

STATE OF NORTH CAROLINA

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number NC-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 divorce package only when all of the following facts are true;
 - (a) You and your spouse have remained separated without cohabitation for a period of at least one year immediately prior to filing for divorce;
 - (b) There are minor children of said marriage.
 - (c) You and your spouse agree on all terms of the divorce.
 - (d) You or your spouse has lived in North Carolina and in the county of filing for six months before filing the divorce.

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 North Carolina for at least six months immediately preceding the filing of the Complaint.
 - (b) You must satisfy **the no-fault procedures**, in that you and your spouse are seeking a divorce based upon the grounds of living separate and apart for a period of at least one year.

3. **RESIDENCY REQUIREMENTS:** At least one of the parties to the action for divorce must have resided in the State of North Carolina for at least six months immediately prior to the institution of the action for divorce.

4. **WHERE TO FILE:** An action for divorce may be filed in the county where either party resides.

5. **GROUND FOR DIVORCE:** A divorce may be granted in North Carolina based upon the incurable insanity or mental illness of one of the spouses, or upon the parties living separate and apart for a period of at least one year without cohabitation. This package is designed for parties seeking a divorce based upon the grounds of living separate and apart for a period of at least one year.

6. **SIMPLIFIED DIVORCE PROCEDURE:** This package contemplates a divorce based upon the simplified divorce procedure permitted by the State of North Carolina. Under this procedure, if the parties are seeking a divorce based upon the grounds of living

separate and apart without cohabitation for a period of at least one year, and the parties have agreed to all terms of the divorce, leaving no issues to be decided by the court, the court may grant the divorce based upon evidence presented by affidavit, verified motion or other verified pleading.

7. **LEGAL SEPARATION:** The court may grant a judgement of separation from bed and board (legal separation) on the following grounds:

- (a) Abandonment of spouse or family;
- (b) Maliciously turning the other spouse out of doors;
- (c) Cruel or barbarous treatment endangering the life of the other;
- (d) Personal indignities rendering condition of other spouse intolerable and life burdensome;
- (e) Excessive abuse of alcohol or drugs;
- (f) Adultery.

This package does not contain forms for a legal separation.

8. **WAITING PERIOD:** Utilizing the simplified divorce procedure contemplated by this package, thirty (30) days must elapse from the commencement of the action instituting the divorce proceeding before the court will grant a judgment of dissolution of marriage.

9. **ALIMONY/SUPPORT:** Since this is an agreed upon divorce, 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, either party may be awarded alimony upon a finding that the party seeking alimony is dependant upon the other party for support and such an award would be equitable. Fault of the parties as it pertains to adultery during the marriage is considered when awarding alimony. Other factors the court will consider in determining the amount and duration of an award of alimony include:

- (a) Marital misconduct;
- (b) Relative earnings and earning capacities of the parties;
- (c) The ages, physical, mental and emotional health of the parties;
- (d) The amount and sources of income of both spouses;
- (e) The duration of the marriage;
- (f) The contribution of one spouse to the education, training or increased earning power of the other spouse;
- (g) The extent that serving as a child's custodian will affect a party's earning power, etc.;
- (h) The standard of living established during the marriage;

- (i) The relative education of the parties and the time necessary for a party to acquire sufficient education or training to meet his or her reasonable needs;
- (j) The relative assets and liabilities of the parties;
- (k) Any other relevant factor.

10. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will agreed to property distributions. North Carolina 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 income, property, and liabilities of the parties;
- (b) Any obligation for support from a previous marriage;
- (c) The duration of the marriage and the age, physical and mental health of the parties;
- (d) The needs of the custodial parent;
- (e) The expectation of pension, retirement or other deferred compensation rights that are not marital property;
- (f) The contribution to the education or earning potential of the other spouse;
- (g) Any other factor the court deems just and proper.

11. **CHILD CUSTODY / VISITATION:** An order for custody of a minor child shall award the custody of such child to such person, agency, organization or institution as will best promote the interest and welfare of the child. In making the determination, the court shall consider all relevant factors including acts of domestic violence between the parties, the safety of the child, and the safety of either party from domestic violence by the other party and shall make findings accordingly. An order for custody must include findings of fact which support the determination of what is in the best interest of the child. Between the mother and father, whether natural or adoptive, no presumption shall apply as to who will better promote the interest and welfare of the child. Joint custody to the parents shall be considered upon the request of either parent.

An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic violence. Such orders may include a designation of time and place for the exchange of children away from the abused party, the participation of a third party, or supervised visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child.

An order for custody of a minor child may provide visitation rights for any grandparent of the child, as the court, in its discretion, deems appropriate.

12. **CHILD SUPPORT:** Payments ordered for the support of a minor child shall be in such amount as to meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case. The court shall determine the amount of child support payments by applying the presumptive Child Support Guidelines. However, upon request of any party, the Court shall hear evidence, and from the evidence, find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to provide support. If, after considering the evidence, the Court finds by the greater weight of the evidence that the application of the guidelines would not meet or would exceed the reasonable needs of the child considering the relative ability of each parent to provide support or would be otherwise unjust or inappropriate the Court may vary from the guidelines. If the court orders an amount other than the amount determined by application of the presumptive guidelines, the court shall make findings of fact as to the criteria that justify varying from the guidelines and the basis for the amount ordered.
13. **MEDIATION:** Whenever it appears to the court that an action involves a contested issue as to the custody or visitation of a minor child, the matter shall be set for mediation of the unresolved issues as to custody and visitation before or concurrent with the setting of the matter for hearing unless the court waives mediation. Issues that arise in motions for contempt or for modifications as well as in other pleadings shall be set for mediation unless mediation is waived by the court. The purposes of mediation include the pursuit of the following goals:
 - (a) To reduce any acrimony that exists between the parties to a dispute involving custody or visitation of a minor child;
 - (b) The development of custody and visitation agreements that are in the child's best interest;
 - (c) To provide the parties with informed choices and, where possible, to give the parties the responsibility for making decisions about child custody and visitation;
 - (d) To provide a structured, confidential, non-adversarial setting that will facilitate the cooperative resolution of custody and visitation disputes and minimize the stress and anxiety to which the parties, and especially the child, are subjected; and
 - (e) To reduce the re-litigation of custody and visitation disputes.
14. **NAME CHANGE:** A spouse may Complaint 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 North Carolina Divorce Law Summary.

FORMS LIST

The forms included in this package are:

1. Domestic Civil Cover Sheet (**NC-AOC-CV-750**)
2. Complaint for Absolute Divorce (**NC-811D**)
3. Civil Summons (**NC-AOC-CV-100**)
4. Verification (**NC-814D**)
5. Notice of Assignment/Service (AOC-CVM-300) – *available from Clerk of Court.*
6. Acceptance of Service and Waiver of Responsive Pleading (**NC-803D**)
7. Separation and Property Settlement Agreement (**NC-DO-11A**)
8. Motion for Summary Judgment (**NC-806D**)
9. Motion Cover Sheet (**NC-AOC-CV-752**)
10. Affidavit as to Status of Minor Child (**NC-AOC-CV-609**)
11. Financial Affidavit (**NC-812D**)
12. Child Support Guidelines (**NC-AOC-A-162**)
13. Child Support Worksheets
 - i. Sole Custody Worksheet (**NC-AOC-CV-627**)
 - ii. Joint Custody Worksheet (**NC-AOC-CV-628**)
 - iii. Split Custody Worksheet (**NC-AOC-CV-629**)
14. Notice of Hearing (**NC-807D**)
15. Divorce by Summary Judgment(**NC-813D**)
16. Certificate of Absolute Divorce (DEHNR-2089) – *available from Clerk of Court*
17. Civil Action Cover Sheet (**NC-AOC-CV-753**)

You must obtain the following forms from the Clerk of Court:

- Notice of Assignment/Service (**AOC-CVM-300**)
- Certificate of Absolute Divorce (**DEHNR-2089**)

FORM EXPLANATIONS

All forms utilized by this package are identified below.

1. **Domestic Civil Cover Sheet (NC-AOC-CV-750)** – This form is used by the Court to identify the type of action being filed.
2. **Complaint for Absolute Divorce (NC-811D)** - The Complaint for Divorce is the document in which you are asking the court to grant your divorce along with any other relief requested.
3. **Civil Summons (NC-AOC-CV-100)** – This document is used to inform the Defendant that a suit has been filed against him or her and orders the Defendant to appear before the court and file any pleadings necessary within 30 days after service of the summons. This form is provided as a sample.
4. **Verification (NC-814D)** – This document is required in all actions for divorce. The complaint must be verified in accordance with the provisions of Rule 11 of the Rules of Civil Procedure and G.S. 1-148. The Verification form must be signed before a notary public.
5. **Notice of Assignment/Service (AOC-CVM-300)** – This is a two-part card the size of an index card that must be completed at the time the Complaint is filed. It is available from the Clerk and can be obtained at the time of filing.
6. **Acceptance of Service and Waiver of Responsive Pleading (NC-803D)** – This document is used by the Defendant to acknowledge receipt of the Complaint and Summons and to enter an appearance. It is further used to request that the Court grant a Judgment of Absolute Divorce pursuant to the terms of Plaintiff's Complaint at any time and without further notice to Defendant. This form must be dated and signed AFTER the Complaint and other documents are filed.
7. **Affidavit as to Status of Minor Child (NC-AOC-CV-609)** – This form is used to provide the Court with information regarding the minor children of the marriage. A separate form must be completed for each minor child of the marriage.
8. **Separation and Property Settlement Agreement (NC-DO-11A)** – 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.
9. **Motion for Summary Judgment (NC-806D)** – This motion is used to request that the Court grant a summary Divorce by Summary Judgment based on the claims set forth in the Complaint on the grounds that parties have agreed to all terms of the divorce and there are no issues that the Court must resolve.

10. **Motion Cover Sheet (NC-AOC-CV-752)** - This form is used to show that a Motion has been filed. This form is completed and signed at the time the Motion for Summary Judgment (*NC-806D*) is filed. Complete this form, and take it to the Court when the Judgment is entered. However, the Clerk may require that a form be completed there, or the Clerk may complete this form.
11. **Financial Affidavit (NC-812D)** – This form is used to provide the Court with complete and current financial information of the parties.
12. **Child Support Guidelines (NC-AOC-A-162)** – This schedule establishes the basic child support obligation based upon amount of income of the parties and the number of minor children of the marriage.
13. **Child Support Worksheets (NC-AOC-CV-627), (NC-AOC-CV-628) or (NC-AOC-CV-629)** – This form is used to calculate the correct amount of child support to be paid to the custodial parent by the non-custodial parent. Select the appropriate worksheet based upon the custodial arrangement reached between the parties.
14. **Notice of Hearing (NC-807D)** – This document is used to provide the Defendant with notice of the date and time that the Motion of Summary Judgment of Absolute divorce will be heard.
15. **Divorce by Summary Judgment (NC-813D)** – This document grants the divorce and any other relief requested.
16. **Certificate of Absolute Divorce (DEHNR-2089)** – This form is used by the Court for administrative purposes and must be obtained from the clerk at the time the Judgment is presented.
17. **Civil Action Cover Sheet (NC-AOC-CV-753)** – This form is used to show that the case is closed or other action taken. This form is completed and signed at the time the Summary Judgment Order is entered. Complete this form, and take it to the Court when the Judgment is entered. However, the Clerk may require that a form be completed there, or the Clerk may complete this form.

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 should complete *Domestic Civil Cover Sheet (NC-AOC-CV-750)*, *Complaint for Absolute Divorce (NC-811D)*, *Civil Summons (NC-AOC-CV-100)* and *Verification (NC-814D)*.

STEP 2: File the *Domestic Civil Cover Sheet (NC-AOC-CV-75)*, *Complaint for Absolute Divorce (NC-811D)*, *Civil Summons (NC-AOC-CV-100)* and *Verification (NC-814D)* with the Clerk of the Circuit Court in your county. Complete *Notice of Assignment/Service (AOC-CVM-300)* card available from the clerk.

NOTE: You will need three copies of the *Civil Summons (NC-AOC-CV-100)*. The original copy will be on white paper and the (2) two copies will be on yellow paper. Remember, each CIVIL SUMMONS has a front and a back, and you will only be writing in the sections, mentioned in the directions, on the front of the summons.

STEP 3: Complete *Acceptance of Service (NC-803D)*.

STEP 4: Attach the yellow copy of the *Summons (NC-AOC-CV-100)* to the *Complaint (NC-811D)* and give the Defendant that copy of the *Complaint (NC-811D)* with the *Summons* attached. Have the Defendant sign the *Acceptance of Service (NC-803D)*.

STEP 5: Complete the back of the *Civil Summons (NC-AOC-CV-100)* and mark “other manner of service” and write “Defendant accepted service on _____ (date).”

STEP 6: Take the *Civil Summons (NC-AOC-CV-100)* and signed *Acceptance of Service (NC-803D)* and file with the Court Clerk.

STEP 7: Complete *Affidavit as to Status of Minor Child (NC-AOC-CV-609)* for each minor child of the marriage.

STEP 8: Both parties should then complete the *Separation and Property Settlement Agreement (NC-804D)*, making certain that both parties agree to all terms contained therein.

STEP 9: Each party should complete and exchange completed copies of the *Financial*

Affidavit (NC-812D). Both parties should then complete the appropriate Child Support Worksheet (Sole Custody Worksheet / NC-AOC-CV-627, Joint Custody Worksheet / NC-AOC-CV-628, Split Custody Worksheet / NC-AOC-CV-629) using the provided Child Support Guidelines (NC-AOC-A-162).

- STEP 10:** Complete the *Motion for Summary Judgment (NC-806D)*, *Motion Cover Sheet (NC-AOC-CV-752)*, and *Notice of Hearing (NC-807D)*, leaving the date of the hearing blank.
- STEP 11:** File the *Motion for Summary Judgment (NC-806D)* and get a date from the clerk for a hearing. Write the date in the *Notice of Hearing (NC-807D)* and file the *Notice of Hearing (NC-807D)* at this time.
- STEP 12:** Mail a copy of the filed *Motion for Summary Judgment (NC-806D)* and *Notice of Hearing (NC-807D)* to the Defendant.
- STEP 13:** The *Divorce by Summary Judgment (NC-813D)* should next be completed. Your spouse should be provided a copy of the *Judgment (NC-813D)* prior to the final hearing to ensure he or she is aware of its contents and agrees with its terms.
- STEP 14:** At the hearing, the *Financial Affidavit (NC-812D)*, the appropriate *Child Support Worksheet (NC-AOC-CV-627 / 628 / 629)*, *Separation and Property Settlement Agreement (NC-DO-11A)* and *Divorce by Summary Judgment (NC-813D)* should be presented to the Court for inspection and approval. Once the Judge has reviewed the filings and determines that there is no genuine issue as to any material fact, the judgment sought shall be rendered forthwith.
- STEP 15:** Complete the *Certificate of Divorce (DEHNR-2089)* (or the Clerk will complete this) and the divorce is final. This form is available from the Clerk.
- STEP 16:** Complete the *Civil Action Cover Sheet (NC-AOC-CV-753.)*

Notes:

If a Certificate of Mailing is on any form, a copy of the form should be mailed to the person indicated.

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.

Remember that there is a thirty-day waiting period from the date of the institution of the action (filing of the Complaint for Absolute Divorce) before Divorce by Summary Judgment may be granted.

CHECKLIST

- ☐ *Domestic Civil Cover Sheet (NC-AOC-CV-750), Complaint (NC-801D), Civil Summons (NC-AOC-CV-100) and Verification (NC-814D) completed and filed with Clerk of Court. Complete Notice of Assignment/Service (AOC-CVM-300) Card.*
- ☐ *Filing fee is paid.*
- ☐ *Make three copies of Civil Summons (NC-AOC-CV-100).*
- ☐ *Defendant provided copy of Complaint (NC-811D) with yellow copy of Civil Summons (NC-AOC-CV-100) attached, along with Acceptance of Service and Waiver of Responsive Pleading (NC-803D).*
- ☐ *Defendant signs Acceptance of Service and Waiver of Responsive Pleading (NC-803D) and returns form to you.*
- ☐ *Complete the back of the Civil Summons (NC-AOC-CV-100) and mark “other manner of service”. In the space provided, write “Defendant accepted service on _____ (date).”*
- ☐ *Complete Affidavit as to Status of Minor Child (NC-AOC-CV-609) for each minor child of the marriage.*
- ☐ *Separation and Property Settlement Agreement (NC-DO-11A) completed by both parties.*
- ☐ *Each party completes and exchanges Financial Affidavit (NC-812D). Both parties complete appropriate Child Support Worksheet (Sole Custody Worksheet / NC-AOC-CV-627, Joint Custody Worksheet / NC-AOC-CV-628, Split Custody Worksheet / NC-AOC-CV-629) using the provided Child Support Guidelines (NC-AOC-A-162).*
- ☐ *Defendant mailed copy of filed Motion for Summary Judgment (NC-806D), Motion Cover Sheet (NC-AOC-CV-752), and Notice of Hearing (NC-807D) leaving the date of the hearing blank.*
- ☐ *Divorce by Summary Judgment (NC-813D) completed. Defendant provided a copy of Judgment (NC-813D) to ensure he or she is aware of its contents and agrees with its terms.*
- ☐ *At hearing, Financial Affidavit (NC-812D), appropriate Child Support Worksheet (Sole Custody Worksheet / NC-AOC-CV-627, Joint Custody Worksheet / NC-AOC-CV-628, Split Custody Worksheet / NC-AOC-CV-629), Separation and*

Property Settlement Agreement (NC-DO-11A) and Divorce by Summary Judgment (NC-813D) presented to Court for inspection and approval. Judge reviewed filings, and signs *Judgment (NC-813D)*.

- ☐ *Certificate of Divorce (DEHNR-2089)* obtained from Clerk and completed.
- ☐ *Civil Action Cover Sheet (NC-AOC-CV-753)* completed.

Remember that there is a thirty-day waiting period from the date of the institution of the action (filing of the Complaint for Absolute Divorce) before a Divorce by Summary Judgment may be granted.

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/NC/NC-006-D.htm>

DISCLAIMER

These materials were developed by U.S. Legal Forms, Inc. based upon statutes and forms for the subject state. 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.