

DISTRICT COURT

STATE OF MONTANA

DISSOLUTION PACKAGE

ADULT CHILDREN

With or Without Property

Control Number MT-004-D

This packet contains the following:

1. Information about Dissolution of Marriage
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 dissolution to use this packet.
All forms to be filed with the Court must be printed on Bond paper.

INFORMATION ABOUT DISSOLUTION OF MARRIAGE

1. **WHO CAN USE THESE FORMS:** You may use this package for dissolution of marriage only when all of the following facts are true;
 - (a) Your marriage is irretrievably broken and there is no reasonable prospect of reconciliation; and,
 - (b) There are no minor children of said marriage, and the wife is not now pregnant. All children of the marriage are over the age of twenty-one (21) and emancipated.

2. **THE BASICS:** In a typical dissolution of marriage, there are a few basic requirements that must be met before you can obtain a judgment of dissolution of marriage. Those requirements are below:
 - (a) The residency requirements must be met.
 - (b) The court must find that the marriage is irretrievably broken.
 - (c) The court must find that the conciliation provisions of the Montana Conciliation Law and of 40-4-107 either do not apply or have been met; and
 - (d) To the extent it has jurisdiction to do so, the court has considered, approved, or made provision for parenting, the support of any child entitled to support, the maintenance of either spouse, and the disposition of property.

3. **RESIDENCY REQUIREMENTS:** Montana law requires that the proper place of trial for an action for dissolution of marriage is the county in which the Petitioner has resided during the 90 days preceding the commencement of the action.

4. **GROUND FOR DISSOLUTION OF MARRIAGE:** Montana law permits a judgment of dissolution of marriage based upon the irretrievable breakdown of the marriage with no reasonable likelihood of reconciliation.

5. **LEGAL SEPARATION:** Montana law permits a judgment of separation to be granted based upon irretrievable breakdown of the marriage.

This package does not contain forms for a legal separation.

6. **MONTANA CONCILIATION LAW** – Montana has established conciliation procedures to protect the rights of children and to promote the public welfare by

preserving, promoting, and protecting family life and the institution of matrimony and to provide means for the reconciliation of spouses and the amicable settlement of domestic and family controversies. Whenever any controversy exists between the spouses which may, unless a reconciliation is achieved, result in the dissolution or annulment of the marriage or in the disruption of the household and there is any minor child of the spouses or of either of them whose welfare might be affected thereby, the conciliation court shall have jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy for the purpose of preserving the marriage by effecting a reconciliation between the parties or for amicable settlement of the controversy between the spouses so as to avoid further litigation over the issue involved..

7. **WAITING PERIOD:** At least twenty days must elapse from the date of service of the Petition upon the Respondent before the final hearing may be held.

8. **ALIMONY/SUPPORT:** Since this is an agreed upon dissolution proceeding, you and your spouse 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 if it finds that the spouse seeking maintenance:

- (a) Lacks sufficient property to provide for his reasonable needs; and
- (b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, and after considering all relevant facts including:

- (a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;
- (b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
- (c) The standard of living established during the marriage;
- (d) The duration of the marriage;
- (e) The age and the physical and emotional condition of the spouse seeking maintenance; and
- (f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

9. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon dissolution proceeding, the parties will agreed to all terms of the distribution of property in the Separation and Property Settlement Agreement. The terms of the separation agreement, except those providing for the support, parenting, and parental contact with children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the separation agreement is unconscionable.

In a contested case, the court, without regard to marital misconduct, shall make an equitable distribution between the parties of the property and assets belonging to either or both, however and whenever acquired and whether the title thereto is in the name of the husband or wife or both. In making apportionment, the court shall consider:

- (a) The duration of the marriage and prior marriage of either party;
- (b) The age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;
- (c) Custodial provisions;
- (d) Whether the apportionment is in lieu of or in addition to maintenance;
- (e) The opportunity of each for future acquisition of capital assets and income; and,
- (f) The contribution or dissipation of value of the respective estates and the contribution of a spouse as a homemaker or to the family unit.

In dividing property acquired prior to the marriage; property acquired by gift, bequest, devise, or descent; property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent; the increased value of property acquired prior to marriage; and property acquired by a spouse after a decree of legal separation, the court shall consider those contributions of the other spouse to the marriage, including:

- (a) The nonmonetary contribution of a homemaker;
- (b) The extent to which such contributions have facilitated the maintenance of this property; and
- (c) Whether or not the property division serves as an alternative to maintenance arrangements.

9. **NAME CHANGE:** Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order the wife's maiden name or a former name restored.

10. **PRELIMINARY/ FINAL DISCLOSURE:** Within sixty (60) days of service of a petition for dissolution or separation, each party shall serve upon the other a preliminary declaration of disclosure setting forth the identity of all assets and liabilities, along with income and expenses. A final declaration of disclosure, setting forth all assets, liabilities, income and expenses must also be served upon the other party before or at the time the parties enter into an agreement regarding property or

support, or no later than forty-five (45) days before the first trial date. Such declarations shall be under penalty of perjury. In addition, the court may set aside all or part of the judgment should it discover, within five (5) years from date of entry, that a party has committed perjury in the final declaration.

For more information, see the Montana Dissolution of Marriage Law Summary.

FORMS LIST

The forms included in this package are:

1. Petition for Dissolution **(MT-814D)**
2. Summons and Temporary Economic Restraining Order **(MT-803D)**
3. Petitioner's Preliminary Declaration of Disclosure of Assets, Debts, Income and Expenses **(MT-805D)**
4. Notice and Acknowledgement of Receipt of Summons and Petition for Dissolution **(MT-804D)**
5. Request for Entry of Default, Application for Default Judgment and Waiver of Final Disclosure Requirements **(MT-809D)**
6. Entry of Default **(MT-828D)**
7. Request for Hearing and Order **(MT-810D)**
8. Findings of Fact, Conclusion of Law and Final Decree of Dissolution **(MT-816D)**
9. Notice of Entry of Decree **(MT-813D)**
10. Vital Statistics Form **(MT-829D)**

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Petition for Dissolution (MT-814D)** – The Petition for Dissolution of Marriage is the document through which you are asking the court to grant the dissolution of marriage along with any other relief requested.

2. **Summons and Temporary Economic Restraining Order (MT-803D)**
– 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 20 days after service of the summons.

3. **Petitioner’s Preliminary Declaration of Disclosure of Assets, Debts, Income and Expenses (MT-805D)** – This form is used to provide information regarding a party’s assets and liabilities. Each party to a dissolution action must complete and exchange copies of this form with their spouse.

4. **Notice and Acknowledgement of Receipt of Summons and Petition (MT-804D)** – This document is used by the Respondent to acknowledge to the Court receipt of the Petition and Summons. This form must be dated and signed AFTER the petition and other documents are filed.

5. **Request for Entry of Default, Application for Default Judgment and Waiver of Final Disclosure Requirements (MT-809D)** – This document is used to request a default judgment in the dissolution of the marriage and waive the final disclosure requirements.

6. **Entry of Default (MT-828D)** – This document is used to give notice of default that the spouse has neither responded nor appeared in any actions in the dissolution of marriage.

7. **Request for Hearing and Order (MT-810D)** - This form is used request that a final hearing be set for the dissolution action.

8. **Findings of Fact, Conclusion of Law and Final Decree of Dissolution (MT-816D)** - This document grants the dissolution of marriage and any other relief requested.

9. **Notice of Entry of Decree (MT-813D)** - This document is used to provide notice to the Respondent that a Decree of Dissolution of Marriage has been entered.

10. **Vital Statistics Form (MT-829D)** – This document is used as a certificate of divorce.

STEPS TO NO-FAULT DISSOLUTION OF MARRIAGE

- STEP 1:** The filing party (the Petitioner) should complete the Petition for Dissolution (*MT-814D*) and Summons and Temporary Economic Restraining Order (*MT-803D*) and make several copies of each document. Once completed, these documents should be filed with the Clerk of Court in the county of filing. A filing fee is paid. The Clerk of Court will return unneeded copies to you. The clerk will put a cause number of all the documents you filed. In the future, put this cause number on all of your forms from now on.
- STEP 2:** The Respondent should next be mailed a copy of the Petition (*MT-814D*) along with the Summons (*MT-803D*) and the original Notice and Acknowledgement of Receipt of Summons and Petition (*MT-804D*). Provide the Respondent with a stamped envelope addressed to you so that the Respondent may complete and return the Notice and Acknowledgement of Receipt of Summons and Petition (*MT-804D*) to you.
- STEP 3:** Once the Respondent has returned the Notice and Acknowledgement of Receipt of Summons and Petition (*MT-804D*) to you, this document must then be filed with the Clerk of Court.
- STEP 4:** Each party should next complete and exchange with their spouse (within 60 days of service of Petition for Dissolution (*MT-814D*) upon the Respondent) copies of the Preliminary Declaration of Disclosure (*MT-805D*), executed under penalty of perjury.
- STEP 5:** Wait 21 days from the date your spouse was served. The filing party (the Petitioner) should complete the Request for Entry of Default (*MT-809D*), Entry of Default (*MT-828D*), Request for Hearing and Order (*MT-810D*) and the Final Decree of Dissolution (*MT-816D*). Make several copies of each document, once completed, these documents should be filed with the Clerk of Court in the county of filing. The Clerk will schedule a final hearing for your dissolution.
- STEP 6:** Go to court for your hearing, be at the courthouse at least 15 minutes before your scheduled hearing time. Dress as you would for an important meeting or job interview. Bring your two file stamped copies of the following document with you to the hearing: Findings of Fact, Conclusion of Law and Final Decree of Dissolution (*MT-816D*). Ask the Clerk of District Court which courtroom your Judge is in. Go to the appropriate courtroom and wait for the Judge to call your name and cause number. Be calm and polite and address the Judge as “Your Honor.” The Judge will ask you to be sworn in and to take the witness stand. The Judge will ask you a few questions regarding your

Petition and Proposed Decree. The Judge should then sign your Decree (*MT-816D*) and excuse you. Immediately after the hearing, bring the signed Decree to the Clerk of the court. Ask the Clerk of the court to file stamp your copies of the signed Decree. At the same time, file your Vital Statistics Form (*MT-829D*).

STEP 7: Complete and make several copies of the Notice of Entry of Decree (*MT-813D*). Mail a copy of the Notice of Entry of Decree and the Findings of Fact, Conclusion of Law and Final Decree of Dissolution (*MT-816D*) to your spouse. File the original Notice of Entry of Decree with the Clerk of the court.

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.

This is a package involving property and/or assets of the marriage.

This package is a guide and you should complete all forms based upon your situation, making any necessary revisions.

CHECKLIST

- Petition (MT-814D)* and *Summons (MT-803D)* completed and filed with Clerk of Court in county of filing. Filing fee paid.
- Respondent mailed copy of *Petition (MT-814D)* and *Summons (MT-803D)*. Respondent also provided with *Notice and Acknowledgment of Receipt of Summons (MT-804D)* and stamped envelope.
- Respondent completes and returns *Notice and Acknowledgment of Receipt of Summons (MT-804D)*. *Notice and Acknowledgment of Receipt of Summons (MT-804D)* then filed with Clerk of Court.
- Each party completes and exchanges with spouse copies of *Preliminary Declaration of Disclosure (MT-805D)*.
- Petitioner completes and files the Request for Entry of Default (*MT-809D*), Entry of Default (*MT-828D*), Request for Hearing and Order (*MT-810D*) and the Final Decree of Dissolution (*MT-816D*).
- Clerk scheduled a final hearing.
- Petitioner brings the file stamped copy of the *Final Decree of Dissolution (MT-816D)* document to the final hearing.
- After *Decree (MT-816D)* has been entered, Respondent mailed copy of *Decree (MT-816D)* along with copy of *Notice of Entry of Decree (MT-813D)*. Original *Notice of Entry of Decree (MT-813D)* filed with Court.

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 select “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/MT/MT-004-D.htm>

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