

DISTRICT COURT

STATE OF UTAH

DIVORCE PACKAGE

ADULT CHILDREN

With or Without Property

Control Number UT-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 Court must be printed on Bond paper.

INFORMATION ABOUT DIVORCE

1. **WHO CAN USE THESE FORMS:** You may use this petition form for divorce only when all of the following facts are true;
 - (a) You and your spouse are filing for divorce based upon irreconcilable differences;
 - (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 have property and/or assets of the marriage;
 - (d) You or your spouse has lived in Utah and in the county of filing for 3 months before filing 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. You or your spouse must have resided in Utah for at least 3 months immediately preceding the filing of the complaint.
 - (b) You must satisfy **the no-fault procedures**, in that you and your spouse must be seeking a divorce based upon irreconcilable differences.

3. **RESIDENCY REQUIREMENTS:** The party filing the divorce action must have been a resident of the State of Utah and a resident of the county where the divorce is filed for at least three months prior to the filing of divorce.

4. **GROUND FOR DIVORCE:** Utah law provides permits no-fault divorces to be granted based upon irreconcilable differences between the parties, and also grants divorces based upon the following:
 - (a) Impotency of the respondent at the time the marriage was contracted;
 - (b) Adultery committed by the respondent;
 - (c) Willful desertion of the petitioner by the respondent for a period of more than one year;
 - (d) Willful neglect of the respondent to provide the petitioner with the common necessities of life;
 - (e) Habitual drunkenness of the respondent;

- (f) A felony conviction of the respondent;
- (g) Cruel and inhumane treatment of the petitioner causing bodily injury or great mental distress;
- (h) Incurable insanity, or;
- (i) When husband and wife have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.

5. **LEGAL SEPARATION:** The grounds for legal separation in the State of Utah include:

- (a) Willful desertion;
- (b) Living separate and apart without cohabitation; and,
- (c) Gross neglect.

This package does not contain forms for a legal separation.

6. **WAITING PERIOD:** In Utah, there is a waiting period of ninety (90) days after the filing of the divorce action before a Decree of Divorce will be granted.

7. **ALIMONY/SUPPORT:** Since this is an agreed upon divorce, you and your spouse will decide issues of alimony. The forms 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 party to pay the other alimony after consideration of the following factors:

- (a) The financial condition and needs of the recipient spouse;
- (b) The recipient's earning capacity or ability to produce income;
- (c) The ability of the payor spouse to provide support;
- (d) The length of the marriage;
- (e) Whether the recipient spouse has custody of minor children requiring support;
- (f) Whether the recipient spouse worked in a business owned or operated by the payor spouse;
- (g) Whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or allowing the payor spouse to attend school during the marriage; and,
- (h) The court may consider the fault of the parties in determining alimony.

As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony. However, the court shall consider all relevant facts

and equitable principles and, in its discretion, may base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no children have been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

8. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will agreed to property distributions. Utah courts recognize the principles of equitable distribution, in that all of the parties' property will be divided by the court in a manner that the court determines is equitable to each party.

9. **NAME CHANGE:** Although there is no statutory provision for the restoration of a wife's maiden name upon divorce, there is a general statutory provision which permits such a change upon petition to the court.

For more information, see the Utah Divorce Law Summary.

FORMS LIST

This packet contains the following:

1. Civil Cover Sheet **(UT-801D)**
2. Complaint for Dissolution of Marriage Contract **(UT-802D)**
3. Acceptance, Wavier, and Consent **(UT-804D)**
4. Separation and Property Settlement Agreement **(UT-805D)**
5. Affidavit in Support of Decree (Petitioner) **(UT-807D)**
- 5a. Affidavit in Support of Decree (Respondent) **(UT-808D)**
6. Decree **(UT-809D)**
7. Notice of Entry of Decree **(UT-811D)**
8. Certificate of Divorce, Dissolution, or Annulment **(UT-522D)**

You and your spouse must agree to all terms of the divorce to use this packet.

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Civil Cover Sheet (UT-801D)** – This form is used by the Courts to identify the type of case before it and to identify the parties to the actions.

2. **Complaint for Dissolution of Marriage Contract (UT-802D)** - The Complaint for Dissolution of Marriage Contract is the document **is the document is which you are asking the court to grant your divorce along with any other relief requested.**

3. **Acceptance of Service, Waiver and Consent (UT-804D)** – This document is used by the Respondent to acknowledge receipt of the Petition and Summons and to enter an appearance. It is further used to request that the Court grant a Decree of Dissolution of Marriage pursuant to the terms of Petitioner's Petition at any time and without further notice to Respondent.

4. **Separation and Property Settlement Agreement (UT-805D)** – 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 documents any other agreements reached between the parties.

5. **Affidavit in Support of Decree (Petitioner) (UT-807D)** - This document is used to state that the allegations contained in the Petition are true, and that a judgment may be entered according to the information stated in the Complaint, Separation and Property Settlement Agreement and Decree.

- 5a. **Affidavit in Support of Decree (Respondent) (UT-808D)** - This document is used to state that the allegations contained in the Petition are true, and that a judgment may be entered according to the information stated in the Complaint, Separation and Property Settlement Agreement and Decree.

6. **Decree of Dissolution of Marriage (UT-809D)**– This document grants the dissolution of marriage and any other relief requested.

7. **Notice of Entry of Decree (UT-811D)**– This document is used to provide notice to any interested parties that a Decree of Dissolution of Marriage has been entered.

8. **Certificate of Divorce, Dissolution or Annulment (UT-522D)** – This form is used by the Utah Department of Health for statistical purposes only.

SAMPLE STEPS TO NO-FAULT DIVORCE

- STEP 1:** The filing party (Petitioner) should complete and file the *Civil Cover Sheet (Form 1)*, the *Certificate of Divorce (Form 8)*, and the *Petition for Dissolution of Marriage (Form 2)*, taking care to correctly fill in blanks with appropriate responses.
- STEP 2:** The Petitioner should then provide the Respondent with a copy of the *Petition (Form 2)* and the *Certificate of Divorce (Form 8)*, along with the *Acceptance, Waiver and Consent form (Form 3)*. The Respondent should be instructed to sign and date Form 3 in front of a Notary and return the form to the Petitioner. Once the signed *Acceptance, Waiver and Consent form (Form 3)* is returned, it should be filed with the Clerk of Court.
- STEP 3:** The *Separation and Property Settlement Agreement (Form 4)* should then be completed by the parties, making certain to agree to all of the terms contained therein.
- STEP 4:** Both parties should then each complete the *Affidavit in Support of the Decree (Form 5 and Form 5a)*. There is a separate form for the Petitioner and Respondent.
- STEP 5:** The completed *Separation and Property Settlement Agreement (Form 4)* and both *Affidavits in Support of the Decree (Form 5 and Form 5a)* should then be filed with the Clerk of Court in the County in which the Dissolution action is filed.
- STEP 6:** The *Decree (Form 6)* should then be filled out along with the *Notice of Entry of Decree form (Form 7)*.
- STEP 7:** After the required waiting period of ninety (90) days after the filing of the divorce action, contact the clerk for a time to present the *Decree (Form 6)* to the Court. Ask the clerk what procedures the Judge uses in your county for this and follow this procedure.
- STEP 8:** *Decree (Form 6)* presented to Judge for signature. After *Decree (Form 6)* is signed, both the *Decree (Form 6)* and the *Notice of Entry of Decree (Form 7)* are filed with the Clerk of Court.
- 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

- Civil Cover Sheet, Petition for Dissolution of Marriage, and Certificate of Divorce* completed and filed with Clerk of Court. Filing fee paid.
- Respondent provided with copy of *Petition, Certificate of Divorce, and Acceptance, Waiver and Consent* form.
- Respondent completes *Acceptance, Waiver and Consent* form and returns document to Petitioner for filing.
- Separation and Property Settlement Agreement* completed by the parties.
- Each party completes *Affidavit in Support of the Decree*.
- Completed *Separation and Property Settlement Agreement* and both *Affidavits in Support of the Decree* filed with Clerk of Court.
- Decree and Notice of Entry of Decree* completed by Petitioner.
- Required waiting period of ninety (90) days after the filing of the divorce action has elapsed. Clerk of Court contacted for information regarding presenting *Decree* to Court.
- Decree* presented to Court for Judge's signature. *Decree and Notice of Entry of Decree* filed with Clerk of Court.

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 select “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/UT/UT-004-D.htm>

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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.