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STATE OF IDAHO

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number ID-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 must be printed on bond paper.

INFORMATION ABOUT DIVORCE

1. **WHO CAN USE THESE FORMS:** You may use this petition for divorce only when all of the following facts are true;
 - (a) There are minor children of the marriage.
 - (b) You and your spouse agree on all terms of the divorce.
 - (c) You and/or your spouse are a resident of the State of Idaho.

2. **THE BASICS:** To use this divorce package, there are basic two requirements that must be met. Those requirements are:
 - (a) You must satisfy the *residency* requirements.
 - (b) You must be seeking a divorce based upon the ground of irreconcilable differences.

3. **RESIDENCY REQUIREMENTS:** Idaho law requires that in an action for divorce, the plaintiff must have been a resident of the state for six (6) full weeks next preceding the commencement of the action.

4. **GROUND FOR DIVORCE:** Under Idaho law, a divorce may be granted based upon the following grounds:
 - (a) Adultery
 - (b) Extreme cruelty
 - (c) Willful desertion
 - (d) Willful neglect
 - (e) Habitual intemperance
 - (f) Conviction of felony
 - (g) When either the husband or wife has become permanently insane
 - (h) Irreconcilable differences.

Irreconcilable differences are those grounds which are determined by the court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved. Only parties seeking a divorce based upon irreconcilable differences may use this package.

5. **WAITING PERIOD:** No hearing on the merits upon grounds for divorce shall be held in any action for divorce, and no final decree shall be entered, until at least twenty (20) days after the commencement of the action and service of process.

6. **ALIMONY/SUPPORT:** Since this is an agreed divorce, you and your spouse will decide issues of alimony. The forms included with this package assume that no alimony will be paid and is waived, but you may add provisions for alimony if you desire. In a contested case, the court may order maintenance payments to a spouse if it finds that the spouse seeking maintenance:
 - (a) Lacks sufficient property to provide for his or her reasonable needs; and
 - (b) Is unable to support him or her through employment.

The maintenance order shall be in such amounts and for such periods of time that the court deems just, after considering all relevant factors which may include:

- (a) The financial resources of the spouse seeking maintenance, including the marital property apportioned to said spouse, and said spouse's ability to meet his or her needs independently;
 - (b) The time necessary to acquire sufficient education and training to enable the spouse seeking maintenance to find employment;
 - (c) The duration of the marriage;
 - (d) The age and the physical and emotional condition of the spouse seeking maintenance;
 - (e) The ability of the spouse from whom maintenance is sought to meet his or her needs while meeting those of the spouse seeking maintenance;
 - (f) The tax consequences to each spouse;
 - (g) The fault of either party.
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7. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will agreed to property distributions. Idaho is a community property state. In a contested case, this means that the court will divide the marital property between the parties in such proportions as the court, from all the facts of the case and the condition of the parties, deems just, with due consideration of the following factors:
 - (a) Unless there are compelling reasons otherwise, there shall be a substantially equal division in value, considering debts, between the spouses.
 - (b) Factors which may bear upon whether a division shall be equal, or the manner of division, include, but are not limited to:
 - (1) Duration of the marriage;

- (2) Any antenuptial agreement of the parties; provided, however, that the court shall have no authority to amend or rescind any such agreement;
- (3) The age, health, occupation, amount and source of income, vocational skills, employability, and liabilities of each spouse;
- (4) The needs of each spouse;
- (5) Whether the apportionment is in lieu of or in addition to maintenance;
- (6) The present and potential earning capability of each party; and
- (7) Retirement benefits, including, but not limited to, social security, civil service, military and railroad retirement benefits.

8. **CHILD CUSTODY:** The court shall determine the issue of child custody based upon the best interests of the child. There is a presumption that joint custody is in the child's best interests. Among the factors the court will consider in determining the best interests of the child are:

- (a) The wishes of the child's parents;
- (b) The wishes of the child;
- (c) The interaction and interrelationship of the child with the parents and siblings;
- (d) The child's adjustment to his/her home, school and community;
- (e) The mental and physical health and integrity of all individuals concerned;
- (f) The need to promote continuity and stability in the life of the child;
- (g) Any instances of domestic violence.

Each parent, unless otherwise stated by the court, shall have equal access to information pertaining to the child, such as medical, dental, health and school records.

9. **CHILD SUPPORT:** The court may order either or both parents to pay an amount reasonable and necessary for the support of a minor child until that child's eighteenth birthday after considering the following factors:

- (a) The financial resources of the child;
- (b) The financial resources of the parent;
- (c) The physical and emotional condition and needs of the child and his or her educational needs;
- (d) The availability of medical coverage for the child.

The State of Idaho has established child support guidelines that set the presumptive correct amount of child support to be awarded. Deviation from the guidelines requires a specific written finding on the record of the proceeding that the application of the guidelines would be unjust or inappropriate in the particular case.

10. **NAME CHANGE:** All applications for change of names must be made to the district court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person. The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and reason for such change of name.

11. **MEDIATION:** During the mandatory waiting period of twenty days before granting a divorce, the court may, upon request of either party, require a conference of the parties to make a determination as to whether a reconciliation of the parties is practicable.

For more information, see the Idaho Divorce Law Summary.

FORMS LIST

1. Filing for Divorce Instructions (ID-CAO-INST-3)
2. Complaint for Divorce (**ID-CAO-1-2**)
3. Family Law Case Information Sheet (ID-CAO-1A)
4. Summons (**ID-CAO-1-1**)
5. Child Support Affidavit (**ID-CAO-1-11**)
6. Child Support Worksheet (Shared Custody) (**ID-CAO-1-12**)
7. Child Support Worksheet (Sole Custody) (**ID-CAO-1-13**)
8. Parenting Plan (**ID-CAO-6-3**)
9. Acknowledgement Of Service By Defendant And Consent (**ID-CAO-2-1A**)
10. Sworn Stipulation For Entry Of Decree Of Divorce (**ID-CAO-6-8**)
11. Decree Of Divorce (**ID-CAO-8-1**)
12. Child Support Transmittal (**ID-CAO-1-14**)

A Certificate of Divorce or Annulment (ID-CAO-8-5) may be required and will be available from the Clerk of Court.

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 below.

1. **Filing for Divorce Instructions (ID-CAO-INST-3)** - This is an instruction document to help aid in the completion of the divorce procedure in the state of Idaho.

2. **Complaint for Divorce (ID-CAO-1-2)** – The Complaint for Divorce is the document in which you are asking the court to grant your divorce along with any other relief requested.

3. **Family Law Case Information Sheet (ID-CAO-1A)** – The Family Law Case Information Sheet is a form which notifies the Court that a lawsuit has been filed.

4. **Summons (ID-CAO-1-1)** – The Summons is used to notify the opposing party that a suit has been filed against him or her. It shall contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney (if any), and the time within which the rules require the defendant to appear and defend, and shall notify the defendant that in case of his or her failure to do so judgment by default will be rendered against the defendant for the relief demanded in the complaint.

5. **Child Support Affidavit (ID-CAO-1-11)** – This form is used to certify to the Court the income of the parties for the purpose of establishing the correct amount of child support to be paid.

6. **Child Support Worksheet (ID-CAO-1-12/ID-CAO-1-13)** – These worksheets are used in conjunction with the financial information supplied in the Child Support Affidavit to arrive at the correct amount of child support to be paid. Although there are two worksheets provided, only one should be utilized, depending upon the custodial arrangement of the parties. One worksheet is for use by parties who are to share custody of the minor children; the other is for use when one party is the sole or primary custodian of the minor children.

7. **Parenting Plan (ID-CAO-6-3)** – This form is used to document the agreement reached between the parties regarding custody, visitation, and other issues affecting the well being of the minor children of the marriage.
8. **Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)** – This form is used by the Defendant to acknowledge service of a copy of the Complaint and Summons, submit to the jurisdiction of the court, decline to plead, waive hearing and the twenty-day reconciliation period, and agree that a final decree be entered.
9. **Sworn Stipulation for Entry of Decree of Divorce (ID-CAO-6-8)** – This form is used by the parties to an action for divorce to stipulate to the Court that irreconcilable differences exist between the parties, that the court has jurisdiction over the matter, that there has been a fair and equitable division of the property and debts of the parties, that the parties waive their right to appear personally in court to present testimony and ask that the Court enter the Decree without a Court hearing
10. **Decree of Divorce (ID-CAO-8-1)** – This document grants the divorce and any other relief requested.
11. **Child Support Transmittal (ID-CAO-1-14)** – This form is used to provide information regarding child support orders to the Idaho Department of Health And Welfare.

INSTRUCTIONS AND STEPS

Note: If a form contains a space for the signature of a Notary Public, it must be signed by you (and if necessary by your spouse) in front of a Notary Public, who must notarize the document. Prepare an original and several copies of each of your completed documents. Your spouse should have a copy of everything you file, stamped “filed” by the clerk. You should keep copies and the court must have originals.

STEP 1: The filing party (Plaintiff) should complete the following forms:

- *Complaint for Divorce (ID-CAO-1-2)*
- *Summons (ID-CAO-1-1)*
- *Child Support Affidavit (ID-CAO-1-11)*
- *Child Support Worksheet (ID-CAO-1-12) or (ID-CAO-1-13)*
- *Parenting Plan (ID-CAO-6-3)*

Once completed, these documents should be presented to the Clerk of Court for filing. A filing fee must be paid at this time. While at the Clerk’s office, obtain from the Clerk of Court an *Order to Attend a Parenting Program*, which may be called a variety of names depending upon the District you are in.

STEP 2: You must now serve the Defendant with the following forms:

- *Complaint for Divorce (ID-CAO-1-2)*
- *Summons (ID-CAO-1-1)*
- *Child Support Affidavit (ID-CAO-1-11)*
- *Child Support Worksheet (ID-CAO-1-12 or ID-CAO-1-13)*
- *Parenting Plan (ID-CAO-6-3)*
- *Order to Attend a Parenting Program*

The Defendant should also be provided a copy of the *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)*. The Defendant should complete and return the *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)* to you. Once the Defendant has returned the *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)* to you, take the original *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)* and *Summons (ID-CAO-1-1)* to the Clerk for filing.

STEP 3: Both parties should make arrangements to attend the required Parenting Program.

STEP 4: After the required waiting period of twenty (20) days from the date your spouse

signed the *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)* has elapsed, the parties should jointly complete the *Sworn Stipulation for Entry of Decree of Divorce (ID-CAO-6-8)*. The *Decree of Divorce (ID-CAO-8-1)* and *Child Support Transmittal (ID-CAO-1-14)* form should also be completed at this time. Once completed, these documents should then be filed with the Clerk of Court. When presenting these documents to the Clerk of Court, also include two stamped envelopes, one addressed to you and the other addressed to your spouse. You may also be required to file a *Certificate of Divorce or Annulment (ID-CAO-8-5)*. If so, this form is available from the Clerk of Court.

STEP 5: Once the *Decree of Divorce (ID-CAO-8-1)* is signed by the Judge, the Clerk of Court will mail the signed Decree to you and your spouse in the envelopes provided.

Notes: When presenting Pleadings to the Clerk make sure you have at least 4 copies for the Clerk. The Clerk will return the copies to you that the Court does not need. If a Certificate of Mailing is on any form, a copy of the form should be mailed to the person indicated.

CHECKLIST

Filing party (Plaintiff) completes the following forms:

- *Complaint for Divorce (ID-CAO-1-2)*
- *Summons (ID-CAO-1-1)*
- *Child Support Affidavit (ID-CAO-1-11)*
- *Child Support Worksheet (ID-CAO-1-12) or (ID-CAO-1-13)*
- *Parenting Plan (ID-CAO-6-3)*

Once completed, documents presented to Clerk of Court for filing. Filing fee paid. While at Clerk's office, *Order to Attend a Parenting Program* obtained.

Defendant served with the following forms:

- *Complaint for Divorce (ID-CAO-1-2)*
- *Summons (ID-CAO-1-1)*
- *Child Support Affidavit (ID-CAO-1-11)*
- *Child Support Worksheet (ID-CAO-1-12 or ID-CAO-1-13)*
- *Parenting Plan (ID-CAO-6-3)*
- *Order to Attend a Parenting Program*

Defendant also provided with *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)*.

Defendant completes and returns *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)*. Original *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)* and *Summons (ID-CAO-1-1)* filed with Clerk.

Both parties attend Parenting Program.

After required waiting period of twenty (20) days from date spouse signed *Acknowledgment of Service by Defendant and Consent (ID-CAO-2-1A)* has elapsed, parties jointly complete *Sworn Stipulation for Entry of Decree of Divorce (ID-CAO-6-8)*. The *Decree of Divorce (ID-CAO-8-1)* and *Child Support Transmittal (ID-CAO-1-14)* also completed at this time. Once completed, these documents filed with Clerk of Court. Two stamped envelopes, one addressed to you, the other addressed to your spouse included. You may also be required to file a *Certificate of Divorce or Annulment (ID-CAO-8-5)*. If so, form available

from Clerk.

- Decree of Divorce (ID-CAO-8-1)* signed by Judge and copies mailed to each party in provided envelopes.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet 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.

The forms are locked which means that the content of the forms cannot be changed. 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 select “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 and re-protecting the document, 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/ID/ID-006-D.htm>

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