

STATE OF RHODE ISLAND

DIVORCE PACKAGE

ADULT CHILDREN

With or Without Property

Control Number RI-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 must be printed on bond paper.**

INFORMATION ABOUT DIVORCE

1. **WHO CAN USE THESE FORMS:** You may use this petition for divorce only when all of the following facts are true;

- (a) There are no minor children of the marriage.
- (b) You and your spouse agree on all terms of the divorce.
- (c) You and/or your spouse are a resident of the State of Rhode Island.

2. **THE BASICS:** To use this divorce package, there are basic two requirements that must be met. Those requirements are:

- (a) You must satisfy the *residency* requirements.
- (b) You must be seeking a divorce based upon the ground of irreconcilable differences which have caused the irremediable breakdown of the marriage.

3. **RESIDENCY REQUIREMENTS:** Rhode Island law requires that in an action for divorce, at least one of the parties to the action must have been a resident of Rhode Island for at least one year prior to filing for divorce.

All complaints for divorce shall be filed in the county in which the plaintiff is residing unless the complaint is based upon the residence of the defendant, in which case the complaint shall be filed in Providence County or in the county in which the defendant resides.

4. **GROUND FOR DIVORCE:** Under Rhode Island law, a divorce may be granted based upon the following grounds:

No-Fault grounds for divorce:

- (a) Irreconcilable differences which have caused the irremediable breakdown of the marriage; or
- (b) Living separate and apart without cohabitation for 3 years.

General grounds for divorce:

- (a) Impotence;
- (b) Adultery;
- (c) Abandonment and presumed dead;
- (d) Alcoholism and/or drug addiction;
- (e) Confinement for incurable insanity;
- (f) Failure to consummate marriage;

- (g) Willful desertion for 5 years (or less within the discretion of the court);
- (h) Cruel and inhuman treatment;
- (i) Bigamy;
- (j) Life imprisonment;
- (k) Spouse is of unsound mind;
- (l) Incest; and
- (m) Gross neglect.

5. **WAITING PERIOD:** No Complaint for Divorce or separation shall be heard by the Court until after the expiration of sixty (60) days after the filing of the petition, unless sooner ordered by the Court. No decree for a divorce shall become final and operative until three (3) months after the trial and decision

6. **ALIMONY/SUPPORT:** Since this is an agreed divorce, you and your spouse will decide issues of alimony. The forms included with this package assume that no alimony will be paid and is waived, but you may add provisions for alimony if you desire. In a contested case, the court may order either of the parties to pay alimony to the other. In determining the amount of alimony to be paid, the court, after hearing the witnesses, if any, of each party, shall consider:

- (a) The length of the marriage;
- (b) The conduct of the parties during the marriage;
- (c) The health, age, station, occupation, amount and source of income, vocational skills, and employability of the parties; and
- (d) The state and the liabilities and needs of each of the parties.

In addition, the court shall consider:

- (a) The extent to which either party is unable to support herself or himself adequately because that party is the primary physical custodian of a child whose age, condition, or circumstances make it appropriate that the parent not seek employment outside the home, or seek only part-time or flexible-hour employment outside the home;
- (b) The extent to which either party is unable to support herself or himself adequately with consideration given to:
 - i. The extent to which a party was absent from employment while fulfilling homemaking responsibilities, and the extent to which any education, skills, or experience of that party have become outmoded and his or her earning capacity diminished;
 - ii. The time and expense required for the supported spouse to acquire the appropriate education or training to develop marketable skills and find appropriate employment;

- iii. The probability, given a party's age and skills, of completing education or training and becoming self-supporting;
- iv. The standard of living during the marriage;
- v. The opportunity of either party for future acquisition of capital assets and income;
- vi. The ability to pay of the supporting spouse, taking into account the supporting spouse's earning capacity, earned and unearned income, assets, debts, and standard of living;
- vii. Any other factor which the court expressly finds to be just and proper.

Alimony is designed to provide support for a spouse for a reasonable length of time to enable the recipient to become financially independent and self-sufficient. Upon the remarriage of the spouse who is receiving alimony, the obligation to pay alimony shall automatically terminate at once.

7. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will agreed to property distributions. Rhode Island 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. The court may not assign property or an interest in the property held in the name of one of the parties if the property was held by the party prior to the marriage. The court also shall not assign property or an interest in the property which has been transferred to one of the parties by inheritance before, during, or after the term of the marriage. The court shall not assign property or an interest in the property which has been transferred to one of the parties by gift from a third party before, during, or after the term of the marriage.

The assignment of property, if any, to be made shall precede the award of alimony, since the needs of each party will be affected by the assignment of property, and once made in a final decree shall be final, subject only to any right of appeal which the parties may have.

In determining the nature and value of the property, if any, to be assigned, the court after hearing the witnesses, if any, of each party shall consider the following:

- (a) The length of the marriage;
- (b) The conduct of the parties during the marriage;
- (c) The contribution of each of the parties during the marriage in the acquisition, preservation, or appreciation in value of their respective estates;
- (d) The contribution and services of either party as a homemaker;
- (e) The health and age of the parties;
- (f) The amount and sources of income of each of the parties;
- (g) The occupation and employability of each of the parties;

- (h) The opportunity of each party for future acquisition of capital assets and income;
- (i) The contribution by one party to the education, training, licensure, business, or increased earning power of the other;
- (j) The need of the custodial parent to occupy or own the marital residence and to use or own its household effects, taking into account the best interests of the children of the marriage;
- (k) Either party's wasteful dissipation of assets or any transfer or encumbrance of assets made in contemplation of divorce without fair consideration; and
- (l) Any factor which the court shall expressly find to be just and proper.

8. **NAME CHANGE:** Any woman, to whom a divorce from the bond of marriage is decreed, shall, upon request, be authorized by the decree to change her name.

9. **LEGAL SEPARATION:** In case of a divorce from bed, board, and future cohabitation, the court may assign to the petitioner a separate maintenance out of the estate or property of the husband or wife, as the case may be, in a manner and of an amount as it may think necessary or proper.

For more information, see the Rhode Island Divorce Law Summary.

FORMS LIST

1. Complaint for Divorce (**RI-801D**)
2. Summons (**RI-802D**)
3. Entry of Appearance and Waiver – (**RI-812D**)
4. Notice of Automatic Court Orders (**RI-803D**)
5. Statement of Assets, Liabilities, Income and Expenses (**RI-804D**)
6. Separation and Property Settlement Agreement (**RI-DO-3A**)
7. Statement Listing Children of the Marriage (**RI-805D**)
8. Your Certificate of Marriage
9. *Family Counseling Service Form (**RI-807D**)
10. Stipulation (**RI-808D**)
11. *Rhode Island Department of Health Divorce Record (**RI-809D**)
12. Final Judgment (**RI-806D**)

* These forms are provided, but check with the Clerk of the Court to verify that there is not a county-specific form required for The Family Counseling Service Form (**RI-807D**) and Rhode Island Department of Health Divorce Record (**RI-809D**).

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Complaint for Divorce (RI-801D)** - The Complaint for Divorce is the document in which you are asking the court to grant your divorce along with any other relief requested.
2. **Summons (RI-802D)** – The Summons is used to notify the opposing party that a suit has been filed against him or her. It shall contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney (if any), and the time within which the rules require the defendant to appear and defend, and shall notify the defendant that in case of his or her failure to do so judgment by default will be rendered against the defendant for the relief demanded in the complaint.
3. **Entry of Appearance and Waiver (RI-812D)** - This form is signed by the Defendant to waive service of process and enter appearance.
4. **Notice of Automatic Court Orders (RI-803D)** – This document is used by the Court to inform parties to a divorce action of certain orders that are automatically issued by the Court upon the filing for divorce.
5. **Statement of Assets, Liabilities, Income and Expenses (RI-804D)** – This form is used by the parties to fully disclose to the Court each party's financial situation.
6. **Separation and Property Settlement Agreement (RI-DO-3A)** – 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.
7. **Statement Listing Children of the Marriage (RI-805D)** – This form is used by the parties to certify to the Court the number of minor children of the marriage.
8. **Certificate of Marriage** – This form is required to be filed with the Court in any divorce action.
9. **Family Counseling Service Form (RI-807D)** – This form is used to inform the parties of the availability of counseling services. The parties are required to file this form with

the Court certifying that the services were used or that the parties declined to utilize them. *This form is provided, but check with the Clerk of the Court to verify that there is not a county-specific form required.*

10. Stipulation (RI-808D) – This is an agreed stipulation entering plaintiff or defendant’s pro-se appearance with the Court.

11. Rhode Island Department of Health Divorce Record (RI-809D) – This form is used by the Court to provide the Vital Statistics department of the Rhode Island Department of Health information regarding divorce actions within the State. *This form is provided, but check with the Clerk of the Court to verify that there is not a county-specific form required.*

12. Final Judgment of Divorce (RI-806D) – 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:** The filing party (Plaintiff) should complete the *Complaint for Divorce (Form 1)* and *Summons (Form 2)*. Once completed, these documents should be presented to the Clerk of Court for filing. A filing fee must be paid at this time.
- STEP 2:** The *Complaint (Form 1)*, *Summons (Form 2)*, and *Notice of Automatic Court Orders (Form 3)* must then be served upon the Defendant. Once the Defendant has been served, the person serving the process shall make proof of service on the original process or a paper attached thereto for that purpose, and shall forthwith return it to the Plaintiff. The Plaintiff shall, within the time during which the person served must respond to the process, file the proof of service with the court.
- STEP 3:** Each party must complete and file with the Court a copy of the *Statement of Assets, Liabilities, Income and Expenses (Form 4)*.
- STEP 4:** The parties should jointly complete the *Separation and Property Settlement Agreement (Form 5)*, making certain to agree to all of the terms contained therein. After completion, this document should then be filed with the Court.
- STEP 5:** The following forms must next be completed and filed with the Court: *Statement Listing Children of the Marriage (Form 6)*, *Certificate of Marriage (Form 7)*, *Family Counseling Service Form (Form 8)*, and the *Rhode Island Department of Health Divorce Record (Form 10)*. The *Family Counseling Service Form (Form 8)* and the *Rhode Island Department of Health Divorce Record (Form 10)* are available from the Clerk of Court.
- STEP 6:** After the expiration of sixty (60) days after the filing of the *Complaint (Form 1)*, a trial date may be set for the hearing. Contact the Clerk of Court to determine how to set a date for hearing.
- STEP 7:** After the hearing, the judge will sign the *Final Judgment of Divorce (Form 11)*. No decree for a divorce shall become final and operative until three (3) months after the trial and decision.

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

CHECKLIST

- ☐ *Complaint and Summons (Forms 1-2)* completed and filed with Clerk of Court. Filing fee paid.
- ☐ *Complaint, Summons, and Notice of Automatic Court Orders (Forms 1-3)* served upon Defendant. Proof of Service filed with Court.
- ☐ Each party completes and files with Court a *Statement of Assets, Liabilities, Income and Expenses (Form 4)*.
- ☐ Parties jointly complete *Separation and Property Settlement Agreement (Form 5)*.
- ☐ *Statement Listing Children of the Marriage (Form 6), Certificate of Marriage (Form 7), Family Counseling Service Form (Form 8), and the Rhode Island Department of Health Divorce Record (Form 10)* completed and filed with the Court.
- ☐ Sixty (60) day waiting period from date of filing of *Complaint for Divorce (Form 1)* elapses before trial date set.
- ☐ Trial in matter held. *Final Judgment of Divorce (Form 11)* presented to Court.
- ☐ Divorce granted. Decree of divorce becomes final and operative three (3) months after the trial and decision.

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 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/RI/RI-004-D.htm>

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