

STATE OF MISSISSIPPI

CHANCERY COURT

UNCONTESTED DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number MS-006A-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) You are filing for divorce based upon irreconcilable differences;
 - (b) There are minor children born to or adopted by you and your spouse.

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. You or your spouse must have resided in Mississippi for at least 6 months immediately preceding the filing of the complaint.
 - (b) You must satisfy **no-fault procedures** in that you are seeking a divorce based upon the grounds of irreconcilable differences.

3. **RESIDENCY REQUIREMENTS:** At least one of the parties to a divorce action in Mississippi must have been an actual bona fide resident of the state for six (6) months prior to the filing of the divorce action.

4. **GROUND FOR DIVORCE:** Mississippi has both general and no-fault grounds for divorce. The general grounds upon which a divorce may be granted include:
 - (a) Natural impotency;
 - (b) Adultery;
 - (c) Being sentenced to any penitentiary without pardon;
 - (d) Desertion;
 - (e) Drunkenness;
 - (f) Drug addiction;
 - (g) Cruel and inhuman treatment;
 - (h) Insanity;
 - (i) Marriage to another;
 - (j) Pregnancy of wife by one other than husband;
 - (k) Incest.

The no-fault ground upon which a divorce may be granted is irreconcilable differences. To obtain a no-fault divorce, a joint complaint must be filed or the defendant must either be personally served or appear by filing a written waiver of process.

5. **WAITING PERIOD:** Complaints for divorce on the ground of irreconcilable differences must have been on file for sixty (60) days before being heard. There is no waiting period for a divorce based on cruel and inhuman treatment, but it usually takes longer than 60 days to set a trial date.
6. **ALIMONY/SUPPORT:** In a contested case, the court may in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just, grant alimony to either spouse.
7. **DISTRIBUTION OF PROPERTY:** By Court opinion, Mississippi recognizes basic equitable distribution procedures. In a contested divorce proceeding, marital property may be divided between the parties regardless of title. In an irreconcilable differences divorce, the parties must agree on all property distribution matters in their separation and property settlement agreement.
8. **FINANCIAL STATEMENT:** Mississippi provides that unless excused by Order of the Court for good cause shown, each party in every domestic case involving economic issues and/or property division shall provide the opposite party or counsel, if known, financial disclosures of the following:
 - (a) A detailed written statement of actual income and expenses and assets and liabilities, such statement to be on the forms attached hereto as Exhibit "A" and "B".
 - (b) Copies of the preceding year's Federal and State Income Tax returns, in full form as filed, or copies of W-2's if the return has not yet been filed.
 - (c) A general statement of the providing party describing employment history and earnings from the inception of the marriage or from the date of divorce, whichever is applicable.
9. **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.
10. **CHILD CUSTODY:** Custody may be granted in several different ways. The court may grant joint physical and legal custody, joint physical custody and sole legal custody to either parent, joint legal custody and sole physical custody to either parent, or sole physical and legal custody to either parent.

Custody is awarded based upon the best interests of the child. There is no presumption that it is in the best interests of the child that the mother be awarded either legal or physical custody. In making an order for custody to either parent or to both parents

jointly, the court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

There shall be a presumption that joint custody is in the best interest of a minor child where both parents have agreed to an award of joint custody. "Joint custody" means joint physical and legal custody.

"Physical custody" means those periods of time in which a child resides with or is under the care and supervision of one of the parents.

"Joint physical custody" means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents.

"Legal custody" means the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child.

"Joint legal custody" means that the parents or parties share the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child. An award of joint legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and to confer with one another in the exercise of decision-making rights, responsibilities and authority.

An award of joint physical and legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and unless allocated, apportioned or decreed, the parents or parties shall confer with one another in the exercise of decision-making rights, responsibilities and authority.

Any order for joint custody may be modified or terminated upon the petition of both parents or upon the petition of one (1) parent showing that a material change in circumstances has occurred.

There shall be no presumption that it is in the best interest of a child that a mother be awarded either legal or physical custody.

Notwithstanding any other provision of law, access to records and information pertaining to a minor child, including but not limited to medical, dental and school records shall not be denied to a parent because the parent is not the child's custodial parent.

11. **CHILD SUPPORT:** When a divorce shall be decreed from the bonds of matrimony, the court may, in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just, make all orders touching the maintenance of the children of the marriage, and shall, if need be, require bond, sureties or other guarantee for the payment of the sum so allowed. Where proof shows that both parents have separate incomes or estates, the court may require that each parent contribute to the support and maintenance of the children of the marriage

in proportion to the relative financial ability of each.

In the event a legally responsible parent has health insurance available to him or her through an employer or organization that may extend benefits to the dependents of such parent, any order of support issued against such parent may require him or her to exercise the option of additional coverage in favor of such children as he or she is legally responsible to support.

Whenever the court has ordered a party to make periodic payments for the maintenance or support of a child, but no bond, sureties or other guarantee has been required to secure such payments, and whenever such payments as have become due remain unpaid for a period of at least thirty (30) days, the court may, upon petition of the person to whom such payments are owing, or such person's legal representative, enter an order requiring that bond, sureties or other security be given by the person obligated to make such payments, the amount and sufficiency of which shall be approved by the court. The obligor shall, as in other civil actions, be served with process and shall be entitled to a hearing in such case.

The duty of support of a child terminates upon the emancipation of the child. The court may determine that emancipation has occurred and no other support obligation exists when the child:

- (a) Attains the age of twenty-one (21) years, or
- (b) Marries, or
- (c) Discontinues full-time enrollment in school and obtains full-time employment prior to attaining the age of twenty-one (21) years, or
- (d) Voluntarily moves from the home of the custodial parent or guardian and establishes independent living arrangements and obtains full-time employment prior to attaining the age of twenty-one (21) years.

Mississippi has adopted guidelines for child support. The guidelines are based on the number of children:

Children	Percent of Adjusted Gross Income
1	14%
2	20%
3	22%
4	24%
5 or more	26%

For more information, see the Mississippi Divorce Law Summary.

FORMS LIST

The forms included in this package are:

1. Civil Cover Sheet (**MS-AOC-01**)
2. Joint Complaint for Absolute Divorce (**MS-820D**)
3. Separation and Property Settlement Agreement (**MS-61766**)
4. Financial Statement (**MS-805D**)
5. Certificate of Compliance (**MS-806D**)
6. Notice of Trial (**MS-807D**)
7. Final Judgment of Absolute Divorce (**MS-821D**)

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Civil Cover Sheet (MS-AOC-01)** – This is an informational document used by the Court to identify the parties and the type of action before it.

2. **Joint Complaint for Divorce (MS-820D)** – The Joint Complaint for Divorce is the document in which you are asking the Court to grant your divorce along with any other relief requested.

3. **Separation and Property Settlement Agreement (MS-61766)** – 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. **Financial Statement (MS-805D)** – The Financial Statement is use to disclose to the other party the following:
 - (a) A detailed written statement of actual income and expenses and assets and liabilities, such statement to be on the forms attached to the Financial Statement as Exhibit "A" and "B".
 - (b) Copies of the preceding year's Federal and State Income Tax returns, in full form as filed, or copies of W-2's if the return has not yet been filed.
 - (c) A general statement of the providing party describing employment history and earnings from the inception of the marriage or from the date of divorce, whichever is applicable

- Each party must complete and serve upon the other a copy of this document.

5. **Certificate of Compliance (MS-806D)** – This document is used by both parties to certify to the Court that the opposing party has been served with a copy of that party's Financial Statement. Each party must complete this document and file it with the Court.

6. **Notice of Trial (MS-807D)** – This form notifies the defendant of the trial date.

7. **Final Judgment of Absolute Divorce (MS-821D)** – This document grants the divorce and any other relief requested.

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 parties should complete the *Joint Complaint for Divorce (MS-820D)* and the *Separation and Property Settlement Agreement (MS-61766)*, making certain to agree to all terms contained therein. The *Civil Cover Sheet (MS-AOC-01)* should also be completed at this time. The documents should then be filed with the Clerk of Court. A filing fee is paid.

STEP 2: Each party should complete a copy of the *Financial Statement (MS-805D)* and provide a copy to the other party.

STEP 3: After completing the *Financial Statement (MS-805D)* and exchanging copies of the document with your spouse, each party should complete the *Certificate of Compliance (MS-806D)* and file with the Court.

STEP 4: After the required waiting period of sixty (60) days from the filing of the *Joint Complaint (MS-820D)*, you should contact the clerk for a hearing date.

STEP 5: Once a hearing date has been obtained, the Defendant must be provided notice of the hearing date. This is done by completing the *Notice of Trial (MS-807D)* form and serving this form upon the Defendant.

STEP 6: The *Final Judgment of Absolute Divorce (MS-821D)* should next be completed by the parties.

STEP 7: At the hearing, the *Final Judgment (MS-821D)* should be presented to the Court for review and approval.

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

- ☐ *Civil Cover Sheet (MS-AOC-01), Joint Complaint for Divorce (MS-820D) and Separation and Property Settlement Agreement (MS-61766) completed and filed. Filing fee paid.*
- ☐ *Each party completes a copy of the Financial Statement (MS-805D) and exchanges with spouse.*
- ☐ *Certificate of Compliance (MS-806D) completed by each party and filed with the Court.*
- ☐ *After sixty day waiting period has elapsed from the date of filing of the Joint Complaint (MS-820D), a final hearing date obtained from the Clerk of Court.*
- ☐ *Notice of Trial (MS-807D) form mailed to Defendant informing him or her of date of trial.*
- ☐ *Judgment (MS-821D) presented to Court at hearing for signature.*
- ☐ *Judgement (MS-821D) signed and divorce entered.*

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/MS/MS-006A-D.htm>

DISCLAIMER

These materials were developed by U.S. Legal Forms, Inc. based upon statutes and forms for the State of Mississippi. All Information and Forms are subject to this Disclaimer: All forms in this package are provided without any warranty, express or implied, as to their legal effect and completeness. Please use at your own risk. If you have a serious legal problem we suggest that you consult an attorney. U.S. Legal Forms, Inc. does not provide legal advice. The products offered by U.S. Legal Forms (USLF) are not a substitute for the advice of an attorney.

THESE MATERIALS ARE PROVIDED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND INCLUDING WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OF INTELLECTUAL PROPERTY, OR FITNESS FOR ANY PARTICULAR PURPOSE. IN NO EVENT SHALL U. S. LEGAL FORMS, INC. OR ITS AGENTS OR OFFICERS BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF INFORMATION) ARISING OUT OF THE USE OF OR INABILITY TO USE THE MATERIALS, EVEN IF U.S. LEGAL FORMS, INC. HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THESE FORMS WERE PREPARED FOR STATEWIDE USE. HOWEVER, SOME COUNTIES OR JUDGES MAY REQUIRE CERTAIN MODIFICATIONS TO THE FORMS FOR USE IN YOUR PARTICULAR COUNTY AND MAY REQUIRE SPECIAL FORMS NOT INCLUDED. CHANGES REQUIRED BY PARTICULAR JUDGES ARE NOT UNCOMMON EVEN IF THE FORMS HAD BEEN PREPARED BY YOUR ATTORNEY. REGARDLESS, YOU SHOULD BE ABLE TO USE THESE FORMS AND INSTRUCTIONS, WITH ANY REQUIRED MODIFICATIONS, TO MAKE IT THROUGH THE PROCESS. IF YOU NEED TO MAKE CHANGES, OR IF SPECIAL FORMS ARE REQUIRED IN YOUR COUNTY, YOU CAN MAKE THE CHANGES AND REFILE, OR OBTAIN THE SPECIAL FORMS EITHER FROM THE CLERK OR A CLOSED DIVORCE FILE WHICH YOU CAN USE AS AN EXAMPLE.