

**FAMILY COURT**  
**STATE OF HAWAII**  
**UNCONTESTED DIVORCE - MINOR CHILDREN**  
**With or Without Property**  
**Control Number HI-006-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 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***
  
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. **CHILD CUSTODY / VISITATION:** In awarding the custody, the court shall be guided by the following standards, considerations, and procedures:
  - (a) Custody should be awarded to either parent or to both parents according to the best interests of the child;
  - (b) Custody may be awarded to persons other than the father or mother whenever the award serves the best interest of the child.
  - (c) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, the child's wishes as to custody shall be considered and be given due weight by the court;
  - (d) Whenever good cause appears therefore, the court may require an investigation and report concerning the care, welfare, and custody of any minor child of the parties.
  - (e) The court may hear the testimony of any person or expert, produced by any party or upon the court's own motion, whose skill, insight, knowledge, or experience is such that the person's or expert's testimony is relevant to a just and reasonable determination of what is for the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue;
  - (f) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify the modification or change;
  - (g) Reasonable visitation rights shall be awarded to parents, grandparents, siblings, and any person interested in the welfare of the child in the discretion of the court, unless it is shown that rights of visitation are detrimental to the best interests of the child;
  - (h) The court may appoint a guardian ad litem to represent the interests of the child and may assess the reasonable fees and expenses of the guardian ad

litem as costs of the action, payable in whole or in part by either or both parties as the circumstances may justify;

- (i) In every proceeding where there is at issue a dispute as to the custody of a child, a determination by the court that family violence has been committed by a parent raises a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to be placed in sole custody, joint legal custody, or joint physical custody with the perpetrator of family violence.

**10. CHILD SUPPORT:** Either or both of the parties may be ordered to pay child support as the court deems just and equitable after consideration of the following factors:

- (a) The respective merits of the parties;
- (b) The relative abilities of the parties;
- (c) The condition in which each party will be left by the divorce;
- (d) The burdens imposed upon either party for the benefit of any children of the marriage, and;
- (e) All other circumstances of the case.

Hawaii has enacted child support guidelines that establish the presumptive correct amount of child support to be paid. In determining the amount of child support to be paid, the court may also consider:

- (a) All earnings, income and resources of both parents;
- (b) The earning potential, reasonable necessities, and borrowing capacity of each parent;
- (c) The needs of the child;
- (d) The amount of public assistance which would be paid under the full standard of need established by the department;
- (e) The existence of other dependents of the obligor parent;
- (f) Incentives to encourage both parents to work;
- (g) The balance of the standard of living of each parent, and;
- (h) Extreme and inequitable changes in either parent's income due to custody arrangements.

**11. PARENT EDUCATION CLASS:** In any action involving the custody or visitation of a minor child, the court may order any party and the minor child, as needed, to attend counseling, parenting classes or any other type of educational activity, as the court deems appropriate to meet the best interests of the child.

12. **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 (HI-801D)
2. Summons to Answer Complaint (HI-802D)
3. Matrimonial Action Information Sheet (HI-803D)
4. Appearance and Waiver (HI-804D)
5. Income and Expense Statement of Plaintiff (HI-805D)
6. Income and Expense Statement of Defendant (HI-806D)
7. Asset and Debt Statement (HI-807D)
8. Child Support Guidelines Worksheet (HI-810D)
9. Separation and Property Settlement Agreement (HI-DO-11)
10. Affidavit of Plaintiff for Uncontested Divorce (HI-809D)
11. Supplemental Affidavit RE: Direct Payment Child Support (HI-811D)
12. Divorce Decree (HI-812D)
13. Notice To Attend Kids First (HI-813D)
14. Child Support Guidelines Table of Net Incomes (HI-814D)
15. Child Support Guidelines Worksheet for Joint Custody/Extensive Visitation (HI-815D)
16. Exceptional Circumstance Form for Child Support Guidelines (HI-816D)

**Note:** You will also need to obtain from the Clerk of Court the following forms:

- Certificate of Absolute Divorce or Annulment

## 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 (Plaintiff) (HI-805D)** – You must fill out all required information related to your finances on this form.
6.                   **Income and Expense Statement (Defendant) (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.                   **Child Support Guidelines Worksheet (HI-810D)** – This form is used to calculate the correct amount of child support to be paid to the custodial parent by the non-custodial parent.
9.                   **Separation and Property Settlement Agreement (HI-DO-11)** – This form is used to document the agreement reached by the parties concerning division of property and debt, custody and support.
10.                  **Affidavit of Plaintiff For Uncontested Divorce (HI-809D)** – This form confirms your desire to have an uncontested divorce and asks that the papers be approved without a hearing.
11.                  **Supplemental Affidavit RE: Direct Payment Child Support (HI-811D)** – This form is used by the parties when child support payments will be paid directly to a party and not through the Child Support Enforcement Agency.
12.                  **Decree of Divorce (HI-812D)** – 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.

13.                   **Notice to Attend Kids First (HI-813D)** – Kids First is a program designed to help parents understand the effects of separation and divorce upon their children. It is mandatory.
  
14.                   **Child Support Guidelines Table of Net Incomes (HI-814D)** – This form is used with the Child Support Guidelines Worksheet to calculate the correct amount of child support based upon the payor's monthly gross income, net income and standard of living allowance income.
  
15.                   **Child Support Guidelines Worksheet for Joint Custody/Extensive Visitation (HI-815D)** – This form is used with the Child Support Guidelines Worksheet to calculate the correct amount of child support to be paid considering factors such as joint custody by both parents or extensive visitation by the non-custodial parent.
  
16.                   **Exceptional Circumstance Form for Child Support Guidelines (HI-816D)** –This form is used to deviate from the total monthly child support obligation because of exceptional circumstances.

## **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:** The filing party (Petitioner) should complete the following forms:

- *Complaint for Divorce (HI-801D)*
- *Summons to Answer Complaint (HI-802D)*
- *Matrimonial Action Information Sheet (HI-803D)*

**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.

The clerk will at this time provide you and your spouse with a notice to attend a Parent Education Program.

**STEP 3:** Mail or deliver a stamped “filed” copy of each of the following documents to your spouse:

- *Complaint for Divorce (HI-801D)*
- *Summons to Answer Complaint (HI-802D)*
- *Matrimonial Action Information Sheet (HI-803D)*

You should also provide your spouse with the notice to attend the Parent Education Program provided to you by the Clerk, as well as the *Appearance and Waiver (HI-804D)*. Instruct your spouse to sign the *Appearance and Waiver (HI-804D)* and return it to you.

Upon your receipt of the signed *Appearance and Waiver (HI-804D)*, go to the courthouse and file the document.

**STEP 4:** Each parent should make arrangements to attend the parent education program. A certificate of completion, if provided, should then be filed with the Clerk.

**STEP 5:** Once the *Appearance and Waiver (HI-804D)* is filed, fill out the following forms in cooperation with your spouse:

- *Income and Expense Statement of Plaintiff (HI-805D)*
- *Income and Expense Statement of Defendant (HI-806D)*
- *Asset and Debt Statement (HI-807D)* (jointly complete)
- *Child Support Guidelines Worksheet (HI-810D)* or *Child Support Guidelines Worksheet for Joint Custody/Extensive Visitation (HI-815D)*, if applicable. (Jointly complete using the *Child Support Guidelines Tables of Net Incomes (HI-814D)*). Also, jointly complete the *Exceptional Circumstance Form for Child Support Guidelines (HI-816D)*, if applicable.
- *Separation and Property Settlement Agreement (HI-DO-11)*
- *Affidavit of Plaintiff for Uncontested Divorce (HI-809D)*
- *Supplemental Affidavit RE: Direct Payment Child Support (HI-811D)*
- *Divorce Decree (HI-812D)*
- *Certificate of Absolute Divorce or Annulment*. 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 6:** Make at least 4 copies of all of your completed documents. Go to the courthouse and file documents. 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. 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.

**STEP 7:** 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 *Divorce Decree (HI-812D)*. You and your spouse will each be mailed a stamped "filed," certified copy of the *Divorce Decree (HI-812D)* in the envelopes you left with the clerk.

**Note:** *There may be additional documents required for filing, depending upon which circuit you are filing in. Check with the Clerk of Court in the circuit of filing for information regarding any additional forms that may be required.*

## CHECKLIST

- The filing party (Petitioner) completes the following forms:
- *Complaint for Divorce (HI-801D)*
  - *Summons to Answer Complaint (HI-802D)*
  - *Matrimonial Action Information Sheet (HI-803D)*
- 4 copies made of completed forms. Papers filed with the clerk. Filing fee paid. Documents stamped “filed.” Clerk provides you and your spouse with notice to attend Parent Education Program.
- Spouse provided with the following:
- *Complaint for Divorce (HI-801D)*
  - *Summons to Answer Complaint (HI-802D)*
  - *Matrimonial Action Information Sheet (HI-803D)*
  - Notice to attend the Parent Education Program (HI-813D)
  - *Appearance and Waiver (HI-804D).*
- Spouse instructed to sign the *Appearance and Waiver (HI-804D)* and return for filing with Clerk.
- Each parent attends parent education program. Certificate of completion, if provided, filed with the Clerk.
- Once the *Appearance and Waiver (HI-804D)* is filed, fill out the following forms in cooperation with your spouse:
- *Income and Expense Statement of Plaintiff (HI-805D)*
  - *Income and Expense Statement of Defendant (HI-806D)*
  - *Asset and Debt Statement (HI-807D)* (jointly complete)
  - *Child Support Guidelines Worksheet (HI-810D)* or *Child Support Guidelines Worksheet for Joint Custody/Extensive Visitation (HI-815D)*, if applicable. (Jointly complete using the *Child Support Guidelines Tables of Net Incomes (HI-814D)*). Also, jointly complete the *Exceptional Circumstance Form for Child Support Guidelines (HI-816D)*, if applicable.
  - *Separation and Property Settlement Agreement (HI-DO-11)*
  - *Affidavit of Plaintiff for Uncontested Divorce (HI-809D)*
  - *Supplemental Affidavit RE: Direct Payment Child Support (HI-*

811D)

- *Divorce Decree (HI-812D)*
- *Certificate of Absolute Divorce or Annulment* - Obtained from Clerk.

At least 4 copies of all documents made. Documents then filed with Clerk. Also two envelopes, stamped and self-addressed, one to you and one to your spouse provided to Clerk at this time.

Documents forwarded to Judge for review, and approximate review date assigned. When approved, Judge signs *Divorce Decree (HI-812D)*. You and your spouse will each be mailed a stamped "filed," certified copy of the *Divorce Decree (HI-812D)* in envelopes left with Clerk.

### 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-006-D.htm>

## DISCLAIMER

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