

STATE OF NEW HAMPSHIRE

DIVORCE PACKAGE

ADULT CHILDREN

With or Without Property

Control Number NH-008-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 clerk must be printed on bond paper.**

INFORMATION ABOUT DIVORCE

1. **WHO MAY USE THESE FORMS:** You may use the forms in this package only when all of the following facts are true:
 - (a) **Irreconcilable differences which have caused the irremediable breakdown of the marriage;**
 - (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;
 - (c) You and your spouse agree on all terms of 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.
 - (b) You must satisfy *the no-fault procedures*.

An action for divorce is filed either in the **Superior Court or Family Division**. The **Family Division** operates in 10 locations across the state located in three counties: Grafton, Rockingham and Sullivan. If a person or their spouse resides in any other county beside the counties that are listed under Family Division, they may file in the **Superior Court**. The title of the action initiating the divorce is a *Petition for Divorce*, while the action granting the divorce is referred to as a *Decree of Divorce*. The party filing the action for divorce is the Petitioner, and the other party to the divorce is called the Respondent. A divorce in New Hampshire may be filed in the county where either spouse resides. **NHRS 458:9**

3. **RESIDENCY REQUIREMENTS:** To file a divorce in the State of New Hampshire, the courts require that:
 - (a) Both parties must reside in the State at the time the action is filed, or;
 - (b) The plaintiff resides in the State and the defendant was personally served within the State, or;
 - (c) The plaintiff resided in the State for one year immediately prior to the filing of the action.

4. **GROUNDS FOR DIVORCE: New Hampshire law permits divorces based upon irreconcilable differences that have caused the irremediable breakdown of the marriage. This package is only for this ground. NHRS 458:7, 7a**

New Hampshire also allows for a divorce on the following grounds:

1. Impotency of either party;

2. Adultery of either party;
3. Extreme cruelty of either party to the other;
4. Conviction of either party, in any state or federal district, of a crime punishable with imprisonment for more than one year and actual imprisonment under such conviction;
5. When either party has so treated the other as seriously to injure health or endanger reason;
6. When either party has been absent 2 years together, and has not been heard of;
7. When either party is a habitual drunkard, and has been such for 2 years together;
8. When either party has joined any religious sect or society which professes to believe the relation of husband and wife unlawful, and has refused to cohabit with the other for 6 months together;
9. When either party, without sufficient cause, and without the consent of the other, has abandoned and refused, for 2 years together, to cohabit with the other; and,
10. Irreconcilable differences which have caused the irremediable breakdown of the marriage. *NHRS 458:7, 7a*

5. **LEGAL SEPARATION:** This package contains form for **DIVORCE**, 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. In order to review additional information, please see, *NHRS 458:26*.

6. **MEDIATION/COUNSELING:** If the court determines that there is a reasonable likelihood that the marriage may be rehabilitated; the court may refer the parties to an appropriate counseling agency. If both parties voluntarily state that mediation will be attempted to reach a mutually agreeable arrangement, the court shall suspend the divorce proceedings in order to permit the parties to pursue the settlement. *NHRS 458:7b, 15a*
7. **WAITING PERIODS:** There is no mandatory waiting period for an uncontested divorce. If the case were to be heard on its merits (contested), there would be a 30-day waiting period from the time of filing.

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 **Permanent Stipulation**. You and your spouse must agree to the property and debt division and memorialize your agreement in the **Permanent Stipulation**, which will be incorporated by reference into the *Decree of Divorce* 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. **ALIMONY:** Because this is an agreed divorce, you will decide issues of spousal “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 alimony will be paid and none will be sought-- but you may add provisions for alimony to the *Permanent Stipulation* if you desire. In a contested case, the courts might award alimony. A contested divorce is beyond the scope of this divorce package. **You should consult a local attorney regarding the possibilities concerning alimony if you have questions or foresee conflict regarding this issue.** In order to review additional information, please see, *NHRS 458:19*.

10. **NAME CHANGE:** The court may restore the former name of a spouse regardless of whether a request was included in the divorce papers. If a name change is desired, it should be requested. *NHRS 458:24*.

For more information, see the New Hampshire Divorce Law Summary.

FORMS LIST

This is a list of the forms you will need. You must obtain the Vital Statistics and Permanent Stipulation, from the clerk of the court where you intend to file the forms.

1. Joint Petition for Divorce **(NH-NHJB-2058-FS)**
2. Personal Data Sheet **(NH-NHJB-2077-FS)**
3. Financial Affidavit **(NH-NHJB-2065-FS)**
4. Financial Affidavit – Instructions **(NH-SC-FAINST-WEB03)**
5. Vital Statistics (You must pick up this form from the clerk.)
6. Permanent Stipulation (You must pick up this form from the clerk.)
7. Final Decree on Divorce or Legal Separation **(NH-NHJB-2071-FS)**

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 (or that you will need to obtain from the clerk) are identified below.

1. **Joint Petition for Divorce (NH-NHJB-2058-FS)** – This document contains the legal details of your request for a divorce. The Joint Petition is signed by both you and your spouse.

2. **Personal Data Sheet (NH-NHJB-2077-FS)** – This is an information form for the court’s use. Must be signed by both spouses.

3. **Financial Affidavit (NH-NHJB-2065-FS)** – You and your spouse must each complete a separate copy of this form, describing all aspects of your finances.

4. **Vital Statistics** – You and your spouse must complete the section that pertains to each of your personal information. (You must pick up this form from the clerk).

5. **Permanent Stipulation** – This is the agreement by which you and your spouse divide all of your marital property, assets and debts. This agreement, if approved by the judge, will be incorporated into the final Decree of Divorce in your case. (You must pick up this form from the clerk).

6. **Final Decree on Divorce or Legal Separation (NH-NHJB-2071-FS)** - 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: In cooperation with your spouse, fill out the following forms:

Form 1- *Joint Petition for Divorce*

You and your spouse must both sign this form in front of a Notary Public. Leave spaces for attorney signatures blank if you are representing yourself.

Form 2- *Personal Data Sheet*

You and your spouse must both sign this form. Your spouse must sign in the blank for the “if joint petition.”

Form 3- *Financial Affidavit*

Make two copies of this form. You must fill out and sign one copy. Your spouse must fill out and sign the other copy.

Form 4- *Vital Statistics*

You and your spouse must fill out this form, no signature required. (You must pick this form up from the clerk).

Form 5- *Permanent Stipulation*

You and your spouse must both sign the agreement in front of a Notary Public. (You must pick this form up from the clerk).

Form 6- *Final Decree on Divorce or Legal Separation*

You and your spouse must both sign this form. Your spouse must sign in the blank for the “Respondent Signature.”

STEP 2: Make multiple copies of your prepared documents. Go to the Superior or Family Division Court for the county in which you are filing and FILE completed Forms 1-5 with the court clerk. You will have to pay a filing fee- call ahead to determine amount and acceptable forms of payment. Retain stamped “Filed” copies of your forms, make copies, and mail or deliver a copy of each stamped “Filed” form to your spouse. You must do this immediately after filing the documents.

STEP 3: File the agreement called a *Final Decree on Divorce or Legal Separation*. Once all the paperwork has been completed, you may write a letter to the court requesting a final hearing. The court will notify both sides of an uncontested hearing date. At least one party needs to appear in court on that day. The court will inform you when your divorce becomes final.

CHECKLIST

- Forms 1-5 completed and filed, as per instructions.
- Filing Fee Paid.
- Decree of Divorce* filed.
- Hearing date set and at least one party member appears in court on that day.
- Notification sent to the parties informing that the Divorce is final.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet may 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. If they do not become visible, then they were not included in this form package.

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/NH/NH-004-D.htm>

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