of Absolute Divorce or Annulment** – This form **IS NOT INCLUDED** in this package. It can only be obtained from the court clerk. It is an information form required by law.

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 - *Complaint for Divorce (“Complaint”)*
Form 2 - *Summons to Answer Complaint (“Summons”)*
Form 3 - *Matrimonial Action Information Sheet (“MAI”)*

STEP 2: Make at least 4 copies of the completed forms. Go to the Family Court for the island where you reside, and FILE the papers with the clerk. You must pay a filing fee at this time. Call ahead to ascertain the amount of the fee and acceptable forms of payment.

The clerk will stamp all of your documents “filed.” Be sure to keep a set for yourself. You must deliver another set to your spouse.

STEP 3: Mail or deliver a stamped “filed” copy of each of the three documents to your spouse. Make sure your spouse is expecting the documents to arrive. Along with the *Complaint*, *Summons*, and *MAI*, you must also deliver **Form 4-** the *Appearance and Waiver*. Instruct your spouse to sign the *Appearance and Waiver* and return it to you.

Upon your receipt of the signed *Appearance and Waiver*, go to the courthouse and FILE the document.

STEP 4: Once the *Appearance and Waiver* is filed, fill out the following forms in cooperation with your spouse:

Form 5 - *Income and Expense Statement of Plaintiff (you)*
Form 6 - *Income and Expense Statement of Defendant (your spouse)*
Form 7 - *Asset and Debt Statement (both parties)*

Mark the box to indicate “both parties.” Note on the document whether the individual asset or debt is in the name of the Husband, Wife, or is ‘Joint’ (H,W,J). Both spouses must sign this document.

Form 8 - *Divorce Decree*

In this document, you and your spouse must agree to, and list, the division of all of your assets and debts. You and your spouse must both sign and date the last page, and fill in your social security numbers.

Form 9 - *Affidavit of Plaintiff For Uncontested Divorce*

All of the previous documents, including the *Divorce Decree*, must be completed before you can complete this document. Mark box 3c, Appearance and Waiver. Do not mark anything in section 4, Default.

Form 10 - *Certificate of Absolute Divorce or Annulment (Dept. of Health form)*

This Department of Health form is not included in this package. It can only be obtained at the Family Court. It cannot be photocopied and must be typed. Each box must be filled in, except for 14a, 14f, 14j, 15a, 15b and 15c.

STEP 5: Make at least 4 copies of all of your completed documents. Go to the courthouse and FILE documents 5, 6, 7, 9 and 10. Form 8, the *Divorce Decree*, is not filed until the Judge has signed it. You may want to file your forms at a time when the clerk's office is "screening" divorce documents. Call ahead to determine these designated times. This will save you another trip to the courthouse.

STEP 6: Once all your documents have been filed (except for Form 8), have them "screened" by the clerk. The clerk will only be doing this at designated times during the week. Call ahead to find out when. Bring stamped "filed" copies of ALL of your documents (including the *Certificate of Absolute Divorce or Annulment*), and the completed *Divorce Decree*- you must bring the original and 2 copies of the *Divorce Decree*. Also bring two envelopes, stamped and self-addressed, one to you and one to your spouse. Make sure you put enough postage on the envelopes. Ask the clerk how many stamps are customarily needed.

At the "screening," the clerk will check to make sure you have all of the required documents completed. If accepted, your documents will be forwarded to the Judge for review, and an approximate review date assigned. If approved, the Judge will sign the *Decree*. You and your spouse will each be mailed a stamped "filed," certified copy of the *Divorce Decree* in the envelopes you left with the clerk.

CHECKLIST

- Forms 1-3 completed as per instructions.
- Forms 1-3 filed with the clerk of court.
- Filing Fee Paid.
- Forms 1-3 delivered to your spouse, with Form 4.
- Spouse signs Form 4, and returns to you.
- Form 4 filed with the court.
- Forms 5-10 completed.
- Forms 5, 6, 7, 9 and 10 filed with the court.
- Clerk “screens” your documents. Bring all documents to screening.
- Documents forwarded to Judge for review. Review date assigned.
- Signed, stamped “filed” certified copy of *Divorce Decree* received from court.

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 to 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/HI/HI-004-D.htm>

DISCLAIMER

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