

**COURT OF COMMON PLEAS
STATE OF PENNSYLVANIA**

(For use in any Pennsylvania County *except* Philadelphia County)

DIVORCE PACKAGE

MUTUAL CONSENT DIVORCE PACKET

(Irretrievable Breakdown – Mutual Consent Divorce)

ADULT CHILDREN

Control Number – PACKET PA-004-D

This package contains the following:

- Forms
- Instructions
- 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.**

FORMS

Initial Documents

1. Self-Represented Party Entry of Appearance (**PA-1930-8**)
2. Notice to Defend and Claim Rights – (**PA-1920-71**)
3. Notice of Intention to Request Entry of Divorce Decree (**PA-500D**)
4. Court of Common Pleas Intake (**PA-502D**) – This Form is provided but the Clerk may have a special form that is required for your County.
- 5a. Income and Expense Statement of Plaintiff (**PA-802D**) - Provided but check with the Clerk to see if the Court requires a County specific form.
- 5b. Income and Expense Statement of Defendant (**PA-803D**) - Provided but check with the Clerk to see if the Court requires a County specific form.
6. Notice to File Social Security Numbers (**PA-510D**) – Provided but check with the Clerk to see if the Court requires a County specific form.

Acceptance of Service

- 7a. Certificate of Service (**PA-804D**)
- 7b. Non-Military Affidavit (**PA-805D**)

After 90 Days

8. Marital Property Settlement Agreement (**PA-806D**)
9. Acknowledgement for Plaintiff (for Marital Property Settlement Agreement) (**PA-808D**)
10. Acknowledgement for Defendant (for Marital Property Settlement Agreement) (**PA-809D**)
11. Affidavit of Consent for Plaintiff – (**PA-1920-72B-P**)
12. Affidavit of Consent for Defendant - (**PA-1920-72B-D**)
13. Waiver of Notice for Defendant – (**PA-1920-72C-D**)
14. Waiver of Notice for Plaintiff – (**PA-1920-72C-P**)
15. Praecipe to Transmit Record – (**PA-1920-73B**)
16. Decree of Divorce – (**PA-1920-6**)
17. Record of Divorce (“vital statistics form”) – This form should be provided to you by the Clerk.
18. Notice of Intention to Retake Prior Name (**PA-810D**) - 54 Pa.C.S.A. § 704.
Divorced person may resume prior name (a) General rule - Any person who is a party in a divorce action may, at any time prior to or subsequent to the entry of the divorce decree, resume any prior surname used by him or her by filing a written notice to such effect in the office of the clerk of the court in which the divorce action was filed or the decree of divorce was entered, showing the caption and docket number of the proceeding in divorce.

Instructions for PA-004-D

Mutual Consent Divorce with Adult Children

Overview

Obtaining a divorce, even by mutual consent, is not a simple matter. Your first step should be to carefully read over the instructions, procedures and forms contained in this packet before you begin filling out forms. You should continue reading over them until you obtain a basic understanding of the process. The first thing you should understand after reading over the forms is that this packet is only helpful if you and your spouse agree to be divorced, and agree to all the terms and conditions of the divorce, including the division of property. You and your spouse must discuss and agree to all the various provisions contained in this packet, or this packet cannot help you.

This packet is for use in all Pennsylvania Counties except Philadelphia County. Philadelphia County requires a different set of forms.

Residency & Venue

You or your spouse must have resided in Pennsylvania for at least six (6) months prior to filing your divorce papers with the Court.

You must file your divorce papers in the Court of Common Pleas for the county in which either you or your spouse resides. In the alternative, you may file in the Court of Common Pleas for a county agreed to by you and your spouse. This agreement must be in writing, signed by the parties, and attached to your Complaint. This package was designed only for persons who will file in the County of residence.

Grounds

The Commonwealth of Pennsylvania permits divorces to be granted upon the following grounds:

1. Willful and malicious desertion for a period of one or more years;
2. Adultery;
3. Cruel and barbarous treatment which endangered the life or health of the innocent spouse;
4. Bigamy;
5. Imprisonment for two or more years;
6. Indignities to the innocent spouse as to render that spouse's condition intolerable and life burdensome;
7. Institutionalization in mental institution for at least 18 months; and,
8. Irretrievable breakdown.

A divorce based upon irretrievable breakdown may be awarded two separate ways. First, if the parties allege that the marriage has suffered an irretrievable breakdown and both parties

file an affidavit consenting to the divorce, the court may award a divorce after a period of 90 days have elapsed from the date of commencement of the proceeding. Second, if the one of the parties allege that the marriage has suffered an irretrievable breakdown and the filing party files an affidavit stating that the spouses have lived separate and apart for at least 2 years and the defendant either does not deny the allegations set forth in the affidavit or denies on or more of the allegations but the court determines the allegations to be true, the court may enter a decree of divorce. 23 Pa. C.S.A.3301

Alimony

Where a divorce decree has been entered, the court may allow alimony, as it deems reasonable, to either party only if it finds that alimony is necessary. In determining whether alimony is necessary and in determining the nature, amount, duration and manner of payment of alimony, the court shall consider all relevant factors, including:

- (1) The relative earnings and earning capacities of the parties.
- (2) The ages and the physical, mental and emotional conditions of the parties.
- (3) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- (4) The expectancies and inheritances of the parties.
- (5) The duration of the marriage.
- (6) The contribution by one party to the education, training or increased earning power of the other party.
- (7) The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child.
- (8) The standard of living of the parties established during the marriage.
- (9) The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment.
- (10) The relative assets and liabilities of the parties.
- (11) The property brought to the marriage by either party.
- (12) The contribution of a spouse as homemaker.
- (13) The relative needs of the parties.
- (14) The marital misconduct of either of the parties during the marriage.
- (15) The Federal, State and local tax ramifications of the alimony award.
- (16) Whether the party seeking alimony lacks sufficient property.
- (17) Whether the party seeking alimony is incapable of self-support through appropriate employment.

The court in ordering alimony shall determine the duration of the order, which may be for a definite or an indefinite period of time which is reasonable under the circumstances.
23 P.a. C.S.A. 3701

Division of Marital Property

In an action for divorce or annulment, the court shall, upon request of either party, equitably divide, distribute or assign, in kind or otherwise, the marital property between the

parties without regard to marital misconduct in such proportions and in such manner as the court deems just after considering all relevant factors, including:

- (1) The length of the marriage.
- (2) Any prior marriage of either party.
- (3) The age, health, station, amount and sources of income, vocational skills, employability, estate, liabilities and needs of each of the parties.
- (4) The contribution by one party to the education, training or increased earning power of the other party.
- (5) The opportunity of each party for future acquisitions of capital assets and income.
- (6) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- (7) The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker.
- (8) The value of the property set apart to each party.
- (9) The standard of living of the parties established during the marriage.
- (10) The economic circumstances of each party, including Federal, State and local tax ramifications, at the time the division of property is to become effective.
- (11) Whether the party will be serving as the custodian of any dependent minor children.

Counseling

(a) Indignities. — Whenever indignities under section 3301(a)(6) (relating to grounds for divorce) is the ground for divorce, the court shall require up to a maximum of three counseling sessions where either of the parties requests it.

(b) Mutual consent. — Whenever mutual consent under section 3301(c) is the ground for divorce, the court shall require up to a maximum of three counseling sessions within the 90 days following the commencement of the action where either of the parties requests it.

(c) Irretrievable breakdown. — Whenever the court orders a continuation period as provided for irretrievable breakdown in section 3301(d)(2), the court shall require up to a maximum of three counseling sessions within the time period where either of the parties requests it or may require such counseling where the parties have at least one child under 16 years of age.

(d) Notification of availability of counseling.— Whenever section 3301(a)(6),(c) or (d) is the ground for divorce, the court shall, upon the commencement of an action under this part, notify both parties of the availability of counseling and, upon request, provide both parties a list of qualified professionals who provide such services.

(e) Choice of qualified professionals unrestricted - The choice of a qualified professional shall be at the option of the parties, and the professional need not be selected from the list provided by the court.

(f) Report. — Where the court requires counseling, a report shall be made by the qualified professional stating that the parties did or did not attend. 23 Pa C.S.A. 3302

Name Change

Any person who is a party in a divorce action may, at any time prior to or subsequent to the entry of the divorce decree, resume any prior surname used by him or her by filing a written notice to such effect in the office of the clerk of the court in which the divorce action was filed or the decree of divorce was entered, showing the caption and docket number of the proceeding in divorce. 54 Pa C.S.A. § 704

Completing and Filing the Initial Documents

You must fill out the “Initial Documents” listed above. This should be done in the presence of (or at least after consultation with) your spouse, regarding anything that might give rise to disagreement. You must sign the Complaint in Divorce in front of a Notary Public who will notarize the document. When you have filled out and signed the seven “Initial Documents” (with necessary notarization), make 3 copies of each (original for the court, one copy for your spouse, and two copies for yourself). The originals must be filed with the Prothonotary (clerk) in your County of Residence. You should call the office of the Prothonotary ahead of time and make sure you are bringing the correct documents, the correct number of copies of documents, and the correct filing fee. Have the clerk stamp all of the copies you have brought to the courthouse.

Notifying Your Spouse

After the Complaint and initial documents are filed you must provide a copy to your spouse. Have your Spouse sign an Acceptance of Service and Entry of Appearance form. Have this form signed and dated no sooner than the day after the Complaint is filed. Then file the consent with the Clerk Office by hand or by mail. The Non-Military Affidavit should also be signed by the Defendant at this time and filed with the Clerk.

Marital Settlement Agreement, Acknowledgements & Affidavits of Consent and Waiver

You are required by law to wait ninety (90) days after filing your Complaint in Divorce before filing additional documents in your divorce case. During that waiting period, you must agree to all terms of property and debt division with your spouse, and document your agreement by completing and signing the Marital Settlement Agreement. You and your spouse must sign the agreement in front of a Notary Public. You should wait to until ninety (90) days have passed since you filed the Complaint to sign the completed Marital Settlement Agreement before the notary, because you also must each sign the “Acknowledgement” form (make copies), and this document may not be signed until ninety (90) days have passed since the filing of the Complaint. There is no need to go to the Notary twice, so just wait until the time has passed and sign the Settlement Agreement and Acknowledgements at the same time. Both “Acknowledgements” must be signed within thirty (30) days of filing the final “Praecipe to Transmit Record” document (see below).

You and your spouse must also sign an “Affidavit of Consent and Waiver of Notice of Intention to Request Entry of Divorce Decree.” Both “Affidavits of Consent and Waiver” must be signed within thirty (30) days of filing the final “Praeipere to Transmit Record” document (see below).

Praeipere to Transmit Record, Notice to Retake Prior Name & Decree of Divorce

Fill out the “Praeipere to Transmit Record” and attach the completed “Marital Settlement Agreement,” “Acknowledgements,” and “Affidavits of Consent and Waiver.” If you want your name changed back to what it was before you were married, fill out the “Notice of Intention to Retake Prior Name” (you must sign before a Notary Public) and attach. Finally, attach 3 blank copies of the “Decree of Divorce” (you fill out only the caption (the area stating the party names and case number). File all of this with the Prothonotary. The judge will complete the Decree of Divorce, sign, and mail you a copy. Once signed, your divorce is granted.

Record of Divorce

After receiving your signed Decree of Divorce, you must complete the “Record of Divorce” (vital statistics form) and file with the Prothonotary. The Prothonotary can be contacted for help if you have any questions about this form.

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 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 there are 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/PA/PA-004-D.htm>

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