

STATE OF MAINE

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number ME-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 form for divorce only when all of the following facts are true;
 - (a) There 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 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.

1. **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.

2. **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.

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 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.

7. **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.

8. **CHILD SUPPORT:** The State of Maine has established child support guidelines that establish a presumptively correct amount of child support to be paid. The court may deviate from these guidelines upon a finding that the application of the guidelines would result in an inequitable or unjust result. Some of the criteria that the court may use to justify a deviation from the child support guidelines include:

- (a) The non-primary parent is in fact providing residential care for the child for more than 30% of the time on an annual basis
- (b) The number of children for whom support is due is greater than six
- (c) The interrelationship between the child support award, the division of property, and alimony
- (d) The financial resources of each child
- (e) The financial resources and needs of each party
- (f) The standard of living the child would have enjoyed had the relationship continued
- (g) The physical and emotional needs of each child
- (h) The educational needs of each child
- (i) Inflation
- (j) Available income

Any proposed agreement that deviates from the guidelines must be reviewed by the court to determine whether the proposal is in substantial compliance with the guidelines and whether it is justified and appropriate.

9. **CHILD CUSTODY:** The court shall determine custody of minor children of the marriage based upon the best interests of the child. Some of the factors used to determine the best interests of the child include:

- (a) The age of the child
- (b) The relationship of the child with the child's parents and any other person who may significantly affect the child's welfare
- (c) The preference of the child, if old enough to express one
- (d) The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity
- (e) The stability of any proposed living arrangement
- (f) The motivation of the parties involved and their capacity to give the child love, affection and guidance
- (g) The child's adjustment to the present home, school and community
- (h) The capacity of each parent to allow and encourage frequent and continuing contact between the child and other parent
- (i) The capacity of each parent to cooperate or to learn to cooperate in child care
- (j) Any other relevant factor.

The court shall not apply a preference for one parent over the other based upon gender or age of the parties. In any custody proceeding, the court may order each parent to submit a parenting plan detailing each parent's proposals regarding issues such as the child's residence, support, visitation, education and medical and dental care, among others.

10. **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.
11. **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.
12. **MEDIATION:** If the divorce action is contested, the court shall require the parties to attend parenting classes. In addition, if one spouse denies that there are irreconcilable differences in the marriage, the court may require that both parties receive counseling. Furthermore, the court on its own motion may order mediation at any time. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, dismiss the action or any part of the action, render a decision or judgment by default, assess attorney's fees and costs or impose any other sanction that is appropriate in the **circumstances**.

For more information, see the Maine Divorce Law Summary.

FORMS LIST

1. Confidential Family Matter Summary Sheet (**ME-CV-002**)
2. Complaint for Divorce (with minor children) (**ME-CV-004**)
3. Separation and Property Settlement Agreement (**ME-DO-11A**)
4. *Family Matter Summons and Preliminary Injunction (**ME-CV-038**)
5. Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (**ME-CV-036**)
6. Child Support Worksheet (**ME-CV-040**)
7. Child Support Affidavit (**ME-CV-050**)
8. Child Support Table (**ME-CV-084**)
9. Important Information Regarding Case Management Conference (**ME-CV-087**)
10. Federal Affidavit (**ME-CV-052**)
11. 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-004)** – The Complaint for Divorce is the document is the document is which you are asking the Court to grant your divorce along with any other relief requested.
3. **Separation and Property Settlement Agreement (ME-DO-11A)** – This document provides for the final distribution of any assets and debts of the parties, provides for support of any children of the marriage and any other agreements reached between the parties.
4. **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.
5. **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.
6. **Child Support Worksheet (ME-CV-040)** – This form is used to calculate the correct amount of child support to be paid. Both parties must complete and exchange with each other copies of this form.

7. **Child Support Affidavit (ME-CV-050)** – This form is used to list all of the financial information of the parties to assist in determining the correct amount of child support to be paid. Both parties must complete and exchange with each other copies of this form.
8. **Child Support Table (ME-CV-084)** – This form provides the parties with the child support table from which the basic amount of child support is determined based upon the income of the parties.
9. **Important Information Regarding Case Management Conference (ME-CV-087)** – This form provides the parties with information concerning the Case Management Conference.
10. **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.
11. **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 (ME-CV-005)*, the *Child Support Affidavit (ME-CV-050)*, and the *Family Matter Summons and Preliminary Injunction (ME-CV-038)*. The *Family Matter Summons and Preliminary Injunction (ME-CV-038)* must be obtained from the Clerk of Court in the county of filing. Use the provided *Family Matter Summons and Preliminary Injunction (ME-CV-038)* as a guide to assist you in completing the original.**
- STEP 2:** **The parties should jointly complete the *Separation and Property Settlement Agreement (ME-DO-11A)*, making certain to agree to all of the terms contained therein. Once completed, this form should then be attached to the *Complaint for Divorce (ME-CV-005)*.**
- STEP 3:** 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 (ME-CV-036)*. Ask the Defendant to complete the *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (ME-CV-036)* and return the form to you within twenty (20) days.
- STEP 4:** Within twenty (20) days of serving the Defendant, the Plaintiff should complete and file with the Clerk of Court the *Confidential Family Matter Summary Sheet (ME-CV-002)*, *Complaint for Divorce (ME-CV-005)*, *Child Support Affidavit (ME-CV-050)*, *Family Matter Summons and Preliminary Injunction (ME-CV-038)* (with deputy signature if you used Sheriff service), and *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (ME-CV-036)* (if you used service by mail), and the green card (if you used certified mail service). A filing fee (currently about \$60) must be paid at this time. A later mediation fee of \$120 may also be required and you should be prepared to pay this fee at your Case Management conference. If you cannot afford the fees, you may ask the court clerk for an Application to Proceed Without Payment of Fees and Indigency Affidavit, which must be filled out, notarized, and filed. A judge will decide whether you qualify for a fee waiver. If not, any fees must be paid within 7 days.

STEP 5: Both parties must next complete and exchange with each other copies of the *Child Support Worksheet (ME-CV-040)*. Use the provided *Child Support Table (ME-CV-084)* to assist you in completing the *Child Support Worksheet (ME-CV-040)*. Once completed, this document should be filed with the Clerk of Court. The *Child Support Worksheet (ME-CV-040)* must be filed before your scheduled Case Management Conference.

STEP 6: After both parties have completed, exchanged and filed their *Child Support Worksheet (ME-CV-040)*, you and your spouse must next attend the Case Management Conference. Each party should read the *Important Information Regarding Case Management Conference (ME-CV-087)* for details concerning the Case Management Conference prior to attending.

Alternatively, if you and your spouse agree on temporary arrangements for your children (such as residence, visitation, and support) you may fill out and file a *Certificate in Lieu of Case Management Conference*, which can be obtained from the court clerk. You may not have to go to the case management conference if you file the certificate before the conference date. The court will send you a notice in the mail if you do not need to go to the conference.

STEP 7: After the required waiting period of sixty (60) days from the date the Defendant was served with the *Complaint for Divorce (ME-CV-005)* has elapsed, contact the Clerk of Court to set a date for the final divorce hearing.

STEP 8: The parties are divorced once the Court approves the terms of the divorce.

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

- ☐ **The filing party (Plaintiff) completes** *Complaint for Divorce (ME-CV-005)*, *Child Support Affidavit (ME-CV-050)*, and *Family Matter Summons and Preliminary Injunction (ME-CV-038)*. Original *Family Matter Summons and Preliminary Injunction (ME-CV-038)* must be obtained from Clerk.

- ☐ **The parties jointly complete** *Separation and Property Settlement Agreement (ME-DO-11A)*. Once completed, *Separation and Property Settlement Agreement (ME-DO-11A)* attached to *Complaint for Divorce (ME-CV-005)*.

- ☐ Defendant served with copies of above listed documents along with *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (ME-CV-036)*. Defendant completes *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (ME-CV-036)* and returns within twenty (20) days.

- ☐ Within twenty (20) days of serving Defendant, Plaintiff completes and files with Clerk the *Confidential Family Matter Summary Sheet (ME-CV-002)*, *Complaint for Divorce (ME-CV-005)*, *Child Support Affidavit (ME-CV-050)*, *Family Matter Summons and Preliminary Injunction (ME-CV-038)*, and *Acknowledgment of Receipt of Summons and Complaint or Post-Judgment Motion (ME-CV-036)*. Filing fee paid.

- ☐ Both parties complete and exchange copies of *Child Support Worksheet (ME-CV-040)*. Once completed, *Child Support Worksheet (ME-CV-040)* filed with Clerk.

- ☐ Each party reads *Important Information Regarding Case Management Conference (ME-CV-087)* and attends Case Management Conference, or alternatively a *Certificate in Lieu of Case Management Conference* is filed and the court notifies the parties that they do not have to attend the Case Management Conference.

- ☐ After required waiting period of sixty (60) days from the date Defendant was served has elapsed, Clerk of Court contacted for date of final divorce hearing.

- ☐ Court approves the terms of the divorce; parties are divorced.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet contain “form fields” created using Microsoft Word or Adobe Acrobat. “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 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-006-D.htm>

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