

CIRCUIT COURT/FAMILY COURT

COMMONWEALTH OF KENTUCKY

DIVORCE PACKAGE

ADULT CHILDREN

With or Without Property

Control Number KY-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.
The forms must be printed on bond paper.

INFORMATION ABOUT DIVORCE

1. **WHO MAY USE THESE FORMS:** This packet is designed for the sole purpose of obtaining an uncontested divorce. This packet is only of use to you if you and your spouse are willing to agree to all the terms and conditions of your divorce. You must communicate with your spouse and keep him or her advised as to each step in the process. If you cannot agree to all terms, you will become involved in a contested divorce, which is beyond the scope of this packet. You and your spouse may file a Joint Petition for Dissolution of Marriage only when all of the following facts are true:
 - (a) You and your spouse's marriage has suffered an irretrievable breakdown with no reasonable prospect of reconciliation;
 - (b) There are no minor children of said marriage, and the wife is not now pregnant. All children of the marriage are over the age of eighteen (18) and emancipated;
 - (c) The parties have agreed to all of the terms of division of assets/property in the Separation and Property Settlement Agreement.
 - (d) You or your spouse has lived in Kentucky for one hundred eighty (180) days before filing the divorce.

2. **THE BASICS:** In a typical divorce, you must satisfy two basic requirements before you can file for divorce. Those requirements include the ***residency requirements*** and appropriate ***grounds for divorce***. These requirements are discussed in detail in their respective sections, below.

In addition, you must agree with your spouse to become divorced, and agree to all the terms of the divorce in filling out the forms, including property division. You will file the forms (see detailed instructions, below) in the **Circuit Court** for the county in which either spouse resides **KRS 35.403.140; KRS 35.452.470**.

3. **RESIDENCY REQUIREMENTS:** At least one of the parties to the divorce action must have resided in Kentucky for a period of one hundred and eighty (180) days prior to the filing of the *Petition*.
KRS 35.403.140

4. **GROUND FOR DIVORCE:** The only ground upon which divorce is granted in the Commonwealth of Kentucky is an "irretrievable breakdown" of the marriage of which there is "no reasonable prospect of reconciliation." **KRS 35.403.170**

5. **WAITING PERIOD:** Kentucky law provides that no divorce shall issue until the parties have lived "separate and apart" for sixty (60) days. Living separate and apart can

mean that the parties share the same domicile, as long as they have no sexual relations between each other during that period of time. **KRS 35.403.170**

6. **LEGAL SEPARATION (“DIVORCE FROM BED AND BOARD”):** A “legal separation” in Kentucky is known as a “divorce from bed and board”- which is different from a “divorce.” A “divorce from bed and board” is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of “divorce from bed and board” **does not terminate the marital status** of the parties: the parties are NOT free to marry again. **KRS 35.403.050**

ATTENTION: This divorce package DOES NOT include forms for a “divorce from bed and board.”

7. **ALIMONY/ SPOUSAL SUPPORT:** Because this is an agreed divorce, you will decide issues of alimony, also known as "spousal support". 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 if you desire. In a contested case, the courts 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.**

In a contested divorce, the court may award temporary or permanent alimony to either spouse upon a showing that: the spouse seeking alimony lacks sufficient property to provide for his/her reasonable needs; and is unable to support himself/herself through appropriate employment. Factors the court will consider in determining the amount and duration of the award of support include such things as the financial resources of the party seeking support; the time necessary to acquire sufficient education or training to enable the person seeking support to find appropriate employment; the standard of living established during the marriage; the duration of the marriage; the age, physical and emotional condition of the spouse seeking support, and; the ability of the payor spouse to meet his needs while meeting the needs of the spouse seeking support. **KRS 35.403.200**

8. **DISTRIBUTION OF PROPERTY:** In a divorce, the property such as land, house, and items of personal property owned by the parties 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 of Marriage* 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 beyond the scope of this divorce package.

9. **NAME CHANGE:** Upon request by the wife whose marriage has been dissolved, and if there are no children of the marriage, the court may order that her maiden or former name be restored.

KRS 35.403.230

10. **FAMILY COURT INFORMATION:** There are ten (10) Family Courts covering the Counties below by act of the legislature. In these Counties, the Family Division of the Circuit Court system handles dissolutions. The Counties are: Boone, Gallatin, Floyd, Knott, Magoffin, Pulaski, Lincoln, Rockcastle, Christian, Franklin, Jefferson, Madison, Clark, McCracken, Pike and Warren.

Important Note: For these Counties you should change the style (top) of the pleading to add FAMILY COURT, such as:

CIRCUIT COURT
FRANKLIN COUNTY, KENTUCKY
FAMILY COURT

FORM LIST

The forms included in this package are:

1. Joint Petition for Dissolution of Marriage – KY-804D
2. Separation and Property Settlement Agreement – KY-805D
3. Decree of Dissolution of Marriage – KY-806D
4. Case Data Information Sheet – KY-807D
5. Notice of Hearing – KY-808D
6. Entry of Appearance and Waiver – KY-809D

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Joint Petition for Dissolution of Marriage (KY-804D)** - The Petition for Divorce is the document in which you are asking the court to grant your divorce along with any other relief requested. Both you and your spouse, as your joint request to the court, must sign this *Joint Petition*.
2. **Separation and Property Settlement Agreement (KY-805D)**- This form is a contract in which you and your spouse agree to the division of all your property and debts. If approved by the Judge, it will be incorporated into the *Decree of Dissolution of Marriage*. It must be completed and attached to the *Joint Petition for Dissolution of Marriage*.
3. **Decree of Dissolution of Marriage (KY-806D)** - The final statement of the legalities and terms of your divorce, which incorporates your agreed-upon *Separation and Property Settlement Agreement*. Once this form is signed by the Judge and filed with the court, your divorce is complete. You must mail a certified copy of the signed, filed copy of the *Decree of Dissolution of Marriage* to your spouse.
4. **Case Data Information Sheet (KY-807D)** This form is for use by a petitioner and respondent to provide the court information including the parties' names, addresses, telephone numbers, dates of birth, social security numbers, relationship between parties, as well as any pending cases or cases that have been heard within the last five years that have involved the parties or children of the parties in Family, District or Circuit Court.
5. **Notice of Hearing (KY-808D)** - This form is for use by a party to a divorce to notify the other party that a hearing has been scheduled in the case and provide information such as date, time and location of such hearing.
6. **Waiver of Process and Entry of Appearance (KY-809D)** – This form is signed by the Defendant to waive service of process and enter appearance.

Note: Additional forms may be required in your County but should be available from the Clerk of the Circuit Court or Family Court if your County is one of the Counties which has a Family Court.

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: Complete the following forms:

Form 1 (KY-804D) - **Joint Petition for Dissolution of Marriage:** you and your spouse must agree on all information and both sign this document in front of a Notary Public.

Form 2 (KY-805D) - **Separation and Property Settlement Agreement:** you and your spouse must agree on all property division and both sign this document in front of a Notary Public.

Form 3 (KY-806D)- **Decree of Dissolution of Marriage:** you and your spouse must agree on all information to be completed. The Judge will sign this document.

Form 4 (KY-807D) – **Case Data Information Sheet:** you and your spouse should complete this form.

STEP 2: Arrange the forms:

The signed and notarized original of Form 2 must be attached to Form 1, and a copy of the completed Form 2 must be attached to Form 3.

STEP 3: FILE the four documents, arranged as indicated above, with the court clerk for the Circuit Court for the county of your or your spouse’s residence. You must pay a filing fee at this time. Call ahead to determine the amount of fee and acceptable types of payment.

At the time of filing, you must also complete and file a “**VS-300**” information form. The clerk will provide you with this document. You may want to obtain this document in advance and have it ready for filing when you go to the courthouse, because it make take some time to complete, and require you to access information that you may not be carrying with you. Ask the clerk if any additional documents are needed.

STEP 4: Final procedures:

You must attend an uncontested hearing where the Judge will ask a few brief questions in order to confirm the information in your documents. Consult the court clerk about the date for your hearing. Inform your spouse of the hearing through Form 5 (KY-808D) – **Notice of Hearing**, and bring completed copies of Forms 1, 2, 3, and 4 and any other documents you have completed during the process. Once the Judge signs the *Decree of Dissolution*, it must be filed with the court clerk, and a certified copy mailed to your spouse.

CHECKLIST

- ☐ Complete Forms 1, 2, 3, and 4 in agreement with your spouse.
- ☐ Sign Forms 1 and 2 in front of a Notary Public.
- ☐ FILE the forms. Pay filing fee. Ask clerk if any addition forms are needed. Keep copies of all forms stamped “filed” by the clerk.
- ☐ Determine final procedures and complete and provide Form 5 to your spouse after consulting with the clerk.
- ☐ *Decree of Dissolution* signed by the Judge and filed with the court clerk.
- ☐ Certified copy of *Decree of Dissolution* mailed to your 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.

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 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/KY/KY-004-D.htm>

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THESE FORMS WERE PREPARED FOR STATEWIDE USE. HOWEVER, SOME COUNTIES OR JUDGES MAY REQUIRE CERTAIN MODIFICATIONS TO THE FORMS FOR USE IN YOUR PARTICULAR COUNTY AND MAY REQUIRE SPECIAL FORMS NOT INCLUDED. CHANGES REQUIRED BY PARTICULAR JUDGES IS NOT UNCOMMON EVEN IF THE FORMS HAD BEEN PREPARED BY YOUR ATTORNEY. REGARDLESS, YOU SHOULD BE ABLE TO USE THESE FORMS AND INSTRUCTIONS, WITH ANY REQUIRED MODIFICATIONS, TO MAKE IT THROUGH THE PROCESS. IF YOU NEED TO MAKE CHANGES, OR IF SPECIAL FORMS ARE REQUIRED IN YOUR COUNTY, YOU CAN MAKE THE CHANGES AND REFILE, OR OBTAIN THE SPECIAL FORMS EITHER FROM THE CLERK OR A CLOSED DIVORCE FILE WHICH YOU CAN USE AS AN EXAMPLE.