

STATE OF NEW JERSEY

DIVORCE PACKAGE

ADULT CHILDREN

With or Without Property

Based on Grounds of Living Separate and Apart

Control Number NJ-004-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 MAY USE THESE FORMS

This packet is for the sole purpose of obtaining an *uncontested* divorce based on the spouses living separate and apart. This packet is only of use to you if you and your spouse are willing to agree to all the terms and conditions of your divorce. You must work and communicate with your spouse and keep him or her advised as to each step in the process. If you cannot agree, you will become involved in a *contested* divorce, which is beyond the scope of this packet. To use this divorce package to file for divorce in New Jersey, all of the following must be true:

- (a) At least one of the parties to the divorce action must be a resident of the State of New Jersey for at least one year prior to the filing of the divorce action.
- (b) You and your spouse must agree to all of the terms of division of those assets/property in the *Separation and Property Settlement Agreement*.
- (c) There were no minor children and the wife is not pregnant.
- (d) You and your spouse have not cohabitated as husband and wife for an eighteen (18) month uninterrupted period.

2. THE BASICS

In a typical divorce, you must satisfy two basic requirements before you can file for divorce. Those requirements include the ***residency requirements*** and appropriate ***grounds for divorce***. These requirements are discussed in detail in their respective sections, below.

In addition, you must agree with your spouse to become divorced, and agree to all the terms of the dissolution of marriage in filling out the forms, including property division. You will complete and file the forms (see detailed instructions, below) in the **Superior Court, Chancery Division, Family Part. NJSA 2A:34-8**

The proper place to file an action for divorce shall be the county in which the plaintiff resides at the time the cause of action arose, or, if the plaintiff does not reside in New Jersey, then the county in which the defendant resides at the time the cause of action arose. If neither party was domiciled in New Jersey at the time the cause of action arose, then the proper venue is the county where the plaintiff is domiciled when the action is commence, or, if the plaintiff is not domiciled in new Jersey, then the county where the defendant is domiciled when service of process is made. ***NJSA 2A:34-10***

3. RESIDENCY REQUIREMENTS

In order to file a no-fault divorce in the State of New Jersey, at least one of the parties to the divorce must have been a bona fide resident of the State of New Jersey for a period of at least one year prior to the filing of the action. *NJSA 2A:34-10*

4. GROUNDS FOR DIVORCE

Separation is the no-fault ground for divorce used by this packet. Separation is a no-fault ground for divorce in New Jersey, provided that the husband and wife have lived separate and apart in different habitations for a period of at least **18 or more consecutive months** and there is no reasonable prospect of reconciliation; provided, further that after the 18-month period there shall be a presumption that there is no reasonable prospect of reconciliation. *NJSA 2A:34-2*

Other grounds upon which a divorce may be obtained are:

1. Adultery;
2. Willful and continued desertion for one year;
3. Extreme cruelty;
4. Drug/alcohol addiction;
5. Institutionalization for mental illness for two or more years;
6. Imprisonment for 18 months or more;
7. Deviant sexual behavior; and
8. Irreconcilable differences which have caused the breakdown of the marriage for a period of six months. *NJSA 2A:34.2*

5. LEGAL SEPARATION (“DIVORCE FROM BED AND BOARD”)

A “legal separation” in New Jersey is known as a “divorce from bed and board”- which is different than a “divorce.” A “divorce from bed and board” is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of “divorce from bed and board” **does not terminate the marital status** of the parties. See, *NJSA 2A:34-3* if you are interested in more information on “divorce from bed and board.”

ATTENTION: This divorce package DOES NOT include forms for a "divorce from bed and board."

6. 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 *Separation and Property Settlement Agreement*. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Separation and Property Settlement Agreement*, which will be incorporated by reference into the *Judgment 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 beyond the scope of this packet.

7. NAME CHANGE

The court, upon or after granting a divorce, may allow either party to the marriage to resume any name used by the party prior to the marriage. *NJSA 2A:34-21*

8. ALIMONY

Alimony comes in several different forms in the State of New Jersey. Either party may be awarded one or more of the following types: Permanent alimony, rehabilitative alimony, limited duration alimony or reimbursement alimony. In making an award of alimony, the court will consider the following factors:

1. The actual need and ability of the parties to pay;
2. The duration of the parties;
3. The age, physical and emotional health of the parties;
4. The standard of living established during the marriage and the likelihood of the parties maintaining a comparable standard of living after the divorce is final;
5. The length of absence from the job market of the party seeking alimony;
6. The earning capacities, educational levels, vocational skills, and employability of the parties;
7. The parental responsibilities for the children;
8. The time and expense necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment;
9. The contributions to the marriage of both parties;
10. The ordered equitable distribution of the marital property;

11. The income available to either party through investments;
12. The tax consequences to the parties; and,
13. Any other factors the court deems relevant. *NJSA 2A:34-23*

FORMS LIST

This packet contains the following forms:

1. Complaint for Divorce Based on Living Separate and Apart (NJ-801D)
2. Separation and Property Settlement Agreement (NJ-803D)
3. Certification of Verification and Non-Collusion (NJ-805D)
4. Affidavit of Insurance Coverage (NJ-806D)
5. Family Part Case Information Statement (NJ-4-36-2)
6. Non-Military Affidavit (NJ-807D)
7. Summons (NJ-808D)
8. Waiver of Process and Entry of Appearance (NJ-809D)
9. Acknowledgment of Service (NJ-KB-001)
10. Request and Notice of Default Hearing (Notice of Uncontested hearing) (NJ-810D)
11. Final Judgment of Divorce (NJ-811D)
12. Civil Action Rule 5:4-2(h) Certification By Self-Represented Litigant (NJ-FDF-10889)
13. Confidential Litigant Information Sheet (R. 5:4-2(g)) (NJ-FDF-10486)

FORM EXPLANATIONS

All forms included in this package are identified below. **You must sign all documents with a space for signature of a Notary Public in front of a Notary Public.**

1. **Complaint for Divorce Based on Living Separate and Apart (NJ-801D)** – The Complaint for Divorce Based on Living Separate and Apart is the document in which you are asking the court to grant your divorce.
2. **Separation and Property Settlement Agreement (NJ-803D)** – This form is a contract in which you and your spouse agree to the division of all your property and debts. If approved by the Judge, it will be incorporated into the Final Judgment of Divorce.
3. **Certification and Verification of Non-Collusion (NJ-805D)**– This form contains your promise that the Complaint and other papers are truthful and filed in good faith.
4. **Affidavit of Insurance Coverage (NJ-806D)**– You must fill out this document with all information regarding your insurance coverage.
5. **Family Part Case Information Statement (NJ-4-36-2)** – This is an official informational document for the court’s files. You may be required to file this when filing your Complaint and other initial documents. If required, when you go to the court to file your documents, ask the court clerk if there is an updated or county-specific form different from those included in this packet. Also ask the clerk whether an additional document known as a “Civil Cover Sheet” is required. If so, obtain from clerk, fill out, and file.
6. **Non-Military Affidavit (NJ-807D)** – This document is used by the Plaintiff to certify that the Defendant is not on active duty with any branch of the U.S. Armed Forces.
7. **Summons (NJ-808D)** – This document is a formality- it is the official notification to your spouse that the divorce suit has been filed. It contains various languages regarding appearance in court, time limits for filing answers, etc.
8. **Waiver of Process and Entry of Appearance (NJ-809D)** – This document must be signed by your spouse and returned to you for filing. In this form, your spouse acknowledges receipt of the Complaint and Summons, waives further service of process, and consents to the entry of a Final Judgment of Divorce in accordance with the agreed Separation and Property Settlement Agreement.
9. **Acknowledgment of Service (NJ0KB-001)** – This document is used if there is an issue over proper service of process. A general appearance or an acceptance of the service of a summons, signed by the defendant's attorney or signed and

acknowledged by the defendant (other than an infant or mentally incapacitated person), shall have the same effect as if the defendant had been properly served.

10. **Request and Notice of Default Hearing (Notice of Uncontested Hearing) (NJ-810D)** - This form is used to notify the Defendant of the hearing date. This is the date you will present the Judgment to the Court. Don't be confused by the term "default". It is really a notice of uncontested hearing and is used for that purpose.
11. **Final Judgment of Divorce (NJ-811D)** – The final statement of the legalities and terms of your divorce, which incorporates your agreed-upon Separation Agreement. Once this form is signed by the Judge and filed with the court, your divorce is complete. You must mail a certified copy of the signed, filed copy of the Final Judgment to your spouse.
12. **Civil Action Rule 5:4-2(h) Certification By Self-Represented Litigant (NJ-FDF-10889)** – This form is a certification that the plaintiff or defendant has read the document entitled "Divorce- Dispute Resolution Alternatives to Conventional Litigation," and is informed as to the availability of complementary dispute resolution alternatives to conventional litigation.
13. **Confidential Litigant Information Sheet (R. 5:4-2(g)) (NJ-FDF-10486)** – This form is used to maintain the confidentiality of a plaintiff's or defendant's personal information, including name, social security number, date and place of birth, driver's license number, address, phone number, and information relating to children, healthcare, employment and vehicles. This information shall be used for the sole purposes of establishing, modifying, and enforcing support orders.

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: Complete the following forms:

Form 1- Complaint for Divorce Based on Living Separate and Apart
Form 2 – Separation and Property Settlement Agreement
Form 3- Certification and Verification of Non-Collusion (Attach to the Complaint)
Form 4- Affidavit of Insurance Coverage
Form 6- Non-Military Affidavit
Form 7 – Summons
Form 12- Civil Action Rule 5:4-2(h) Certification By Self-Represented Litigant (This form should be annexed to Form 1)
Form 13- Confidential Litigant Information Sheet (R. 5:4-2(g))

Be sure to complete all sections of the forms and sign the forms. Some forms need to be signed in front of a notary public. These forms will have a notary section on the form.

You may also need the form below. However, since the case is not contested, you may not be required to file this form. Ask the Clerk when you file the complaint and advise the clerk that the case will not be contested. If this form is required, the clerk may have a county specific version that you will need to complete at the clerk’s office.

Form 5 – Family Part Case Information Statement

The Separation and Property Settlement Agreement should be completed by you and your spouse and signed.

STEP 2: Make three copies of the completed forms and file with the court clerk. Pay filing fees. Keep several stamped “filed” copies of these forms. The clerk is a valuable resource to you, and can often answer your questions about filing documents, timing, and the mechanics of the divorce process.

At the time of filing ask the Clerk if Form 5 is needed. Be sure to tell the clerk the case will not be contested and that there are no children.

Even though the Defendant will sign a waiver a Summons must be served. Ask the Clerk for the procedure to be used to server the Defendant. Although a Summons form is included in this package, most Clerks’ have their own summons

form and may require that it be used. Ask the Clerk when you file the initial papers.

The Separation and Property Settlement agreement may be filed at the time of filing the Complaint or after the filing of the Complaint. Therefore, this form does not have to be completed at this time but it is good to go ahead and have it completed and file with the Complaint so that both parties will know where they stand.

STEP 3: Your spouse will be served with the summons and complaint.
You should also mail or deliver the following forms to your spouse.

Stamped "filed" copies of the forms you filed with the Clerk.
Form 8- Waiver of Process and Entry of Appearance
Form 9 – Acknowledgment of Service
Form 11 - Judgment

Instruct your spouse, by phone, letter or otherwise, to complete and sign one copy of Form 8: Waiver of Process and Entry of Appearance or and **return it to you**. Your spouse may also use Form 9, Acknowledgment of Service, if service of the summons and complaint was attempted by personal or constructive service (in hand or mail, etc.) Your spouse should keep the other documents for his or her files.

Ask your spouse to sign the Judgment at the end and return to you.

STEP 4: Once your spouse has returned Form 8 or 9, you must FILE it with the clerk. There may be a filing fee required in addition to the fee paid when the Complaint was filed.

STEP 5: If not completed already, at this point Form 2, Separation and Property Settlement, agreement needs to be completed and signed. You and your spouse should also sign Form 11, Judgment at the end.

STEP 6: Next contact the Clerk for a hearing date on the Complaint and the Clerk will provide you with a date to present the Judgment. Complete Form 9, Request and Notice of Default Hearing and mail a copy to the Defendant advising the defendant of the hearing date.

STEP 7: Take Form 2 and attach to Form 11 Judgment, and make sure you have the original and three copies. Attend the hearing and answer any questions from the Court and then present the Judgment with agreement attached to the Court. Both parties should attend this hearing in order to simplify the process. However, the Plaintiff must attend the hearing.

STEP 8: Once you receive the *Final Judgment of Divorce signed by the Judge*, you must FILE it with the Court Clerk

STEP 9: Obtain several certified copies of the Judgment and deliver or mail one copy to your now ex-spouse.

Notes: Additional forms may be required in your County but these additional forms will be provided by the Clerk. For example, you may be required to complete a statistical information form or certificate of divorce.

A civil cover sheet may also be required and is available from the Clerk.

The reason some procedures may vary, such as the use of a summons.

CHECKLIST

- ☐ Forms 1-4, 6 and 7 and 11 and 12 completed and filed with the court clerk.
- ☐ Forms 5 completed and filed, if required.
- ☐ Filing Fees paid.
- ☐ Stamped “filed” copies of forms 1-4, 6 and 7, plus Forms 8 or 9 and 11, delivered to your spouse, with instructions to sign and return Form 8 to you.
- ☐ Forms 8 and or 9 filed with the court.
- ☐ Forms 2 and 11 completed and signed.
- ☐ Clerk consulted and hearing set. Defendant notified of hearing by Notice of Default.
- ☐ *Final Judgment of Divorce with agreement attached* signed by Judge. Attend hearing.
- ☐ *Judgment FILED* with the court clerk, and certified copy delivered to spouse.

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.

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/NJ/NJ-008-D.htm>

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