

CIRCUIT COURT

STATE OF MICHIGAN

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number MI-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 to be filed with the Court 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 has been **a breakdown of the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved;**
 - (b) There are minor children of said marriage.
 - (c) You and your spouse agree on all terms of the divorce.
 - (d) At least one of the parties to an action for divorce must have resided in the State of Michigan for at least 180 days immediately prior to the filing of the complaint and must have resided in the county of filing for at least 10 days immediately prior to the filing of the complaint.
2. **THE BASICS:** In a typical divorce, there are basic two requirements that must be met before you can file for a divorce. Those requirements are below:
 - (a) You must satisfy the **residency** requirements.
 - (b) You must satisfy **the no-fault procedures**.
3. **RESIDENCY REQUIREMENTS:** At least one of the parties to an action for divorce must have resided in the State of Michigan for at least 180 days immediately prior to the filing of the complaint and must have resided in the county of filing for at least 10 days immediately prior to the filing of the complaint. There is an exception to this rule, although it does not apply to divorces contemplated by this package. The exception is that the residency requirement may be waived if the defendant was born in or is a citizen of a foreign country and the parties have minor children that are at risk of being taken out of the U.S.
4. **GROUND FOR DIVORCE:** The only ground upon which a divorce may be granted in the State of Michigan is that there has been a breakdown of the marriage relationship to the extent that the objects of matrimony have been destroyed and there remains no reasonable likelihood that the marriage can be preserved.
5. **LEGAL SEPARATION:** A judgement of legal separation may be granted in the State of Michigan upon the same grounds as for a judgement of divorce.
This package does not contain forms for a legal separation.

6. **FRIEND OF THE COURT:** The agency known as the Friend of the Court was created to assist the Court in divorce cases. Before adjudication of a domestic relations matter, the office of the Friend of the Court has the following duties:
- (a) To provide an informational pamphlet to each party to a domestic relations matter explaining:
 - (i) The procedures of the court and the office;
 - (ii) The duties of the office;
 - (iii) The rights and responsibilities of the parties, including notification that each party to the dispute has the right to meet with the individual investigating the dispute before that individual makes a recommendation regarding the dispute;
 - (iv) The availability of and procedures used in domestic relations mediation;
 - (v) The availability of human services in the community;
 - (vi) The availability of joint custody, and;
 - (vii) How to file a grievance regarding the office.
 - (b) To inform the parties of the availability of domestic relations mediation if there is a dispute as to child custody or parenting time.
 - (c) To inform the parents of the availability of joint custody if there is a dispute between the parents as to child custody.
 - (d) To investigate all relevant facts, and to make a written report and recommendation to the parties and to the court regarding child custody and/or parenting time if there is a dispute as to child custody and/or parenting time, and domestic relations mediation is refused by either party or is unsuccessful, or if ordered to do so by the court.
7. **ALIMONY/SUPPORT:** Since this is an agreed upon divorce, you will decide issues of alimony. The forms 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 require either party to pay alimony for the suitable maintenance of the adverse party, to pay such sums as shall be deemed proper and necessary to conserve any real or personal property owned by the parties or either of them, and to pay any sums necessary to enable the adverse party to carry on or defend the action, during its pendency.
8. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will agreed to property distributions. Michigan is an equitable distribution state. In a contested case, this means that the court will divide the property of the parties as it deems equitable under the particular circumstances of the case. All of a party's property is subject to division if the court determines that the other party contributed to the acquisition, improvement, or accumulation of the property.

9. **NAME CHANGE:** Whenever a decree of divorce is granted, the Court may restore to the wife her birth name, or the surname she legally bore prior to her marriage to the husband in the divorce action, or allow her to adopt another surname if the change is not sought with any fraudulent or evil intent.
10. **WAITING PERIOD:** No proofs or testimony shall be taken in any case for divorce until the expiration of 60 days from the time of filing the bill of complaint, except where the cause for divorce is desertion, or when the testimony is taken conditionally for the purpose of perpetuating such testimony. In every case where there are dependent minor children under the age of 18 years, no proofs or testimony shall be taken in such cases for divorce until the expiration of 6 months from the day the bill of complaint is filed.
11. **CHILD SUPPORT:** The State of Michigan has established Child Support Guidelines to be used in calculating the correct amount of child support to be paid. The court must follow the Guidelines, whether or not the parties agree on the amount of support, except where it has an "unjust or inappropriate" result. The court may enter an order that deviates from the Guidelines if the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate and sets forth in writing or on the record all of the following:
- (a) The support amount determined by application of the child support formula.
 - (b) How the support order deviates from the child support formula.
 - (c) The value of property or other support awarded in lieu of the payment of child support, if applicable.
 - (d) The reasons why application of the child support formula would be unjust or inappropriate in the case.
12. **CHILD CUSTODY:** In custody disputes between parents, the parents shall be advised of joint custody. "Joint custody" means an order of the court in which one or both of the following is specified:
- (a) That the child shall reside alternately for specific periods with each of the parents.
 - (b) That the parents shall share decision-making authority as to the important decisions affecting the welfare of the child.

At the request of either parent, the court shall consider an award of joint custody, and shall state on the record the reasons for granting or denying a request. The court shall determine whether joint custody is in the best interest of the child by considering the following factors:

- (a) The love, affection, and other emotional ties existing between the parties involved and the child.
- (b) The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and rearing of the child in his or her religion or creed, if any.
- (c) The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of this state in place of medical care, and other material needs.
- (d) The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity.
- (e) The permanence, as a family unit, of the existing or proposed custodial home or homes.
- (f) The moral fitness of the parties involved.
- (g) The mental and physical health of the parties involved.
- (h) The home, school, and community record of the child.
- (i) The reasonable preference of the child, if the court considers the child to be of sufficient age to express preference.
- (j) The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents.
- (k) Domestic violence, regardless of whether the violence was directed against or witnessed by the child.
- (l) Whether the parents will be able to cooperate and generally agree concerning important decisions affecting the welfare of the child.
- (m) Any other factor considered by the court to be relevant to a particular child custody dispute.

If the parents agree on joint custody, the court shall award joint custody unless the court determines on the record, based upon clear and convincing evidence that joint custody is not in the best interests of the child.

If the court awards joint custody, it may include in its award a statement regarding when the child shall reside with each parent, or may provide that physical custody be shared by the parents in a manner to assure the child continuing contact with both parents. During the time a child resides with a parent, that parent shall decide all routine matters concerning the child.

If there is a dispute regarding residency, the court shall state the basis for a residency award on the record or in writing.

Joint custody shall not eliminate the responsibility for child support. Each parent shall be responsible for child support based on the needs of the child and the actual resources of each parent. If a parent would otherwise be unable to maintain adequate housing for the child and the other parent has sufficient resources, the court may order modified support payments for a portion of housing expenses even during a period when the child is not

residing in the home of the parent receiving support. An order of joint custody, in and of itself, shall not constitute grounds for modifying a support order.

For more information, see the Michigan Divorce Law Summary.

FORMS LIST

The forms included in this package are:

1. Complaint for Divorce (**MI-536D**)
2. Answer to Complaint for Divorce. (**MI-803D**)
3. Verified Statement (**MI-FOC-23**)
4. Employer's Disclosure of Income and Health Insurance Information (**MI-FOC-22**)
5. Employment Status Disclosure (**MI-FOC-22B**)
6. Child Care Verification (**MI-FOC-39E**)
7. Marital Settlement Agreement (**MI-DO-11**)
8. Judgment of Divorce (**MI-537D**)
9. Sample Record of Divorce or Annulment (**MI-808D**)
10. Notice of Hearing (**MI-809D**)
11. Notice of Entry of Judgment (**MI-810D**)
12. Summons (**MI-MC-01**)

The Verified Statement is available from the Friend of the Court. Bring the completed sample with you to your meeting with the Friend of the Court to assist you in completing this form.

You will need to obtain from the Clerk of Court the Record of Divorce or Annulment. Bring the completed sample with you to the final hearing to assist you in completing this form.

FORM EXPLANATIONS

All forms included in this package, or needed, are identified below.

1. **Complaint for Divorce (MI-536D)** - The Complaint for Divorce is the document in which you are asking the court to grant your divorce along with any other relief requested.
2. **Answer to Complaint for Divorce (MI-803D)** – This document is used by the Defendant to acknowledge receipt of the Complaint for Divorce and to enter an appearance. It is further used to acknowledge that the allegations contained in the Complaint for Divorce are true and to request that the Court grant a Decree of Dissolution of Marriage pursuant to the terms of Petitioner's Petition at any time and without further notice to Respondent. It also states to the Court that the Parties have entered into a Marital Settlement Agreement. This form must be dated and signed AFTER the Complaint and other documents are filed.
3. **Verified Statement (MI-FOC-23)** – This document is used to provide basic information about you and your family to the Friend of the Court and, if necessary, to enforce your Judgment of Divorce. A sample has been provided to you to assist you in completing this form. Be sure to bring the completed sample with you to your meeting with the Friend of the Court. You are not required to complete this form, however, since the Friend of the Court is usually used in cases in which alimony is requested or where there are minor children involved.
4. **Employer's Disclosure of Income and Health Insurance Information (MI-FOC-22)** – This form is used to provide the Court with verified information from a party's employer regarding income and health insurance available to the employee.
5. **Employment Status Disclosure (MI-FOC-22B)** – This form is used to provide the Court with information regarding the parties' current employment.
6. **Child Care Verification (MI-FOC-39E)** – This form is used to verify child care costs incurred by the parties.
7. **Marital Settlement Agreement (MI-DO-11)** – 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.

8. **Judgment of Divorce (MI-537D)** – This document grants the divorce and any other relief requested.
9. **Record of Divorce or Annulment (MI-808D)** – This is an administrative form used by the Court and state government to keep track of divorces. A sample has been provided to you to assist you in completing this form. Be sure to bring the completed sample with you to the final hearing.
10. **Notice of Hearing (MI-809D)** – This form is for you to notify the Defendant for the hearing on the Complaint.
11. **Notice of Entry of Judgment (MI-810D)** – This form is for you to provide a copy of the entered and signed Judgment to the Defendant.
12. **Summons (MI-MC-01)**: This document is the official notification to your spouse that divorce proceedings have begun. It is delivered to your spouse along with the *Petition*.

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 and file the *Complaint for Divorce (MI-536D)*. A filing fee is paid.
- STEP 2:** The Plaintiff should send to the Defendant the *Answer and Waiver* form (*MI-803D*), along with a copy of the previously filed *Complaint (MI-536D)*. The Defendant should complete the *Answer and Waiver* form (*MI-803D*) and return it to the Plaintiff, who should then file the *Answer and Waiver (MI-803D)* with the Clerk of Court.
- STEP 3:** The Plaintiff should next complete the sample *Verified Statement (MI-FOC-23)*. This form will assist you in your meeting with the Friend of the Court and will assure you that you have all of the needed information to correctly fill out the *Verified Statement (MI-FOC-23)* form provided to you by the Friend of the Court.
- STEP 4:** Each party should complete and file with the Court completed copies of the *Employer’s Disclosure of Income and Health Insurance Information forms (MI-FOC-22, if applicable)* and *Employment Status Disclosure (MI-FOC-22B)*.
- STEP 5:** The parties’ should next have the childcare provider complete the bottom half of the *Child Care Verification form (MI-FOC-39E)*. Once completed, this form should then be filed with the Court.
- STEP 6:** Both parties should complete the *Marital Settlement Agreement (MI-DO-11)*, making certain to agree to all of the terms contained therein. This document should then be filed with the Clerk of Court with the *Judgment*.
- STEP 7:** The Plaintiff should next complete the *Judgment of Divorce (MI-537D)* and provide the Defendant with a completed copy so that he or she may review it prior to the final hearing and approve its contents. You must attach the original of the

Separation Agreement (MI-DO-11) to the *Judgment (MI-537D)*, and the *Judgment (MI-537D)* and *Separation Agreement (MI-DO-11)* must be signed by you and your spouse.

- STEP 8:** Contact the Clerk of Court to schedule a date for the final hearing. At the final hearing, present the *Judgment of Divorce (MI-537D)* with *Agreement (MI-DO-11)* attached to the presiding Judge for his approval and signature. Make three or more copies of the *Judgment (MI-537D)* with *Agreement (MI-DO-11)* attached and take to the hearing with you.
- STEP 9:** Send the *Notice of Hearing (MI-809D)* to the Defendant advising the Defendant when you intend to present the *Judgment (MI-537D)* to the Court. File the original *Notice of Hearing (MI-809D)* with the Clerk.
- STEP 10:** A sample *Record of Divorce or Annulment (MI-808D)* has been provided for you. After the *Judgment of Divorce (MI-537D)* has been signed and filed, the *Record of Divorce or Annulment* form (*MI-808D*) must be completed for the Clerk of Court. Complete the sample *Record of Divorce or Annulment (MI-808D)* and bring this form with you to the final hearing to assist you in completing the form provided by the Clerk of Court.
- STEP 11:** Obtain certified copies of the *Judgment (MI-537D)* and provide one to the Defendant. The certified copy is proof of the divorce. Include the *Notice of Entry (MI-810D)* with the copy and file the *Notice of Entry (MI-810D)* with the clerk.
- Notes:** No Divorce may be final until thirty (30) days have elapsed between the date the Petition is filed and the date the Decree is signed and filed with the Clerk.

CHECKLIST

- ☐ *Complaint for Divorce (MI-536D)* completed and filed with Clerk of Court.
- ☐ Filing fee paid.
- ☐ Copy of *Complaint for Divorce (MI-536D)* and *Answer and Waiver* form (MI-803D) provided to Defendant. Defendant completes *Answer and Waiver (MI-803D)* and returns form to Plaintiff.
- ☐ Plaintiff files *Answer and Waiver (MI-803D)* with Clerk of Court.
- ☐ *Verified Statement (MI-FOC-23)* completed by Plaintiff and used to assist in completion of *Verified Statement (MI-FOC-23)* provided to Plaintiff by Friend of Court.
- ☐ Each party completes and files copies of the *Employer's Disclosure of Income and Health Insurance Information forms (MI-FOC-22, if applicable)* and *Employment Status Disclosure (MI-FOC-22B)*.
- ☐ The parties' have child care provider complete bottom half of *Child Care Verification form (MI-FOC-39E)*. Once completed, form then filed with Court.
- ☐ Both parties complete *Separation and Property Settlement Agreement (MI-DO-11)* and file document with Clerk of Court with the *Judgment of Divorce (MI-537D)*.
- ☐ *Judgment of Divorce (MI-537D)* completed and copy provided to Defendant for his or her inspection and approval.
- ☐ Final hearing date obtained from Clerk of Court. *Notice of Hearing (MI-809D)* mailed to Defendant.
- ☐ *Judgment (MI-537D)* with *Separation and Property Settlement Agreement (MI-DO-11)* attached presented to Court at final hearing.
- ☐ *Sample Record of Divorce or Annulment (MI-808D)* completed and brought to final hearing to assist in completing *Record of Divorce or Annulment (MI-808D)* provided by Clerk of Court.
- ☐ Certified copy of *Judgment (MI-537D)* and *Notice of Entry (MI-810D)* provided to the Defendant.

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.

To complete the forms click on the gray shaded areas and type the information. For the separation agreement complete the gray shaded areas and also make any other changes or additions to resolve all issues.

Some forms are locked which means that the content of the forms cannot be changed unless the form is unlocked. 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 relock the form, 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/MI/MI-006-D.htm>

DISCLAIMER

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