

STATE OF MISSOURI

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number MO-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 CAN USE THESE FORMS:** You may use this petition form for divorce only when all of the following facts are true;
 - (a) Your marriage is irretrievably broken and there is no reasonable likelihood that the marriage can be preserved.
 - (b) There are minor children of the marriage.
 - (c) You and your spouse agree on all terms of the divorce.
 - (d) You or your spouse has lived in Missouri and in the county of filing for ninety (90) days before filing the divorce.
2. **THE BASICS:** In a typical divorce, there are basically two requirements that must be met before you can file for a divorce. Those requirements are below:
 - (a) **You must satisfy the *residency* requirements. You or your spouse must** have resided in Missouri for at least ninety (90) days immediately preceding the filing of the petition.
 - (b) You must satisfy ***the no-fault procedures***.
3. **RESIDENCY REQUIREMENTS:** Missouri law requires that one of the spouses must be a resident of the state for a minimum of ninety (90) days immediately prior to the filing of the petition for divorce.
4. **GROUND FOR DIVORCE:** Missouri law permits divorces based upon the irretrievable breakdown of the marriage with no reasonable likelihood of reconciliation.
5. **LEGAL SEPARATION:** Missouri law permits a judgment of separation to be granted if at least one of the parties has been a resident of the state for a minimum of ninety (90) days immediately prior to the filing of the petition. In addition, the court must find that there is a reasonable likelihood that the marriage can be preserved **AMS 30-452-305. This package does not contain forms for a legal separation.**
6. **WAITING PERIOD:** There is a thirty (30) day waiting period from the filing of the petition before the court will grant a judgment of dissolution of marriage.
7. **ALIMONY/SUPPORT:** Since this is an agreed 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 courts may award alimony to either spouse only upon a finding that the spouse seeking the alimony lacks sufficient property to provide for his/her reasonable needs and is unable to support himself/herself through appropriate employment, or, is a custodian of a child whose condition is such that the custodian should not be required to seek employment. Factors the court considers in determining the amount and terms of alimony include:

- (a) The financial resources of the spouse seeking alimony,
- (b) The time necessary for the spouse seeking support to acquire sufficient education or training,
- (c) The comparative earning capacity of each spouse,
- (d) The standard of living established during the marriage,
- (e) The obligations and assets of the marriage, both separate and marital,
- (f) The duration of the marriage,
- (g) The age, physical and mental condition of the spouse seeking support,
- (h) The ability of the supporting spouse to meet both his needs and the needs of the spouse seeking support,
- (i) The conduct of the parties during the marriage,
- (j) And any other relevant factors.

Alimony may be awarded in a gross sum to be paid to the recipient, or may be awarded on a year-to-year basis. The award of alimony terminates upon the remarriage of the recipient spouse or that spouse's death. The order establishing alimony must also state whether the award is modifiable or non-modifiable. If the award is modifiable, the court may modify the award only upon a showing that the circumstances have changed so substantially as to make the terms unreasonable.

8. **DISTRIBUTION OF PROPERTY:** Since this is an agreed divorce the parties will have agreed to property distribution. Missouri is an equitable distribution state. In a contested case, this means that the court will divide the marital property between the parties as it deems equitable and just, after setting aside to each spouse the separate property of each. Factors the court considers in dividing the property between the parties include:

- (a) The economic circumstances of the parties at the time of the division of property;
- (b) The contribution of each spouse to the marital estate;
- (c) The value of the non-marital property set apart to each spouse;
- (d) The conduct of the parties during the marriage, and;
- (e) Custodial arrangements for minor children.

9. **CHILD CUSTODY/VISITATION:** The court shall determine custody in

accordance with the best interests of the child. The court shall consider all relevant factors including:

- (a) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;
- (b) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;
- (c) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;
- (d) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;
- (e) The child's adjustment to the child's home, school, and community;
- (f) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved.
- (g) The intention of either parent to relocate the principal residence of the child; and
- (h) The wishes of a child as to the child's custodian.

10. **PARENTING PLAN:** The petitioner and respondent shall submit a proposed parenting plan, either individually or jointly, within thirty days after service of process or the filing of the entry of appearance, whichever event first occurs of a motion to modify or a petition involving custody or visitation issues. The proposed parenting plan shall set forth the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

- (a) A specific written schedule detailing the custody, visitation and residential time for each child with each party including:
 - (i) Major holidays stating which holidays a party has each year;
 - (ii) School holidays for school-age children;
 - (iii) The child's birthday, Mother's Day and Father's Day;
 - (iv) Weekday and weekend schedules and for school-age children how the winter, spring, summer and other vacations from school will be spent;
 - (v) The times and places for transfer of the child between the parties in connection with the residential schedule;
 - (vi) A plan for sharing transportation duties associated with the residential schedule;
 - (vii) Appropriate times for telephone access;
 - (viii) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;
 - (ix) Any suggested restrictions or limitations on access to a party and

the reasons such restrictions are requested;

- (b) A specific written plan regarding legal custody which details how the decision-making rights and responsibilities will be shared between the parties including the following:
 - (i) Educational decisions and methods of communicating information from the school to both parties;
 - (ii) Medical, dental and health care decisions including how health care providers will be selected and a method of communicating medical conditions of the child and how emergency care will be handled;
 - (iii) Extracurricular activities, including a method for determining which activities the child will participate in when those activities involve time during which each party is the custodian;
 - (iv) Child care providers, including how such providers will be selected;
 - (v) Communication procedures including access to telephone numbers as appropriate;
 - (vi) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;
 - (vii) If a party suggests no shared decision-making, a statement of the reasons for such a request;
- (c) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:
 - (i) The suggested amount of child support to be paid by each party;
 - (ii) The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;
 - (iii) The payment of educational expenses, if any;
 - (iv) The payment of extraordinary expenses of the child, if any;
 - (v) Child care expenses, if any;
 - (vi) Transportation expenses, if any.

11. **CHILD SUPPORT:** In a proceeding for dissolution of marriage, legal separation or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the support of the child, including an award retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

- (a) The financial needs and resources of the child;
- (b) The financial resources and needs of the parents;
- (c) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (d) The physical and emotional condition of the child, and the child's educational needs;
- (e) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and
- (f) The reasonable work-related child care expenses of each parent.

There shall be a rebuttable presumption that the amount of the award that would result from the application of the guidelines established by the State of Missouri is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

- 11. **DIVORCE EDUCATION CLASS:** When a person files a petition for dissolution of marriage or legal separation and the custody or visitation of a minor child is involved, the court shall order all parties to the action to attend educational sessions concerning the effects of custody and the dissolution of marriage on children. In addition, the court may order the minor children to attend age-appropriate educational sessions.
- 12. **NAME CHANGE:** A spouse may petition the court requesting that upon divorce the court restore the party to the use of a former or maiden name.

For more information, see the Missouri Divorce Law Summary.

FORMS LIST

The forms included in this package are:

1. Petition for Dissolution of Marriage **(MO-CAFC001)**
2. Respondent's Answer to Petitioner's Petition for Dissolution of Marriage **(MO-CAFC010)**
3. Waiver of Service and Entry of Appearance **(MO-803D)**
4. Summons **(MO-804D)**
5. Statement of Property and Debt and Proposed Separation Agreement **(MO-CAFC040)**
6. Statement of Income and Expense **(MO-CAFC050)**
7. Filing Information Sheet **(MO-CAFC067)**
8. Parenting Plan **(MO-CAFC501A)**
9. Notice of Hearing **(MO-CAFC510)**
10. Judgment of Dissolution of Marriage **(MO-CAFC070)**
11. Certificate of Dissolution of Marriage **(MO-CAFC065)**

Check with the Clerk of Court regarding any additional filings required.

FORM EXPLANATIONS

All forms included in this package are identified and described below.

1. **Petition for Dissolution of Marriage** - The Petition for Divorce is the document in which you are asking the court to grant your divorce along with any other relief requested.

2. **Respondent's Answer to Petitioner's Petition for Dissolution of Marriage** – This document is used by the Respondent to acknowledge receipt of the Petition and Summons and to enter an appearance. It is further used 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. This form must be dated and signed AFTER the petition and other documents are filed.

3. **Waiver of Service and Entry of Appearance** – This document is used by the Respondent to acknowledge receipt of the Petition and Summons and to enter an appearance. It is further used 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. This form must be dated and signed AFTER the petition and other documents are filed.

4. **Summons** – This document is used to inform the Respondent that a suit has been filed against him or her and orders the Respondent to appear before the court and file any pleadings necessary within 30 days after service of the summons. If the respondent is to sign the Waiver of Service and Entry of Appearance, you do not need to issue the summons. When you file the Petition and other documents you can inform the clerk that the Respondent is going to sign a waiver and to not issue a summons. The clerk may have a form for you to sign requesting that the summons not be issued.

5. **Statement of Property and Debt and Proposed Separation Agreement** – This document is used to identify the assets and debts of the parties and to acknowledge whether those assets and debts are joint assets and debts of the parties or individual assets and debts. This form must be completed by both parties and resolve all issues of property, debts and other matters. It must be signed by both parties before a notary public and filed with the Clerk.

6. **Statement of Income and Expenses** – This document is used to identify all income from every source and all expenses of the parties. This form is to be completed by the Petitioner.
7. **Filing Information Sheet** – This form is used to provide the court with information regarding the parties and any minor children of the marriage.
8. **Parenting Plan** – This form is used to determine the custody, visitation and support of the minor children. The terms and conditions set forth in this parenting plan shall remain in full force and effect until the children are emancipated or until this plan is modified by a court of competent jurisdiction.
9. **Notice of Hearing** – This form is to set a date to present the decree to the Court and to answer any questions from the Court.
10. **Judgment of Dissolution of Marriage** – This document grants the divorce and any other relief requested.
11. **Certificate of Dissolution of Marriage** – Most courts require that you file two copies of the Certificate of Dissolution of Marriage.

INSTRUCTIONS AND STEPS

STEP 1: Complete the following forms:

- *Petition for Dissolution of Marriage*
- *Statement of Income and Expenses*
- *Filing Information Sheet*

The Petitioner, or person filing the action, completes the *Petition for Dissolution of Marriage, Statement of Income and Expenses and Filing Information Sheet*.

STEP 2: The above listed documents are then filed with the Clerk of the Circuit court in your County. A filing fee must be paid at this time. Contact the Clerk in advance to determine the correct amount to be paid and acceptable methods of payment.

STEP 3: The filing party (Petitioner) should next provide the Respondent with copies of the above-listed documents. At this time, the Petitioner should also provide the Respondent with the *Waiver of Service and Entry of Appearance* form. If the other spouse completes the *Waiver of Service and Entry of Appearance* form and returns it, the *Waiver* should then be filed with the clerk and no official *Summons* will be issued to that spouse. If the other spouse does not complete the *Waiver of Service and Entry of Appearance* form, then a *Summons* is issued directing the Respondent to answer the *Petition*. The Clerk will inform you how the *Summons* may be served on the Respondent. After the *Summons* is served to the Respondent, the *Respondent's Answer to Petitioner's Petition for Dissolution of Marriage* is sent to the Respondent. The *Respondent's Answer to Petitioner's Petition for Dissolution of Marriage* is completed by the other spouse and filed.

STEP 4: Both parties complete the *Statement of Property and Debt and Proposed Separation Agreement* together and have it signed before a notary public.

STEP 5: In cooperation with your spouse, using the financial information supplied in the completed *Statement of Property and Debt and Proposed Separation Agreement* and *Statement of Income and Expenses*, the parties should next complete the *Parenting Plan*.

STEP 6: The filing party (Petitioner) should next file the completed *Statement of Property and Debt and Proposed Separation Agreement* and *Statement of Income and Expenses*, the parties should next complete the *Parenting Plan* with the Clerk of Court.

- STEP 7:** There is a thirty (30) day waiting period from the filing of the *Petition for Dissolution of Marriage* before the court will grant a judgment of dissolution of marriage. During this waiting period, both parties should make arrangements to attend a Divorce Education Class. Upon completion, obtain and file the Certificate of Completion of Divorce Education Class with the Clerk of Court.
- STEP 8:** After the required waiting period of thirty (30) days from the filing of the *Petition*, contact the clerk for a time to present the *Judgment* to the Court. Ask the clerk what procedures the Judge uses in your county for this and follow this procedure.
- STEP 9:** If you are not required to actually attend a hearing, go to Step 12.
- STEP 10:** If you are required to attend a hearing, once the date has been obtained, complete and file with the Clerk of Court the *Notice of Hearing*. Mail a copy of the *Notice of Hearing* to the Respondent.
- STEP 11:** The filing party (Petitioner) should complete as much as possible of the *Judgment of Dissolution of Marriage*. Make at least three extra copies of the completed *Judgment of Dissolution of Marriage* and bring them to the final hearing. While at the hearing, be prepared to answer any questions the judge may have regarding the pleadings filed in your case, as well as any questions regarding your relationship with your spouse.
- STEP 12:** Complete the *Judgment of Dissolution of Marriage*. After the *Judgment of Dissolution of Marriage* has been signed and entered by the Judge, complete the *Certificate of Dissolution of Marriage*. File the original with the Clerk of Court and mail a copy to the Respondent along with a copy of the signed *Judgment of Dissolution of Marriage*.

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.

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 Petitioner completes the following:

- *Petition for Dissolution of Marriage*
- *Statement of Income and Expenses*
- *Filing Information Sheet*

Once completed, the forms are then to be filed with the Clerk, as well as a filing fee paid.

☐ Petitioner next provides Respondent with copies of above-listed documents. Petitioner also provides Respondent with *Waiver of Service and Entry of Appearance or Summons* and *Respondent's Answer to Petitioner's Petition for Dissolution of Marriage* forms. Respondent is instructed to complete and return for filing.

☐ Both parties complete:

- *Statement of Property and Debt and Proposed Separation Agreement*
- *Statement of Income and Expenses Income and Expense Statement*

☐ Both parties complete:

- *Parenting Plan*

☐ Attend Divorce Education Class and obtain Certificate of Completion.

☐ Attend hearing if required.

☐ *Judgment* presented to Court after required waiting period has elapsed.

☐ *Certificate of Dissolution of Marriage* completed.

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 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. You may also change other words in the document if the document is not locked. The separation agreement is a good example of a document that is not locked and allows you to make modifications outside the gray shaded areas.

Some forms may be locked which means that the content of the forms cannot be changed while the form is locked. 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 re-lock the document, 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/MO/MO-006-D.htm>

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