

DISTRICT COURT

STATE OF IOWA

DIVORCE PACKAGE

With ADULT CHILDREN

With or Without Property

Control Number IA-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) “There has been a breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed, and there remains no reasonable likelihood that the marriage can be preserved.” (Iowa is a “No-Fault” divorce state, and the above quotation is the only ground for divorce in Iowa.) *Iowa Code §598.5, §598.17.*

(b) You and your spouse agree on all terms of the divorce.

(c) There are no minor children of said marriage, and the wife is not now pregnant. Further, there is no child of the marriage for whom “support” or “support payments,” or a “postsecondary education subsidy” under Iowa Code §598.1 could be ordered.

Specifically, there is no child of the marriage “between the ages of eighteen and nineteen years who is engaged full-time in completing high school graduation or equivalency requirements in a manner which is reasonably expected to result in completion of the requirements prior to the person reaching nineteen years of age;” *Iowa Code §598.1(9)*, nor is there any child of the marriage “who is between the ages of eighteen and twenty-two years if the child is regularly attending a course of vocational-technical training either as a part of regular school program or under special arrangements adapted to the individual person’s needs; or is, in good faith, a full-time student in a college, university, or community college; or has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.” *Iowa Code §598.1(8)*.

Further, there is no “child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.” *Iowa Code §598.1(9)*.

(d) You have **either** been a resident of the State of Iowa for at least one year prior to filing the *Petition for Dissolution of Marriage*, **or** your spouse is a resident of Iowa and will be personally served the dissolution of marriage papers. (Options for service of the divorce papers to your spouse are explained in detail in the “Instructions” section, below.)

If you have NOT been a resident of Iowa for one year, and your spouse is NOT a resident of Iowa, you may not file for divorce in Iowa under any circumstances.

2. **THE BASICS:** Actions for divorce in the State of Iowa are filed in the **District Court**. Each county has its own District Court. The party who files the *Petition for Dissolution* is known as the “Petitioner,” while the Petitioner’s spouse is known as the “Respondent.”

The *Petition* may be filed in the District Court for the county where either party resides. *Iowa Code §598.2.*

3. **RESIDENCY REQUIREMENTS:** You must **either** have been a resident of the State of Iowa for at least one year prior to filing the *Petition for Dissolution*, **or** your spouse is a resident of Iowa and will be personally served the dissolution of marriage papers. *Iowa Code §598.6.*

If you have NOT been a resident of Iowa for one year, and your spouse is NOT a resident of Iowa, you may NOT file for divorce in Iowa.

4. **GROUND FOR DIVORCE:** Iowa law allows a “No-Fault” divorce due to “A breakdown of the marriage relationship to the extent that the legitimate objects of matrimony have been destroyed, and there remains no reasonable likelihood that the marriage can be preserved.” This is the only ground for divorce allowed in Iowa, and applies to all situations for which someone might seek a divorce. *Iowa Code §598.5, §598.17.*

5. **LEGAL SEPARATION:** 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 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. 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, contact a local attorney.

6. **WAITING PERIODS:** There is a ninety (90) day waiting period that must elapse between the date that the *Acceptance of Service, Waiver and Answer* is filed by your spouse, and the day that the *Decree of Dissolution* may be granted. Once the papers are filed, the Court will schedule your case to be reviewed by the Judge after the 90 days have expired. *Iowa Code §598.19.*

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. This is accomplished by means of a *Separation and Property Settlement Agreement*. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Separation and Property Settlement Agreement*, which will be incorporated by reference into the *Decree of Dissolution* 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. The Judge will reject your *Agreement* if he or she finds it to be unfair.

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, and you must consult a local attorney if your divorce becomes contested.

8. **ALIMONY:** Because this is an agreed divorce, you and your spouse 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 *Separation and Property Settlement Agreement* 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, *Iowa Code §598.21, §598.22, §598.32.*
9. **NAME CHANGE:** When a divorce is granted, the court may restore the wife to her maiden or former name if she so requests. *Iowa Code §598.37.* A space for this request is located in the *Decree of Dissolution* in this package. If the wife does not wish to have her name changed as a result of the divorce, simply delete the mentions of name change from where they are found on page 2 (10.) and the bottom of page 3 of the *Decree*.

For more information, see the Iowa Divorce Law Summary.

FORMS LIST

The following forms are included in this package:

- A. Civil Petition Cover Sheet (IA-102)
- 1. Confidential Information Sheet (IA-103)
- 2. Separation and Property Settlement Agreement (IA-801D)
- 3. Petition for Dissolution of Marriage (IA-802D)
- 4. Motion of Waiver of 90 Day Waiting Period (IA-122)
- 5. Affidavit in Support of Motion of Waiver of 90 Day Waiting Period (IA-818)
- 6. Original Notice (IA-104A)
- 7. Acceptance of Service, Waiver, and Answer (IA-804)
- 8. Financial Affidavit for a Dissolution of Marriage (IA-806)

Notes: You must fill out the *Petition for Dissolution*. This is a one-page document used by the court for organizational purposes. You must complete and sign it. Mark the box for “Dissolution- No Children.” Ask the clerk if you have any questions.

ELECTRONIC FILING:

These forms must be used whether the filings in your case will be electronic or in paper. If you are unsure whether your county, or the county where your case is filed, accepts electronic filing, check the map available on the Iowa Judicial Branch website at:

<http://www.iowacourts.gov/eFiling/Overview/> or call the clerk of court office in your county. You can find a directory at <http://www.iowacourts.gov/Administration/Directories/>.

If the county where this case is filed accepts electronic filing, you must file electronically unless you get permission from the court to file in paper. Contact the clerk of court if you wish to file on paper.

FORM EXPLANATIONS

All forms included in this are identified and described below.

A. Civil Petition Cover Sheet (IA-102D) – The Civil Petition Cover Sheet is for statistical purposes of the Court only. It has no legal effect in the case.

1. Confidential Information Sheet (IA-103) – A Confidential Information Sheet is needed to provide the Court with the parties’ personal information.

2. Separation and Property Settlement Agreement (IA-801D) – This is the agreement by which you and your spouse divide all of your marital property, assets and debts. This agreement, if approved by the judge, will be incorporated into the final Decree of Dissolution in your case. Both spouses must sign the Agreement in front of a Notary Public, though this need not be done by the spouses at the same time. The Agreement must be finalized and signed by both parties prior to the filing of the Petition.

If the Agreement is not fair, it will be rejected by the Judge.

3. Petition for Dissolution of Marriage (IA-122) – This document contains the legal details of your request for the court to dissolve your marriage. Your Separation and Property Settlement Agreement must be signed by both spouses and attached to the Petition as Exhibit “A” at the time you file the Petition.

4. Motion of Waiver of 90 Day Waiting Period (IA-818) - This document is used when both parties wish to ask the Court that the required 90 day waiting period between filing for divorce and having the Final Decree of Divorce entered, be waived. The Motion of Waiver must be signed and dated by both parties, accompanied by an Affidavit in Support of the Motion.

5. Original Notice (IA-104A) – This is the official notice to your spouse that you have filed the Petition with the court. Even though you and your spouse have agreed to divorce, and your spouse knows about your filing, the Original Notice along with a copy of the Petition (with the completed Settlement Agreement attached) and certain other documents must be delivered to your spouse. See the “Instructions” section, below, for details.

6. Acceptance of Service, Waiver and Answer (IA-804) – This form must be signed by your spouse in front of a Notary Public. It indicates that your spouse has received the *Original Notice* and accompanying documents, waives further notices in the case, agrees with the *Petition*, and agrees to the divorce according to the terms of the *Separation and Property Settlement Agreement*.

7. Financial Affidavit for a Dissolution of Marriage (IA-806) – This affidavit is used when a party wishes to notify the court of his/her financial status with regards to their

assets and debts. This information is needed in order to equitably distribute all marital property.

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, complete the *Separation and Property Settlement Agreement (IA-801D)*, the *Petition for Dissolution of Marriage (IA-802)*, the *Motion of Waiver of 90 Day Waiting Period (IA-122)*, as well as the *Affidavit in Support of the Motion of Waiver of 90 Day Waiting Period (IA-818)*.

STEP 2: Attach the *Separation and Property Settlement Agreement (IA-801D)* to the *Petition (IA-802)*. Label the *Agreement (IA-801D)* “Exhibit A” by writing this in clear, large letters in the bottom margin of the first page. Also, attach the *Affidavit (IA-818)* to the *Motion (IA-817)*. Label the *Affidavit (IA-818)* “Exhibit A” by writing this in clear, large letters in the bottom margin of the first page.

STEP 3: Go to the clerk’s office at the courthouse. You must bring the original and at least 4 copies of the following documents:

1. The *Petition* and attached *Agreement (IA-802 & IA-801D)*, as well as the *Motion* and attached *Affidavit (IA-817 & IA-818)*, completed as described above.
2. The *Original Notice (IA-104A)*. You need only have completed the gray blanks at this time.
3. The *Acceptance of Service, Waiver and Answer (IA-804)*. You need only have completed the gray blanks at this time.

Complete the “Petition COVER SHEET” **(IA-102)** and give to clerk. FILE the *Petition* (with attached *Agreement*), as well as the *Motion* (with attached *Affidavit*) with the clerk. You must pay filing fees at this time- call ahead to determine the amount and acceptable forms of payment. Keep extra stamped “filed” copies of your documents (your spouse will also want a copy of the *Motion* and *Affidavit*).

The clerk will stamp and sign your *Original Notice (IA-104A)*.

If you have resided in Iowa for at least one year prior to filing, go directly to STEP 5 (skip STEP 4). If you have not resided in Iowa for one year prior to filing, but your spouse is a resident of Iowa, go to STEP 4, and then skip STEP 5.

STEP 4: Fill out the second page of the *Original Notice (IA-104A)*, entitled **DIRECTIONS FOR SERVICE OF ORIGINAL NOTICE**. The clerk will help you and will sign this document. The clerk will either deliver the *Petition (IA-802)*, *Original Notice (IA-104A)* and *Acceptance, Waiver and Answer (IA-804)* to the Sheriff for service to your spouse, or instruct you on how to contact the Sheriff or a process server. Call your spouse to notify her that these documents are on the way. Instruct your spouse to sign the *Acceptance, Waiver and Answer (IA-804)* in front of a notary public, and file it with the court, or return it to you for filing with the court.

STEP 5: Discard the second page of the *Original Notice (DIRECTIONS FOR SERVICE)*.

Mail copies of the stamped “filed” *Petition (IA-802)*, the stamped *Original Notice (IA-104A)*, the *Acceptance, Waiver and Answer (IA-804)*, the *Motion of Waiver of 90 Day Waiting Period (IA-122)*, and the *Affidavit in Support of the Motion of Waiver of 90 Day Waiting Period (IA-818)*, to your spouse. Instruct your spouse to sign the *Acceptance, Waiver and Answer (IA-804)* in front of a notary public, and file it with the court, or return it to you for filing with the court.

STEP 6: Attach a stamped “filed” copy of the *Petition (IA-802)* (with attached Agreement **(IA-801D)**) and the *Motion* (with attached *Affidavit (IA-122 & IA-818)*). Label the attached *Petition (IA-802)* “Exhibit 1” by writing this in large clear letters in the bottom margin of the first page of the *Petition*, and label the *Motion (IA-122)* “Exhibit 2” by writing this in large clear letters in the bottom margin of the first page of the *Motion*.

Deliver or mail copies to your spouse. Instruct you spouse to sign the forms, in front of a notary where necessary. If financial statements are required, send your spouse a copy of your completed financial statement, and a blank one for your spouse to complete.

Your spouse must return these forms to you after completion.

STEP 7: Return to the clerk's office with the forms your spouse has completed and returned to you and FILE the completed forms and financial statements

STEP 8: Once you are notified that the Judge has signed your *Decree* and it has been entered in the clerk's office, go to the court house and obtain a certified copy of the *Decree*. Instruct your spouse to do the same, or mail your spouse a copy.

CHECKLIST

- Agreement and Petition*, and *Motion and Affidavit*, signed and notarized, as per Step 1. Attach *Agreement* to *Petition* as "Exhibit A," and attach *Affidavit* to *Motion* as "Exhibit A," as per Step 2.
- Documents filed with court clerk, as per Step 3. Cover Sheet obtained from clerk and completed. Obtain financial statements if needed.
- Filing Fee Paid.
- Forms delivered to your spouse, as per Step 4 or Step 5.
- Spouse signs *Acceptance, Waiver and Answer* in front of Notary Public, and returns to you for filing.
- Financial Statements* completed and delivered to spouse for signatures, as per Step 6. Spouse to complete an individual financial statement. Documents returned to you.
- Returned documents filed with clerk. *Decree* submitted for review and signing by Judge.
- Decree* signed by Judge, and entered with clerk. Certified copy obtained.
- Copy of *Decree* mailed to former spouse.

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/IA/IA-004-D.htm>

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