

**CIRCUIT COURT**

**STATE OF VIRGINIA**

**DIVORCE PACKAGE**

**ADULT CHILDREN**

**With or Without Property**

**Control Number VA-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 YOU FILE WITH THE COURT MUST BE PRINTED ON BOND PAPER.**

## INFORMATION ABOUT DIVORCE

### 1. WHO MAY USE THESE FORMS

This packet is designed for the sole purpose of obtaining an *uncontested* divorce. This packet is only of use to you if you and your spouse are willing to agree to all the terms and conditions of your divorce. You must communicate with your spouse and keep him or her advised as to each step in the process. If you cannot agree, you will become involved in a *contested* divorce, which is beyond the scope of this packet. To use this divorce package to file for divorce in Virginia, all of the following must be true:

- (a) You and your spouse have separated in that you have not cohabitated as husband and wife for 6 months;
- (b) Both parties have agreed to all of the terms of the Separation and Property Settlement Agreement;
- (c) There were no minor children and your spouse and the wife is not pregnant. All children are adults over the age of 18 years, self-supportive and emancipated. NOTE: Support may continue for any dependent child that is a full-time high school student and living in the home of the parent, until dependent child reaches age of 19 or graduates from high school, whichever comes first; and
- (d) You or your spouse has lived in Virginia and in the county of filing for 6 months before filing the divorce.

### 2. THE BASICS

There are generally several requirements before you can file a divorce action. Virginia has residency requirements that require that you or your spouse reside in the state for a certain period of time before a divorce action is filed. Likewise, Virginia requires a ground for filing the divorce.

In a typical divorce two requirements that must be met before you can file for a divorce. Those requirements are below:

- 1. You must satisfy the **residency** requirements. At least one of the spouses must have resided in Virginia for at least six (6) months prior to filing for divorce.
- 2. You must satisfy **the no-fault procedures**. If there are no minor children of the marriage and the parties have entered into a *Separation and Property Settlement Agreement*, the parties must have lived separate and apart for at least six (6) months.

In addition, in a no-fault case you must agree with your spouse to become divorced, and agree to all the terms of the dissolution of marriage in filling out the forms, including property division. You will complete and file the forms (see detailed instructions, below)

in the **Circuit Court, Chancery Division** for the Virginia county in which you or your spouse last cohabited, or the Virginia county in which your spouse resides. ***Code of Virginia, Title 20, Chapter 6, §20-96.***

### **3. RESIDENCY REQUIREMENTS**

In order to obtain a divorce in Virginia, at least one of the parties to the divorce action must have been (and must still be) an actual and bona fide resident of the State of Virginia for at least six (6) months prior to the filing of the divorce action. ***Code of Virginia, Title 20, Chapter 6, §20-97.***

### **4. GROUNDS FOR DIVORCE**

Virginia allows a no-fault divorce if there are no minor children of the marriage, the parties have entered into a *Separation and Property Settlement Agreement*, and the parties must have lived separate and apart without interruption or cohabitation for at least six (6) months. If minor children are involved the separation period is one year. ***Code of Virginia, Title 20, Chapter 6, §20-91.***

Additional grounds upon which a divorce may be granted include:

1. For adultery; or for sodomy or buggery committed outside the marriage;
2. Conviction of a felony and sentence to confinement for more than one year;
3. Where either party has been guilty of cruelty, caused reasonable apprehension of bodily hurt, or willfully deserted or abandoned the other. **§ 20-91.**

### **5. WAITING PERIODS**

Other than the grounds stated above, there is no divorce-specific waiting period.

### **6. LEGAL SEPARATION/ DIVORCE FROM BED AND BOARD**

**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, known in Virginia as a “Divorce from Bed and Board,” may be granted for any of the causes for which an absolute divorce may be granted. A legal separation is **not** the same as 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. ***Code of Virginia, Title 20, Ch. 6, §20-116, et seq.***

### **7. ALIMONY/ SPOUSAL MAINTENANCE**

Because this is an agreed divorce, you will decide issues of alimony, also known as "spousal maintenance"- 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 your *Separation and Property Settlement Agreement* if you desire. In a contested case, the courts might award alimony. A contested divorce is beyond the scope of this divorce package. See, *Code of Virginia, Title 20, Ch. 6, §20-107.1 et seq.*, for more information.

**You should consult a local attorney regarding the possibilities concerning alimony if you have questions or foresee conflict regarding this issue.**

## **8. 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 *Separation and Property Settlement Agreement*. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Agreement*, which will be attached to the *Final Decree of Divorce* that ultimately ends your marriage. You may agree to divide the property any way you like, as long as basic fairness is maintained, and you both agree. If you cannot agree on any item of this division, the proceedings will transform into a **contested divorce**. A contested divorce is beyond the scope of this packet.

## **9. NAME CHANGE**

Upon decreeing a divorce from the bond of matrimony the court shall, on motion of a party who changed his or her name by reason of the marriage, restore such party's former name or maiden name by separate order. *Code of Virginia, Title 20, Ch. 6, §20-121.4.*

## **FORMS LIST**

**This packet contains the following forms:**

- 1. Separation and Property Settlement Agreement (VA-801D)**
- 2. Bill of Complaint (VA-803D)**
- 3. Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)**
- 4. Depositions in Support of Divorce from the Bond of Matrimony (VA-809D)**
- 5. Final Decree of Divorce (VA-806D)**
- 6. Request for Hearing (VA-808D)**
- 7. VS-4 Sample Enclosed (Must Obtain from Clerk) (VA-VS-4-SAMPLE)**
- 8. Petition for Name Change (VA-CC-1411)**
- 9. Addendum for Protected Identifying Information (Confidential) (VA-CC-1426)**

## FORM EXPLANATIONS

All forms included in this package are identified below. **You must sign all documents with a space for signature of a Notary Public in front of a Notary Public.**

1.                   **Separation and Property Settlement Agreement (VA-801D)** – This form is a contract in which you and your spouse agree to the division of your marital property and debts. If approved by the Judge, it will be incorporated into the Final Order of Divorce.
2.                   **Bill of Complaint (VA-803D)** – This document is the Complaint for Divorce- the document in which you are asking the court to grant your divorce, specifying all the necessary legal details.
3.                   **Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)** – The Defendant signs this document in acknowledgment of the service of the Bill of Complaint and in order to waive further service of process and notice in the case.
4.                   **Depositions in Support of Divorce from the Bond of Matrimony (VA-809D)** – This form includes questions you and your witness will need to attest.
5.                   **Final Decree of Divorce (VA-806D)** – This is the legal Decree that grants your divorce, incorporating your *Separation and Property Settlement Agreement*.
6.                   **Request for Hearing (VA-808D)** – Your request for an uncontested final hearing before the Judge to approve your divorce.
7.                   **VS-4 Report (VA-VS-4-SAMPLE)** – Report of Divorce provided as sample. You must obtain an original this form from the clerk for filing.
8.                   **Petition for Name Change (VA-CC-1411)** – This form is used to request that the Court restore a party to the use of a former or maiden name.
9.                   **Addendum for Protected Identifying Information (Confidential) (VA-CC-1426)** – This form is used to provide confidential information, such as social security numbers, to the court in a manner that will prevent the information from becoming part of the publicly available record of your divorce.

**Note: Depending on your County additional forms may be required that are County specific. These forms will be available from the Clerk.**

## 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. Once it has been noted in the instructions to attach one document to a second document as an exhibit thereto, any further reference to the second document assumes that the first document is attached as instructed.

**STEP 1:** In cooperation with your spouse, complete the following forms:

Form 1- *Separation and Property Settlement Agreement*

Form 2- *Bill of Complaint*

Form 9- *Addendum for Protected Identifying Information (Confidential)*

Attach the *Separation and Property Settlement Agreement* and the *Addendum for Protected Identifying Information (Confidential)* to the *Bill of Complaint*, and label the attached *Agreement* “**Exhibit A**” and the *Addendum* as “**Exhibit B**”.

Note: the *Addendum for Protected Identifying Information* may be attached to any form that must contain protected identifying information.

**STEP 2:** Make several copies of each completed document. Go to the courthouse and FILE Forms 1-2 with the clerk of court. You will have to pay a filing fee. You must call ahead to determine the amount and acceptable forms of payment. Ask the clerk for a “**VS-4**” form, complete, and file. Keep several copies of all documents stamped “filed” by the clerk.

**STEP 3:** Attach a stamped “filed” copy of the *Bill of Complaint* (with the *Separation and Property Settlement Agreement* attached as “Exhibit A” thereto), to the *Final Decree of Divorce*, and label the *Bill of Complaint* “Exhibit A” to the *Final Decree of Divorce*. In consultation with your spouse, complete and sign the *Final Decree of Divorce*.

Deliver the following documents to your spouse:

1. One stamped “filed” copy of the *Bill of Complaint* (with the *Separation and Property Settlement Agreement* attached as “Exhibit A”).
2. One stamped “filed” copy of the VS-4 form.
3. Two copies of Form 3- the *Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice*
4. Two copies of Form 5- the *Final Decree of Divorce* (with attached *Bill of Complaint*).

Instruct your spouse to review the documents, then to sign one copy of Forms 3 and 4 and return these signed copies to you. Remind your spouse that he or she must sign the *Acceptance/Waiver* in front of a Notary Public.

**STEP 4:** FILE the following documents with the court clerk:

1. The *Acceptance/Waiver* signed by you spouse and notarized.
2. The completed *Depositions in Support of Divorce from the Bond of Matrimony* signed by you and your witness and notarized.
3. Form 6 - the completed *Request for Hearing* with the *Final Decree of Divorce* signed by you and your spouse attached.
4. A self-addressed, stamped envelope.

In addition, if a party is requesting that the Court restore a party to a former or maiden name, a completed *Petition for Name Change (VA-CC-1411)* must also be submitted to the Court. An additional fee may be required.

Mail a stamped “filed” copy of the *Request for Hearing* to your spouse. Your file will be forwarded to a Judge’s law clerk for review. The law clerk will notify you in writing as to whether or not you have correctly submitted all the necessary information.

If the clerk confirms that you have submitted the information correctly, you must call the court clerk within fourteen days of the date of your receipt of written notice of sufficiency of your documents and set up a time for your final hearing if you are required to attend a hearing.

**STEP 5:** The testimony from the *Depositions in Support of Divorce from the Bond of Matrimony* is submitted to the judge for his or her review. The judge will read the entire file and determine for him/herself that the substantive and technical requirements of granting the divorce have been met. If they have, the judge will declare that the parties are divorced by signing *Final Decree of Divorce*.

If you are required to attend a hearing, notify your spouse of the hearing date. Your spouse does not have to attend. Go to the final hearing at the scheduled time and date, and answer any questions the court may have. In any case, the hearing should not take more than 15 minutes. If all is in order, the Judge will sign the *Final Decree of Divorce*.

You must FILE the *Final Decree of Divorce*. Obtain two certified copies of the filed *Final Decree*. You must mail one certified copy to your former spouse.



### CHECKLIST

- ☐ Forms 1, 2, & 9 completed and filed with the court clerk. **VS-4 form** obtained from clerk, completed, and filed with clerk
- ☐ Filing fees paid.
- ☐ Forms 3 and 5, signed by your spouse.
- ☐ Form 4 completed, signed by you and your witness and notarized
- ☐ Forms 3, 4, 5, 6 and a self-addressed, stamped envelope filed with court clerk. Form 8 *Petition for Name Change* filed if name restoration is desired.
- ☐ Within 14 days of your receipt of notice of sufficiency of your papers from the law clerk, you must contact the court clerk and obtain a date for your “uncontested divorce hearing” (if required).
- ☐ Spouse notified of hearing date. Your spouse does not have to attend.
- ☐ *Final Decree of Divorce* signed by Judge.
- ☐ *Final Decree* filed with clerk, certified copy obtained by you. Certified copy mailed to your ex-spouse.

### **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 the information. For the separation agreement complete the gray shaded areas and also make any other changes or additions to resolve all issues.

Some forms are locked which means that the content of the forms cannot be changed unless the form is unlocked. 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 relock the form, 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

## **DISCLAIMER**

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