

**STATE OF MINNESOTA**

**DIVORCE PACKAGE**

**UNCONTESTED - MINOR CHILDREN**

**WITH OR WITHOUT PROPERTY**

**Control Number - MN-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.**

## 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, you will become involved in a *contested* divorce, which is beyond the scope of this packet. You may only use this package if all of the following are true:

- (a) There are minor children of the marriage and/or the wife is pregnant;
- (b) The parties agree to all provisions of the divorce; and
- (c) The parties complete the written *Marital Termination Agreement* indicating the division of property, debts, and spousal maintenance, if any.

### 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 dissolution of marriage in filling out the forms, including property division. You will complete and file the forms (see detailed instructions, below) in the **District Court, Family Court Division** for the county where either party resides. **MSA 518.09**

### 3. RESIDENCY REQUIREMENTS

One spouse must reside in the state of Minnesota for at least 180 days prior to filing a divorce. **MSA 518.07**

### 4. GROUNDS FOR DIVORCE

Minnesota law permits “no-fault” dissolution of marriages based upon the irretrievable breakdown of the marriage. A finding of irretrievable breakdown of the marriage is a determination that there is no reasonable prospect of reconciliation. The parties must have either lived separate and apart for more than one hundred eighty (180) days or there must exist serious marital discord that adversely affects one or both of the parties toward the marriage. **MSA 518.06**

### 5. LEGAL SEPARATION

**This package contains forms for DIVORCE, but not for Legal Separation. This information on Legal Separation is provided for your information only. A legal separation cannot be obtained using the forms in this package.**

A legal separation is different than a divorce. A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation **does not terminate the marital status** of the parties, and the parties are **not** free to marry again. For more information, see, *MSA 518.06*

## **6. WAITING PERIODS**

There is no divorce-specific waiting periods in Minnesota.

## **7. MAINTENANCE/ ALIMONY**

Because this is an agreed divorce, you will decide issues of spousal “maintenance” (also called “alimony”) -- the periodic payment of money from one spouse to the other on a temporary or permanent basis. The forms in this no-fault divorce package assume that no maintenance will be paid and none will be sought-- but you may add provisions for maintenance to the *Marital Termination Agreement* if you desire. In a contested case, the courts might award maintenance. A contested divorce is beyond the scope of this divorce package. **You should consult a local attorney regarding the possibilities concerning maintenance if you have questions or foresee conflict regarding this issue.** For more information, see, *MSA 518.552*

## **8. DISTRIBUTION OF PROPERTY**

In a divorce, the property such as land, house, buildings, and items of personal property owned by the couple 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 **Marital Termination Agreement**. You and your spouse must agree to the property and debt division and memorialize your agreement in the **Marital Termination Agreement**, which will be incorporated by reference into the *Judgment and Decree of Dissolution* 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 outside the scope of this packet.

## **9. CHILD CUSTODY**

Minnesota courts will decide the issue of custody based upon the best interests of the child. A partial list of factors the court will consider in determining the best interests of the child include: The wishes of the parents, the need of the child for a frequent and meaningful relationship with both parents, the interaction and interrelationship of the child with both the parents and any siblings, and the wishes of the child. The court may interview the child in chambers to ascertain the child’s preferences.

In addition to the above, if joint physical or legal custody is sought, the court will also consider the ability of the parents to cooperate in the rearing of the child, the methods for resolving disputes regarding the child, whether it would be detrimental to the child if one parent were to have sole authority over the child’s upbringing, and whether there has been instances of domestic abuse between the parents.

No preference will be given to either parent in determining custody based upon the parent's age, sex or financial status, nor because of the age or sex of the child.

Each party shall have equal access to all medical, dental, school, religious and other important records of the child. Each party shall keep the other informed as to the name and address of the school the child is attending and has the right to be informed of the child's progress and attend school and parent-teacher conferences. **MSA 518.17**

#### **10. CHILD SUPPORT**

In a proceeding for dissolution of marriage or legal separation, the court may order either or both parties to pay a reasonable amount necessary for the support of a child of the marriage. Some of the factors the court will consider in determining the amount of child support include: the financial needs and resources of the child, the financial resources and needs of the parents, the standard of living the child would have enjoyed had the marriage not terminated, and the child's physical and legal custody arrangements.

The Minnesota legislature has established child support guidelines which establish the presumptive correct amount of child support. Deviation from the guidelines require a specific finding by the court that application of the guidelines would be unjust or inappropriate and such findings must be included in the judgment. A modification of a child support order may only be made upon a showing to the court of a change in circumstances that would result in a change of support from the existing amount by twenty percent (20%) or more and at least \$50.00. **MSA 518.551**

#### **11. NAME CHANGE**

Upon request, either spouse may change his or her name as long as the reason for the name change is not for fraudulent or misleading purposes. **MSA 518.27**

## **FORM LIST**

**The following forms are included in this package:**

1. Marital Termination Agreement (**MN-821D**)
- 1a. Real Estate Attachment (**MN-811D**)
2. Petition for Dissolution of Marriage With Children (**MN-820D**)
- 2a. Instructions for Dissolution of Marriage With Children (**MN-820D-IN**)
3. Combined Summons (**MN-822D**)
4. Certificate of Representation (**MN-825D**)
5. Affidavit of Non-Military Status (**MN-826D**)
6. Confidential Information Form (**MN-827D**)
7. Notice to County Support and Collections (**MN-833D**)
8. Admission of Service (**MN-823D**)
9. Administrative Review Request (**MN-807D**)
10. Default Scheduling Request (**MN-828D**)
11. Affidavit of Default (**MN-829D**)
12. Final Hearing Request (**MN-808D**)
13. Notice of Intent to Proceed to Judgment (**MN-818D**)
14. Judgment and Decree of Dissolution (**MN-824D**)
15. Appendix A (Information Regarding Support Issues) (**MN-816D**)
16. Felony Notification Affidavit (for name change) (**MN-831D**)

**Note:**            **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 and described below. If there is a space for the signature of a Notary on the form, then the form must be signed before a Notary Public.

- 1. Marital Termination Agreement (MN-821D):** This document is a contract in which you and your spouse agree to divide all of your marital property and debts. This agreement will be attached to your *Petition for Dissolution of Marriage* and incorporated into the *Judgment and Decree of Dissolution* that ends your marriage.
- 1a. Real Estate Attachment (MN-811D):** This document is completed along with the Marital Termination Agreement and details what real property is owned and to whom the rights in the property will be awarded. This form may not be required in every county. Check with the Clerk's office to see if this form is required.
- 2. Petition for Dissolution of Marriage (MN-820D):** This document begins the divorce process, and includes the necessary legal details for asking the court to dissolve your marriage. This petition is for couples who are filing separately.
- 2a. Instructions for Dissolution of Marriage With Children (MN-820D-IN):** This form provides instructions for filling out and filing the relevant forms for obtaining a divorce (dissolution of marriage) in Minnesota. These instructions are to be used with the *Petition for Dissolution of Marriage (MN-820D)*.
- 3. Combined Summons (MN-822D):** This document is the official notification to your spouse that divorce proceedings have begun. It is delivered to your spouse along with the *Petition*.
- 4. Certificate of Representation (MN-825D):** This form is used to inform the court of the names, addresses, and other contact information for all parties and their attorneys, if any. Pro Se parties must also file this form.
- 5. Affidavit of Non-Military Status (MN-826D):** This form is used to certify that a party to the divorce is not currently serving as a member of the armed forces.
- 6. Confidential Information Form (MN-827D):** This form is used to provide confidential information (particularly social security numbers) to the court.

7. **Notice to County Support and Collections & Affidavit of Service (MN-833D):** This form notifies the county support and collections, as required by law, that a suit has been filed and that the petitioner or respondent will be applying for one or more types of support.
8. **Admission of Service (MN-823D):** This form is to be signed by your spouse when he or she receives the *Petition* and *Summons*. Use of this form eliminates the need to comply with formal service of process rules.
9. **Administrative Review Request (MN-807D):** This form requests an administrative review of your divorce papers in order to have your divorce granted without a hearing. In many counties, if the parties have reached an agreement on all matters and prepared and signed a *Marital Termination Agreement*, no court appearance by either party is required. The *Marital Termination Agreement*, signed by the parties, along with a draft of the final *Judgment and Decree of Dissolution*, is mailed to the court. A court administrator reviews the documents and, if they are in order, they are given to the Judge who signs the *Judgment and Decree* and returns it to the administrator who “enters” the *Judgment and Decree* and notifies the parties. If an administrative review is not available in your county, then you must use Form 11, the *Hearing Request*.
10. **Default Scheduling Request (MN-828D):** This form is used to request that a default hearing be scheduled in the case in the event that the respondent fails to answer or otherwise appear in response to the divorce petition in 50 days or if both parties have signed a stipulation in the case.
11. **Affidavit of Default (MN-829D):** This affidavit certifies that the respondent in the divorce case has not responded and requests that a hearing for default be scheduled.
12. **Final Hearing Request (MN-808D):** Use this form only if an administrative review is unavailable in your county. This form requests a hearing that you must attend to answer a few questions from the Judge, in order for your divorce to be affirmed by the Court.
13. **Notice of Intent to Proceed to Judgment (MN-818D):** This form provides notice to the respondent that the petitioner has filed an application to hold the final hearing in this divorce proceeding.
14. **Judgment and Decree of Dissolution (MN-824D):** The final legal statement of the terms of your divorce, which incorporates your *Marital Termination Agreement*. Once reviewed and signed by the Judge the *Judgment and Decree* will

automatically be entered with the clerk. You and your spouse should each ask the clerk how to obtain a certified copy of the *Judgment and Decree*.

**15. Appendix A (Information Regarding Support Issues) (MN-816D):** This form provides information regarding spousal support (and child support) for cases where that is an issue.

**16. Felony Notification Affidavit (MN-831D):** This form is used by a party who has been convicted of a crime and is requesting a change of name as part of their divorce proceeding.



## 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. If reference is made to attaching one document to a second document, then any subsequent reference to the second document assumes that the first document is attached thereto.

The following instructions are generic and more forms may be needed and more steps required, depending on your circumstances. For more detailed instructions on filling out and filing many of these forms, review the instruction form for your petition included with this packet, namely form *MN-820D-IN*.

**STEP 1:** In cooperation with your spouse, complete the following forms:

Form 2- *Petition for Dissolution of Marriage*

Form 3- *Summons*

Form 6- *Confidential Information Form*

Form 4- *Certificate of Representation*

If you and/or your spouse receive public assistance from the state of Minnesota, you must also fill out and file:

Form 7- *Notice to County Support and Collections & Affidavit of Service*

**STEP 2:** Make at least 5 copies of your completed documents. Call ahead to the court clerk and determine the amount of filing fees and accepted forms of payment. (If you cannot pay the filing fees or other costs, ask the Court Administrator when you go to the courthouse for and “IFP Application” to waive fees.)

Go to the courthouse and FILE the original *Petition*, and *Summons* with the court clerk. File any needed copies. The clerk will stamp any unneeded copies “Filed,” and return them to you.

Ask the clerk if, in an uncontested divorce where everything is agreed upon, this court allows Administrative Review of divorce papers, or if the court requires a final hearing before the Judge. (See, STEP 7 for why this is important.)

**STEP 3:** Attach a stamped “Filed” copy of the *Petition* to Form 14- *Judgment and Decree of Dissolution*. Label the *Petition* “Exhibit 1”- write this in the bottom margin of the first page of the *Petition* in large, clear letters.

**STEP 4:** Deliver the following to your spouse:

- One stamped “Filed” copy of the *Petition*;
- One stamped “Filed” copy of the *Summons*;

- Form 8- *Admission of Service*

Instruct your spouse to sign the *Admission of Service* and return to you.

**STEP 5:** Return to the courthouse and FILE the *Admission of Service* signed by your spouse.

**STEP 6:** In cooperation with your spouse, complete the following forms:

Form 1- *Marital Termination Agreement*

Form 1a- *Real Estate Attachment* (if applicable)

Form 14- *Judgment and Decree of Dissolution*

Attach the completed *Real Estate Attachment* (if you have real estate to be divided or disposed of) to the *Marital Termination Agreement* and make five copies and file it with the court. Keep one stamped “filed” copy for yourself and send one to your spouse.

Important Note: The *Marital Termination Agreement* must be signed and dated after your spouse signs the admission of service or the judge will not sign the divorce decree.

**STEP 7:** Next, copy the provisions of the *Marital Termination Agreement* word-for-word into your Form 14- *Judgment and Decree of Dissolution*. Then, make three copies and submit (or file) your completed Form 14- *Judgment and Decree of Dissolution* (with *Petition* attached as “Exhibit 1”). Have your three copies stamped “filed” by the court. Keep one for yourself and send one to your spouse.

If the court in which you are filing allows Administrative Review of divorce papers, file your completed Form 9- *Administrative Review Request* with the clerk at this time. Ask the clerk how you will be notified of the outcome of the Review.

If the court in which you are filing **does not** allow Administrative Review, file the completed Form 12- *Final Hearing Request*, and ask the clerk how to obtain your hearing date.

**STEP 8:** Either attend the final hearing as scheduled, or wait to be notified of the result of the Administrative Review. If all is in order, the Judge will sign the *Judgment and Decree of Dissolution*, and it will be entered (filed) with the clerk. Obtain a certified copy of the entered *Judgment and Decree of Dissolution*. You should instruct your spouse to independently obtain a copy, or mail him/her a copy.

### CHECKLIST

- ☐ Complete forms 2, 3, 4, and 6, and form 7 where applicable.
- ☐ Make copies of documents. File at courthouse, as per instructions.
- ☐ Filing fees paid.
- ☐ Ask clerk if Administrative Review is allowed, or if there must be a hearing.
- ☐ Deliver filed documents to spouse. Spouse must sign *Admission of Service*.
- ☐ File *Admission of Service* with the clerk.
- ☐ Complete forms 1 and 1a. Make copies, and file with the court, as per instructions.
- ☐ Complete form 14 – *Judgment and Decree of Dissolution* and copy provisions of form 1- *Marital Termination Agreement* word-for-word into form 14. Make copies and file (or submit) completed *Judgment and Decree of Dissolution*, with stamped “Filed” copy of *Petition* attached and labeled “Exhibit 1.”
- ☐ File Form 9 if there will be an Administrative Review. Or, file Form 12 if you must attend a final hearing.
- ☐ Comply with final hearing or Administrative Review procedures.
- ☐ Obtain certified copy of signed *Judgment and Decree of Dissolution*.

### **NOTE ABOUT COMPLETING THE FORMS**

The forms in this packet may contain “form fields” created using Microsoft Word and 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 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.

## **DISCLAIMER**

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