

CIRCUIT COURT

STATE OF VIRGINIA

DIVORCE PACKAGE

MINOR CHILDREN

With or Without Property

Control Number VA-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 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 are minor children of the marriage; 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:** In a typical divorce two requirements that must be met before you can file for a divorce. Those requirements are below:
 - (a) 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.
 - (b) You must satisfy **the no-fault procedures**.

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. **GROUND FOR DIVORCE:** Virginia allows a no-fault divorce when the husband and wife have lived separate and apart without any cohabitation and without interruption for 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:** 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.*

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.
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.*

10. CHILD CUSTODY/VISITATION: In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody.

In determining best interests of a child for purposes of determining custody or visitation arrangements, the court shall consider the following:

- (a) The age and physical and mental condition of the child, giving due consideration to the child's changing developmental needs;
- (b) The age and physical and mental condition of each parent;
- (c) The relationship existing between each parent and each child, giving due consideration to the positive involvement with the child's life, the ability to accurately assess and meet the emotional, intellectual and physical needs of the child;
- (d) The needs of the child, giving due consideration to other important relationships of the child, including but not limited to siblings, peers and extended family members;
- (e) The role which each parent has played and will play in the future, in the upbringing and care of the child;
- (f) The propensity of each parent to actively support the child's contact and relationship with the other parent, including whether a parent has unreasonably denied the other parent access to or visitation with the child;
- (g) The relative willingness and demonstrated ability of each parent to maintain a close and continuing relationship with the child, and the ability of each parent to cooperate in and resolve disputes regarding matters affecting the child;
- (h) The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age and experience to express such a preference;
- (i) Any history of family abuse; and
- (j) Such other factors as the court deems necessary and proper to the determination.

11. CHILD SUPPORT: There shall be a rebuttable presumption that the amount of the child support award which would result from the application of the guidelines is the correct amount of child support to be awarded. In order to rebut the presumption, the court shall make written findings in the order, which findings may be incorporated by reference, that the application of such guidelines would be unjust or inappropriate in a particular case.

12. PARENT EDUCATION: When the custody or visitation of a child is contested, the court shall order the parties to attend educational seminars approved by the court on the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution, and financial responsibilities.

FORMS LIST

This packet contains the following forms:

- 1. Bill of Complaint (VA-820D)**
- 2. Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)**
- 3. Financial Information Sheet (VA-821D)**
- 4. Child Support Guidelines (VA-822D)**
- 5. Child Support Guidelines Worksheet (VA-DC-637)**
- 6. Separation and Property Settlement Agreement (VA-DO-11A)**
- 7. Depositions in Support of Divorce from the Bond of Matrimony (VA-809D)**
- 8. Request for Ore Tenus Hearing (VA-823D)**
- 9. Final Decree of Divorce (VA-824D)**
- 10. Petition for Name Change (VA-CC-1411)**
- 11. VS-4 Sample Enclosed (Must Obtain from Clerk) (VA-VS-4-SAMPLE)**
- 12. 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. **Bill of Complaint (VA-820D)** – 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.
2. **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.
3. **Financial Information Sheet (VA-821D)** – This form is used to provide the Court with the current financial information of the parties.
4. **Child Support Guidelines (VA-822D)** – This form provides the schedule of child support based upon the income of the parties and the number of children of the marriage.
5. **Child Support Guidelines Worksheet (VA-DC-637)** – This form is used in conjunction with the Child Support Guidelines to assist the parties in determining the correct amount of child support to be paid.
6. **Separation and Property Settlement Agreement (VA-DO-11A)** – 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.
7. **Depositions in Support of Divorce from the Bond of Matrimony (VA-809D)** – This form includes questions you and your witness will need to attest.
8. **Request for Ore Tenus Hearing (VA-823D)** – Your request for an uncontested final hearing before the Judge to approve your divorce.
9. **Final Decree of Divorce (VA-824D)** – This is the legal Decree that grants your divorce, incorporating your *Separation and Property Settlement Agreement*.

10. **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.
11. **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.
12. **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 the county of filing, additional forms may be required which may be 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: The filing party should provide his or her spouse with a copy of the *Financial Information Sheet (VA-821D)* and each party should complete and exchange copies with each other.

STEP 2: Using the information supplied in the parties’ completed *Financial Information Sheet (VA-821D)*, using the supplied *Child Support Guidelines VA-822D*), the parties should jointly complete the *Child Support Guidelines Worksheet. (VA-DC-637)*. By completing the *Child Support Guidelines Worksheet (VA- DC-637)*, the parties will arrive at the presumptively correct amount of child support to be paid.

STEP 3: The parties should next jointly complete the *Separation and Property Settlement Agreement (VA-DO-11A)*, making certain to agree to all of the terms contained therein.

STEP 4: The filing party should next complete the *Bill of Complaint (VA-820D)*. Once the *Bill of Complaint (VA-820D)* has been completed, the filing party should then obtain from the Clerk a copy of *VS-4 (Statistical Reporting Form)*, along with any required *Cover Sheet* for the action. The filing party should complete both the *VS-4 (Statistical Reporting Form)* and the *Cover Sheet* (if required).

Note: the *VS-4 Statistical Reporting Form* provided with this package is a sample only. You **MUST** obtain an original of this form from the Clerk for filling out and filing.

Also, fill out an *Addendum for Protected Identifying Information (Confidential) (VA-CC-1426)* and attach it to the *Bill of Complaint (VA-820D)*.

Note: the *Addendum for Protected Identifying Information (VA-CC-1426)* may be attached to any form that must contain protected identifying information.

STEP 5: Once completed, the filing party should then file the following forms with the Clerk of Court in the county of filing:

- *Bill of Complaint (VA-820D)*
- *Addendum for Protected Identifying Information (VA-CC-1426)* (attached to Bill of Complaint)
- *VS-4 (Statistical Reporting Form)*
- *Cover Sheet* (if required)
- *Financial Information Sheet (VA-821D)* [from each party]
- *Child Support Guidelines Worksheet. (VA-DC-637)*

A filing fee must be paid at this time. Contact the Clerk in advance to determine the amount of fees to be paid and acceptable methods of payment.

STEP 6: Your spouse must next be served with copies of the previously filed documents. Provide your spouse with copies of all filed documents along with the *Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)*. Instruct your spouse to complete the *Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)* and return it to you. Once your spouse has returned the *Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)*, file the document with the Clerk of Court.

STEP 7: You and your witness must complete, sign and have notarized the *Depositions in Support of Divorce from the Bond of Matrimony*.

STEP 8: The filing party should next complete the *Request for Ore Tenus Hearing (VA-823D)* and the *Final Decree of Divorce (VA-824D)*. Once completed, submit the following documents to the Clerk of Court for filing:

- *Depositions in Support of Divorce from the Bond of Matrimony*
- *Request for Ore Tenus Hearing (VA-823D)*
- *Final Decree of Divorce (VA-824D)*
- A copy of the completed *Separation and Property Settlement Agreement (VA-DO-11A)*
- Self-addressed, stamped envelope used to mail certified copy of *Final Decree of Divorce (VA-824D)* back to filing party once entered by Judge.

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.

STEP 9: Upon filing the *Request for Ore Tenus Hearing (VA-823D)*, a judge's law clerk will review all pleadings for sufficiency and compliance with all requirements. 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.

If the pleadings do not comply with all requirements, the law clerk will mail a *Rejection of Ore Tenus* form, which will provide the filing party with 14 days to cure any deficiency.

STEP 10: 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*.

STEP 11: 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

- ☐ Filing party provides spouse with *Financial Information Sheet (VA-821D)*. Each party completes and exchanges copies with each other.

- ☐ Using information supplied in *Financial Information Sheet (VA-821D)* and *Child Support Guidelines (VA-822D)*, parties complete *Child Support Guidelines Worksheet. (VA-DC-637)*.

- ☐ Parties jointly complete *Separation and Property Settlement Agreement (VA-DO-11A)*.

- ☐ Filing party next completes *Bill of Complaint (VA-820D)*. Filing party then obtains and completes copy of *VS-4 (Statistical Reporting Form)*, along with any required *Cover Sheet*.

- ☐ Filing party then files following forms:
 - *Bill of Complaint (VA-820D)*
 - *VS-4 (Statistical Reporting Form)*
 - *Cover Sheet* (if required)
 - *Financial Information Sheet (VA-821D)* [from each party]
 - *Child Support Guidelines Worksheet. (VA-DC-637)*

- ☐ Filing fee paid.

- ☐ Spouse served with copies of all filed documents along with *Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)*. Spouse instructed to complete *Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)* and return to you. Once spouse has returned *Acceptance/Waiver of Service of Process and Waiver of Future Service of Process and Notice (VA-CC-1406)*, file with Clerk of Court.

- ☐ Filing party completes *Depositions in Support of Divorce from the Bond of Matrimony, Request for Ore Tenus Hearing (VA-823D)* and *Final Decree of Divorce (VA-824D)*. Once completed, following documents submitted to Clerk for filing:

- *Depositions in Support of Divorce from the Bond of Matrimony*
- *Request for Ore Tenus Hearing (VA-823D)*
- *Final Decree of Divorce (VA-824D)*
- Copy of completed *Separation and Property Settlement Agreement (VA-DO-11A)*
- Self-addressed, stamped envelope

If party is requesting name change, completed *Petition for Name Change (VA-CC-1411)* also submitted.

- ☐ If all requirements met, judge will generally enter *Final Decree of Divorce (VA-824D)* at Ore Tenus hearing or after receipt and review of *Depositions in Support of Divorce from the Bond of Matrimony*.

Certified copy of *Final Decree of Divorce (VA-824D)* mailed in previously supplied self-addressed, stamped envelope.

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

LAW SUMMARY

You may access the law summary for your State by using the link below:

<http://secure.uslegalforms.com/lawsummary/VA/VA-006-D.htm>

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