

STATE OF MAINE

DIVORCE PACKAGE

ADULT CHILDREN

With or Without Property

Control Number ME-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 must be printed on bond paper.**

INFORMATION ABOUT DIVORCE

1. **WHO CAN USE THESE FORMS:** You may use this petition form for divorce only when all of the following facts are true;
 - (a) There are no minor children of the marriage; wife is not pregnant.
 - (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 Maine.

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:** The State of Maine requires that in an action for divorce, at least one of the following residency requirements must be met prior to filing for divorce:
 - (a) The plaintiff has resided in good faith in this State for 6 months prior to the commencement of the action;
 - (b) The plaintiff is a resident of this State and the parties were married in this State;
 - (c) The plaintiff is a resident of this State and the parties resided in this State when the cause of divorce accrued; or
 - (d) The defendant is a resident of this State.

4. **GROUND FOR DIVORCE:** Under Maine law, a divorce may be granted based upon the following grounds:
 - (a) Adultery;
 - (b) Impotence;
 - (c) Extreme cruelty;
 - (d) Utter desertion continued for 3 consecutive years prior to the commencement of the action;
 - (e) Gross and confirmed habits of intoxication from the use of liquor or drugs;

- (f) Nonsupport, when one spouse has sufficient ability to provide for the other spouse and grossly, wantonly or cruelly refuses or neglects to provide suitable maintenance for the complaining spouse;
- (g) Cruel and abusive treatment;
- (h) Irreconcilable marital differences; or
- (i) Mental illness requiring confinement in a mental institution for at least 7 consecutive years prior to the commencement of the action.

This package is designed for parties seeking a divorce based upon the no-fault grounds of irreconcilable marital differences.

5. **LEGAL SEPARATION:** A judgment of legal separation may be granted upon the petition of one of the parties to a marriage, or upon a joint petition filed by both spouses when the party or parties live or desire to live separate and apart from their spouse for a period of at least sixty consecutive days. MRSA 19A-851
6. **WAITING PERIOD:** No Complaint for Divorce shall be heard by the Court until after the expiration of sixty (60) days from the date the Defendant was served with the divorce complaint.
7. **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 award spousal support for one or more of the following reasons.
 - (a) General support may be awarded to provide financial assistance to a spouse with substantially less income potential than the other spouse so that both spouses can maintain a reasonable standard of living after the divorce.

There is a rebuttable presumption that general support may not be awarded if the parties were married for less than 10 years as of the date of the filing of the action for divorce. There is also a rebuttable presumption that general support may not be awarded for a term exceeding 1/2 the length of the marriage if the parties were married for at least 10 years but not more than 20 years as of the date of the filing of the action for divorce.
 - (b) Transitional support may be awarded to provide for a spouse's transitional needs, including, but not limited to:
 - (1) Short-term needs resulting from financial dislocations associated with the dissolution of the marriage; or

(2) Reentry or advancement in the work force, including, but not limited to, physical or emotional rehabilitation services, vocational training and education.

(c) Reimbursement support may be awarded to achieve an equitable result in the overall dissolution of the parties' financial relationship in response to exceptional circumstances. Exceptional circumstances include, but are not limited to:

- (1) Economic misconduct by a spouse; and
- (2) Substantial contributions a spouse made towards the educational or occupational advancement of the other spouse during the marriage.

Reimbursement support may be awarded only if the court determines that the parties' financial circumstances do not permit the court to fully address equitable considerations through its distributive order.

(d) Nominal support may be awarded to preserve the court's authority to grant spousal support in the future.

(e) Interim support may be awarded to provide for a spouse's separate support during the pendency of an action for divorce or judicial separation.

Factors the Court may consider in determining an award of spousal support include the following:

- (a) The length of the marriage;
- (b) The ability of each party to pay;
- (c) The age of each party;
- (d) The employment history and employment potential of each party;
- (e) The income history and income potential of each party;
- (f) The education and training of each party;
- (g) The provisions for retirement and health insurance benefits of each party;
- (h) The tax consequences of the division of marital property, including the tax consequences of the sale of the marital home, if applicable;
- (i) The health and disabilities of each party;
- (j) The tax consequences of a spousal support award;
- (k) The contributions of either party as homemaker;
- (l) The contributions of either party to the education or earning potential of the other party;
- (m) Economic misconduct by either party resulting in the diminution of marital property or income;
- (n) The standard of living of the parties during the marriage;

- (o) The ability of the party seeking support to become self-supporting within a reasonable period of time;
- (p) The effect of the following on a party's need for spousal support or a party's ability to pay spousal support:
 - (1) Actual or potential income from marital or non-marital property awarded or set apart to each party as part of the court's distributive order; and
 - (2) Child support for the support of a minor child or children of the marriage; and
- (q) Any other factors the court considers appropriate.

8. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will agreed to property distributions. Maine is an equitable distribution state. In a contested case, this means that the court will set apart to each spouse the spouse's property and shall divide the marital property in proportions the court considers just after considering all relevant factors, including:

- (a) The contribution of each spouse to the acquisition of the marital property, including the contribution of a spouse as homemaker;
- (b) The value of the property set apart to each spouse; and
- (c) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live in the home for reasonable periods to the spouse having custody of the children.

9. **NAME CHANGE:** Upon the request of either spouse to change that person's own name, the court, when entering judgment for divorce shall change the name of that spouse to a former name requested may change the name of that spouse to any other name requested.

For more information, see the Maine Divorce Law Summary.

FORMS LIST

1. Confidential Family Matter Summary Sheet (**ME-CV-002**)
2. Complaint for Divorce (no minor children) (**ME-CV-005**)
3. *Family Matter Summons and Preliminary Injunction (**ME-CV-038**)
4. Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (**ME-CV-036**)
5. Financial Statement (**ME-CV-043**)
6. Separation and Property Settlement Agreement (**ME-802D**)
7. Federal Affidavit (**ME-CV-052**)
8. Certificate Regarding Real Estate (**ME-CV-056**)

* This form is provided for use as a guide. You must obtain and use an original *Family Matter Summons and Preliminary Injunction (ME-CV-038)* from the Clerk's office.

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Confidential Family Matter Summary Sheet (ME-CV-002)** – This is an information sheet for the court’s use. This form is used for entering basic information about the case and the parties into court records. You must complete and file this form with the Clerk when you file your Complaint or Motion.
2. **Complaint for Divorce (ME-CV-005)** - 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 Complaint as “Exhibit A” at the time you file the Complaint.
3. **Family Matter Summons and Preliminary Injunction (ME-CV-038)** – This form must be signed and stamped by the clerk. It is sent to your spouse along with the other divorce papers as official notice of the initiation of the divorce action. The Preliminary injunction instructs the spouses not to take certain forbidden actions while the divorce is pending, such as selling, giving away, encumbering, concealing, or disposing of any property, restraining the personal liberty of the other party, or removing the other party from coverage under any health insurance policy.
 - a. This document is provided for use as a guide. You must obtain an original Family Matter Summons and Preliminary Injunction from the Clerk of Court. Only an original Family Matter Summons and Preliminary Injunction form will contain the Clerk’s original signature and seal.
4. **Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (ME-CV-036)** - This form must be signed by your spouse. It indicates that your spouse has received the Summons and Complaint. Your spouse must return this form to you for filing.
5. **Financial Statement (ME-CV-043)** – This form is used by the parties to fully disclose to the Court each party’s financial situation.
6. **Separation and Property Settlement Agreement (ME-802D)** – 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 Judgment of Divorce in your case. Both spouses must sign the Agreement in front of a Notary Public.
7. **Federal Affidavit (ME-CV-052)** – This form is your sworn statement that your spouse is not on active duty in the military. If your spouse IS on active duty, he/she will need to appear at the final uncontested hearing before the Judge and agree to the divorce.
8. **Certificate Regarding Real Estate (ME-CV-056)** – This form is used if either or both parties have an interest in real estate.

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 *Complaint for Divorce (CV-005)* and the *Family Matter Summons and Preliminary Injunction (CV-038)*. The *Family Matter Summons and Preliminary Injunction (CV-038)* must be obtained from the Clerk of Court in the county of filing. Use the provided *Summons* as a guide to assist you in completing the original.**
- STEP 2:** **The Defendant must next be served with copies of the documents listed above. Simply mail or have hand delivered the above listed documents to the Defendant along with the *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (CV-036)*. Ask the Defendant to complete the *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (CV-036)* and return the form to you within twenty (20) days.**
- STEP 3:** Within twenty (20) days of serving the Defendant with the *Complaint* and *Summons (CV-005, CV-038)*, the Plaintiff should complete and file with the Clerk of Court the *Confidential Family Matter Summary Sheet (CV-002)*, *Complaint (CV-005)*, *Summons (CV-038)* (with deputy’s signature if you used sheriff’s service), *Acknowledgement of Receipt (CV-036)* (if you used service by mail), and a green card (if you used certified mail service). A filing fee, currently about \$60 must be paid at this time. If you cannot afford the court fees, you may ask the court clerk for an *Application to Proceed Without Payment of Fees and Indigency Affidavit*. Fill these forms out, sign before a notary, and file the forms with the clerk. A judge will review the *Application* and determine whether you qualify for a fee waiver. If the wavier is denied, you must pay the filing fees within 7 days.
- STEP 4:** Next, both parties must complete the *Financial Statement (CV-043)*. After completing the form, the parties should exchange copies of the completed forms and file the originals with the Court.
- STEP 5:** After each party has completed the *Financial Statement (CV-043)*, the parties should jointly complete the *Separation and Property Settlement Agreement (ME-802D)*, making certain to agree to all of the terms contained therein. Once completed, this form should then be filed with the Clerk of Court.
- STEP 6:** After the required waiting period of sixty (60) days from the date the Defendant was served with the *Complaint* has elapsed, contact the Clerk of Court to set a date for the divorce hearing.

STEP 7: The parties are divorced once the Court approves the settlement

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

- ☐ Plaintiff completes *Complaint for Divorce (CV-005)* and *Family Matter Summons and Preliminary Injunction (CV-038)*
- ☐ The Defendant served with *Complaint for Divorce (CV-005)* and *Family Matter Summons and Preliminary Injunction (CV-038)*. Defendant also provided with *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (CV-036)*. Defendant asked to complete and return the *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (CV-036)* within twenty (20) days.
- ☐ Within twenty (20) days of serving Defendant with *Complaint* and *Summons (CV-005, CV-038)*, the Plaintiff completes and files with Clerk of Court the *Confidential Family Matter Summary Sheet (CV-002)*, *Summary Sheet (CV-002)*, *Complaint (CV-005)*, *Summons (CV-038)*. Filing fee is paid at this time.
- ☐ Parties each complete *Financial Statement (CV-043)*. After completing, parties exchange completed copies and file the originals with the Court.
- ☐ Parties jointly complete the *Separation and Property Settlement Agreement (ME-802D)*. Once completed, form then filed with Clerk of Court.
- ☐ After required waiting period of sixty (60) days from date Defendant was served with *Complaint for Divorce (CV-005)* has elapsed, Clerk of Court contacted to set date for divorce hearing.
- ☐ Hearing conducted and settlement approved. Parties divorced.

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 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/ME/ME-004-D.htm>

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