

DISTRICT COURT

STATE OF UTAH

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number UT-006-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 minor children of said 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. **GROUNDS 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:** In Utah, the law recognizes that both spouses contribute to the property acquired during the marriage, regardless of the income source. Utah requires an "equitable", though not necessarily equal, division of such property depending upon how long the marriage lasted, the age and health of the parties, their occupations and the amounts and sources of income and related matters. Since this is an agreed upon divorce, the parties will agreed to property distributions.

9. **CHILD CUSTODY / VISITATION:** Utah recognizes several custodial arrangements for minor children. These include:

(a) *Sole Legal and Sole Physical:* Either party can be awarded the "sole" custody of the children. That means one parent has physical custody of the children and makes the major decisions regarding the children's lives. If sole custody is awarded, the non-custodial parent is awarded "parent time" (visitation) with the children. Utah has a "standard schedule of "parent time" (visitation), which allows weekly contact, alternating holidays, and alternating weekends, overnight, for children five and older. Parties can vary from the standard schedule and create any schedule of parent time (visitation) that they deem appropriate for them and the children's needs. Schedules often have to vary depending on the ages of the children and how far apart the parents live. Parent time (visitation) to be exercised with children under five is dependent upon what is in the best interests of the children.

(b) *Joint Legal and Joint Physical:* This arrangement is one where both parents make important decisions concerning their children. Therefore, joint custody is most successful in situations where both parents communicate well with one another and are willing to work together to address the needs of the children. "Joint" custody can be divided into two different types of joint custody.

- i. *Joint "legal" custody* can have several interpretations and, minimally, means that both parents make joint decisions regarding major issues affecting the children. Joint legal custody does not affect the physical residence of the children.
- ii. *Joint "physical" custody* means that the parties share physical time with the children and that the children live in both homes. Joint physical custody would normally require that the parents live in the same town or general area. As of July 1, 2000, in order for the arrangement to be one of joint

physical custody, the children must spend over 110 nights a year in each home. Sometimes, parents will agree to a joint custody arrangement that designates one parent as the "primary" parent.

- iii. *Joint Legal and Sole Physical:* In this arrangement, the children live with one parent over 225 nights per year while the other parent has regular parent time (visitation rights). Both parents however, are involved in decisions affecting the child.

Parents can fashion any custodial or parent time (visitation) arrangement that they believe is in their children's best interests and the court will allow that arrangement to be part of the Decree of Divorce.

Custodial parents may not withhold rights of parent time (visitation) if child support is not being paid. Likewise, child support is not to be withheld if parent time (visitation) is being denied. There are sanctions that the court can award a custodial parent that prevents parent time (visitation).

10. **CHILD SUPPORT:** Utah has enacted Child Support Guidelines that are used by the courts to calculate a parent's child support obligation. The guidelines consist of three components:

- (a) Base child support
- (b) Medical care
- (c) Child-care expenses.

A table determines the combined support for the children. A support obligation is shared between the parents according to their incomes. The non-custodial parent pays the custodial parent child support. In addition, the guidelines require parents to provide medical coverage for their minor children, if it is available, and to share the costs of the children's portion of the premium in addition to non-covered expenses, including deductibles and co-payments, for the children's medical care. Finally, the courts require the parties to share work-related child-care expenses. Child support continues until the child is 18 and has completed high school.

The courts, upon petition by either parent, may increase or decrease the child support obligation if significant changes in income or other circumstances have occurred since the entry of the Decree of Divorce.

Utah courts generally set child support in compliance with the guidelines, although in unusual circumstances, the courts may order a higher or lower amount. The parties can agree upon Child support amounts in accordance with the Child Support Guidelines, but

the courts must approve their agreement before it becomes an enforceable order of support.

An order requiring a non-custodial parent's employer to withhold the child support amount from the parent's earnings may be entered by the courts unless the parties agree to another method of payment.

11. **DIVORCE EDUCATION COURSE:** After filing a petition for a divorce and receiving a docket number, parties who have a child or children are required to attend a mandatory course on their children's needs. This divorce education course is a prerequisite to receiving a divorce decree, unless a court determines that attending the course is not feasible or in the best interests of the parties. The course instructs both parties about the divorce and its impact on their children, their family relationship and their financial responsibilities for their child or children.

12. **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. Certificate of Divorce, Dissolution, or Annulment **(UT-522D)**
3. Verified Petition for Divorce **(UT-821D)**
4. Separation and Property Settlement Agreement **(UT-DO-11A)**
5. Acceptance of Service, Appearance, Consent and Wavier **(UT-822D)**
6. Motion for Entry of Default Certificate **(UT-823D)**
7. Default Certificate **(UT-521D)**
8. Petitioner's Affidavit of Jurisdiction and Grounds for Divorce **(UT-824D)**
9. Child Support Obligation Worksheets
 - i. Sole Custody **(UT-825D)**
 - ii. Joint Custody **(UT-826D)**
 - iii. Split Custody **(UT-817D)**
10. Affidavit of Income Verification and Compliance with Child Support Guidelines **(UT-827D)**
11. Child Support Obligation Required Location Information Form **(UT-816D)**
12. Findings of Fact and Conclusions of Law **(UT-828D)**
13. Decree of Divorce **(UT-829D)**

14.

Notice to Submit for Entry of Decree of Divorce (**UT-830D**)

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. **Certificate of Divorce, Dissolution or Annulment (UT-522D)** – This form is used by the Utah Department of Health for statistical purposes only.
3. **Verified Petition for Divorce (UT-821D)** – This form is **the document in which you are asking the court to grant your divorce along with any other relief requested.**
4. **Separation and Property Settlement Agreement (UT-DO-11A)** – 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. **Acceptance of Service, Waiver and Consent (UT-822D)** – 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.
6. **Motion for Entry of Default Certificate (UT-823D)** – This form is used to state that the Respondent has been served, has filed an Acceptance of Service, Waiver and Consent, and to request that the Court enter a default judgment in the proceeding.
7. **Default Certificate (UT-521D)** – This form is used to enter a default judgment against a Respondent who has been served and who has filed an Acceptance of Service, Waiver and Consent in the matter.
8. **Petitioner's Affidavit of Jurisdiction and Grounds for Divorce (UT-824D)** – This document is used to state that the allegations contained in the Petition are true, and that the Findings of Fact and Conclusions of Law and the Decree of Divorce conform to the original Verified Petition for Divorce.

9. **Child Support Obligation Worksheets (UT-825D, UT-826D, UT-817D)** – This document is used to calculate the correct amount of child support to be paid by the non-custodial parent to the custodial parent. Select the appropriate worksheet based upon the custodial arrangement agreed upon by the parties (sole custody, joint custody, split custody).
10. **Affidavit of Income Verification and Compliance with Child Support Guidelines (UT-827D)** – This form is used to certify to the Court that the income of the parties has been verified and that the child support amount requested meets the minimum amount of child support payable under the Utah Child Support Guidelines.
11. **Child Support Obligation Required Location Information Form (UT-816D)** – This form is used to supply the Court with identifying and location information for the parties to the divorce and any minor children of the marriage.
12. **Findings of Fact and Conclusions of Law (UT-828D)** – This form is used by the Court to enter its findings regarding the parties' request to grant a Decree of Divorce.
13. **Decree of Divorce (UT-829D)** – This document grants the dissolution of marriage and any other relief requested.
14. **Notice to Submit for Entry of Decree of Divorce (UT-830D)** – This document is used to provide notice to the Respondent that a Decree of Dissolution of Marriage has been submitted to the Court for its approval.

SAMPLE STEPS TO NO-FAULT DIVORCE

- STEP 1:** The filing party (Petitioner) should complete the *Civil Cover Sheet (UT-801D)*, *Certificate of Divorce (UT-522D)* and the *Verified Petition (UT-821D)*, taking care to correctly fill in blanks with appropriate responses.
- STEP 2:** The *Separation and Property Settlement Agreement (UT-DO-11A)* should then be jointly completed by the parties, making certain to agree to all of the terms contained therein.
- STEP 3:** After the above-listed documents are completed, make at least two copies of each. One set of copies will be for the Petitioner's records, the other for the Respondent's records. The Petitioner should take the completed documents and copies to the Clerk of Court in the county of filing. The Clerk will stamp each document, assign a case number and file the original documents. A filing fee must be paid at this time. It is best to call ahead to determine the amount of the filing fee and acceptable methods of payment.
- STEP 4:** The Petitioner should then provide the Respondent with a copy of the following documents:
- *Civil Cover Sheet (UT-801D)*
 - *Certificate of Divorce (UT-522D)*
 - *Verified Petition (UT-821D)*
 - *Separation and Property Settlement Agreement (UT-DO-11A)*
 - *Acceptance of Service, Appearance, Consent and Wavier (UT-822D)*
- The Respondent should be instructed to sign and date the *Acceptance of Service, Appearance, Consent and Wavier (UT-822D)* in front of a Notary and return the form to the Petitioner. Once the signed *Acceptance of Service, Appearance, Consent and Wavier (UT-822D)* is returned, it should be filed with the Clerk of Court.
- STEP 5:** During the waiting period of ninety (90) days from the date of filing the *Verified Petition (UT-821D)*, both parties should make arrangements to attend the Divorce Education Class. Upon completion of the class, a *Certificate of Completion* must be filed with the Court.

STEP 6: The Petitioner should next complete the following forms:

- *Motion for Entry of Default Certificate (UT-823D)*
- *Default Certificate (UT-521D)*
- *Petitioner's Affidavit of Jurisdiction and Grounds for Divorce (UT-824D)*
- *Child Support Obligation Worksheet* – Select the appropriate worksheet based upon the custodial arrangement agreed upon by the parties (*Sole Custody / UT-825D*), (*Joint Custody / UT-826D*), (*Split Custody / UT-817D*)
- *Affidavit of Income Verification and Compliance with Child Support Guidelines (UT-827D)*
- *Child Support Obligation Required Location Information Form (UT-816D)*
- *Findings of Fact and Conclusions of Law (UT-828D)*
- *Decree of Divorce (UT-829D)*
- *Notice to Submit for Entry of Decree of Divorce (UT-830D)*

STEP 7: After the above-listed documents are completed, make at least two copies of each. One set of copies will be for the Petitioner's records, the other for the Respondent's records. The Petitioner should take the completed documents and copies to the Clerk of Court in the county of filing. The Clerk will stamp each document and file the original documents. After filing, make certain to provide the Respondent with his or her set of copies.

STEP 8: After the required waiting period has elapsed, if there are no questions about the divorce and all of the documents have been completed correctly, the Judge will sign the completed *Decree of Divorce (UT-829D)*. The divorce is final when the Judge signs the *Decree of Divorce (UT-829D)* and it is entered into the Court record. Contact the Clerk to determine when the *Decree of Divorce (UT-829D)* has been signed, and obtain a certified copy of the *Decree of Divorce (UT-829D)* for your records.

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

- The filing party (Petitioner) completes *Civil Cover Sheet (UT-801D)*, *Certificate of Divorce (UT-522D)* and *Verified Petition (UT-821D)*.

- Separation and Property Settlement Agreement (UT-DO-11A)* jointly completed by the parties.

- At least two copies of each document made. Completed documents filed with Clerk. Filing fee paid.

- Petitioner provides Respondent with copies of the following:
 - *Civil Cover Sheet (UT-801D)*
 - *Certificate of Divorce (UT-522D)*
 - *Verified Petition (UT-821D)*
 - *Separation and Property Settlement Agreement (UT-DO-11A)*
 - *Acceptance of Service, Appearance, Consent and Wavier (UT-822D)*

- Respondent instructed to sign and date *Acceptance of Service, Appearance, Consent and Wavier (UT-822D)* in front of Notary and return for filing with Clerk.

- Both parties attend the Divorce Education Class. *Certificate of Completion* filed with Court.

- The Petitioner completes the following forms:
 - *Motion for Entry of Default Certificate (UT-823D)*
 - *Default Certificate (UT-521D)*
 - *Petitioner's Affidavit of Jurisdiction and Grounds for Divorce (UT-824D)*
 - *Child Support Obligation Worksheet* – Appropriate worksheet selected based upon custodial arrangement agreed upon by the parties (*Sole Custody / UT-825D*), (*Joint Custody / UT-826D*), (*Split Custody / UT-817D*)

- *Affidavit of Income Verification and Compliance with Child Support Guidelines (UT-827D)*
- *Child Support Obligation Required Location Information Form (UT-816D)*
- *Findings of Fact and Conclusions of Law (UT-828D)*
- *Decree of Divorce (UT-829D)*
- *Notice to Submit for Entry of Decree of Divorce (UT-830D)*

Above-listed documents completed and filed with Clerk. After filing, Respondent provided with his or her set of copies.

After the waiting period elapses, the Judge signs the completed *Decree of Divorce (UT-829D)*. The divorce is final when the Judge signs *Decree of Divorce (UT-829D)* and it is entered into Court record. Certified copy of *Decree of Divorce (UT-829D)* obtained for your records.

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-006-D.htm>

DISCLAIMER

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