

STATE OF NEW MEXICO

DIVORCE PACKAGE

With ADULT CHILDREN

With or Without Property

Control Number NM-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.
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) **Incompatibility between the spouses has caused the irremediable breakdown of the marriage and there is no reasonable expectation of reconciliation;**
 - (b) All children born to or adopted by the marriage are have reached the age of majority and are no longer supported by the parents.
 - (c) You and your spouse agree on all terms of the divorce.

2. **THE BASICS:** An action for divorce is filed in the **District Court**. The party filing the action for divorce is the Petitioner, and the other party to the divorce is called the Respondent. The divorce in may be filed in the county where either spouse resides. **NMS 40-4-4**

3. **RESIDENCY REQUIREMENTS:** At least one of the parties to the dissolution of marriage action must have been a resident of the State of New Mexico for at least six months immediately prior to the filing of the petition for divorce and must have a domicile in New Mexico. **NMS 40-4-5**

4. **GROUND FOR DIVORCE:** New Mexico law allows an uncontested divorce based on “incompatibility” due to discord or conflict of personalities such that the legitimate ends of the marital relationship is destroyed preventing any reasonable expectation of reconciliation. **This package is only good for this ground. NMS 40-4-1, 2**

Additional grounds for divorce are as follows:

1. Cruel and inhuman treatment;
 2. Adultery; and,
 3. Abandonment. **NMS 40-4-1, 40-4-2**
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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, *NMS 40-4-3*.

6. **WAITING PERIODS:** There may be a waiting period in your county, between the filing of the divorce papers and the earliest date a final hearing may be scheduled. Consult your court clerk. In any case, your hearing will not be scheduled until the waiting period has expired. A typical waiting period is 30 to 60 days.

7. **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 *Verified Marital Settlement Agreement*. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Verified Marital Settlement Agreement*, which will be incorporated by reference into the *Final Decree of Dissolution of Marriage* 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.

8. **ALIMONY:** Because this is an agreed upon divorce, you and your spouse 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 *Verified Marital Settlement Agreement* if you desire. In a contested case, the court 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, *NMS 40-4-7*.

9. **NAME CHANGE:** The wife may petition to have her name changed to a former or maiden name. This change may be requested in the appropriate section of the *Final Decree of Dissolution of Marriage*.

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

FORMS LIST

The following forms are included in this package:

1. Domestic Relations Information Sheet (NM-4A-102)
2. Petition for Dissolution of Marriage (NM-4A-301)
3. Verified Marital Settlement Agreement (NM-4A-311)
4. Final Decree of Dissolution of Marriage (NM-4A-321)

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 are identified and described below.

1. **Domestic Relations Information Sheet (NM-4A-102)** – This is an information form for the court’s use.

2. **Petition for Dissolution of Marriage (NM-4A-301)** – This document contains the legal details of your request for the court to dissolve your marriage. Both spouses must sign this form in front of a Notary Public.

3. **Verified Marital Settlement Agreement (NM-4A-311)** – This is the agreement that you and your spouse should complete when there is little to no marital property, assets and debts. This agreement, if approved by the judge, will be incorporated into the final Decree of Dissolution in your case. Both spouses must sign the Agreement in front of a Notary Public.

4. **Final Decree of Dissolution of Marriage (NM-4A-321)** – In this form, the Judge grants the divorce and orders the parties to comply with the terms of the Verified Marital Separation Agreement. Both spouses must sign the Final Decree of Dissolution of Marriage.

INSTRUCTIONS AND STEPS

Note: All forms containing a space for the signature of a Notary Public must be signed by the appropriate party or parties in front of a Notary Public. Make several copies of the documents that you prepare. You and your spouse should have a copy of everything you file, stamped “filed” by the clerk.

STEP 1: In cooperation with your spouse, fill out the following forms:

Form 1 (NM-4A-102) - Domestic Relations Information Sheet

The court clerk will fill in the blanks for “case number” and “Judge assigned” when you file your documents.

Though the case is uncontested, one spouse must be the Petitioner, and one must be the Respondent. This classification must be maintained throughout the case- and has no bearing on the outcome.

Because you have no minor children, skip the sections regarding children.

Form 2 (NM-4A-301) - Petition for Dissolution of Marriage

The court clerk will assign the case number when you file your documents. When this form is complete, it must be signed by both spouses in front of a Notary Public.

Form 3 (NM-4A-311) - Verified Marital Settlement Agreement

The agreement (NM-4A-311) is to be used for marital property, assets and debts. After completion, it must be signed by both spouses in front of a Notary Public.

Form 4 (NM-4A-321) - Final Decree of Dissolution of Marriage

Complete and sign at the bottom. Leave blank the space for the signature of the District Court Judge.

STEP 2: Make at least 3 copies of each completed, signed form. Go to the courthouse and FILE your completed forms and required copies with the clerk. You must call ahead to determine the amount of filing fee and acceptable forms of payment.

Ask the clerk if you must attend an uncontested final hearing. This may vary from county to county. If you do have to attend a final hearing, obtain the hearing date from the clerk. Bring all of your documents to the final hearing. The Judge will approve and sign your *Final Decree of Dissolution of Marriage (NM-4A-321)*. Go to the clerk and FILE the signed *Decree* immediately after the hearing. Obtain a certified copy of the filed *Decree* for your records. Instruct your spouse to obtain a certified copy of the filed *Decree*.

CHECKLIST

- Forms 1-4 completed signed and notarized.
- Forms 1-4 filed with the clerk of court.
- Filing Fee Paid.
- Date for final hearing obtained from clerk. *(If necessary)*
- Decree of Dissolution (NM-4A-321)* signed by Judge and filed with the clerk.
- Certified copy of Decree obtained.

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/NM/NM-004-D.htm>

DISCLAIMER

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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.