

**STATE OF VERMONT**

**DIVORCE PACKAGE**

**MINOR CHILDREN**

**With or Without Property**

**Control Number VT-006-D**

This packet contains the following:

1. Information about Divorce
2. Form List
3. Form Explanations
4. Instructions and Steps
5. Checklist

**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 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 Vermont, all of the following must be true:

- (a) You or your spouse must have been a resident of Vermont for at least six months prior to the filing of the divorce action.
- (b) You and your spouse must agree to all of the terms in the division of assets/property in the *Separation and Property Settlement Agreement*.
- (c) There are minor children of the marriage.
- (d) You and your spouse have lived apart for six consecutive months and the resumption of marital relations is not reasonably probable.

2. **THE BASICS:** In a typical divorce, you must satisfy two basic requirements before you can file for divorce. Those requirements include the ***residency requirements*** and appropriate ***grounds for divorce***. These requirements are discussed in detail in their respective sections, below.

In addition, 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 **Superior Court (Family Court Division)** for the county in which you or your spouse resides. **15 VSA § 593.**

3. **RESIDENCY REQUIREMENTS:** A complaint for divorce or annulment of marriage may be brought if either party to the marriage has resided within the state for a period of **six months or more**, but a divorce shall not be decreed for any cause, unless the plaintiff or the defendant has resided in the state **one year next preceding the date of final hearing**. Temporary absence from the state because of illness, employment without the state, service as a member of the armed forces of the United States, or other legitimate and bona fide cause, shall not affect the six months' period or the one year period specified in the preceding sentence, provided the person has otherwise retained residence in this state. **15 VSA § 592**

Complaints for divorce shall be brought in the county in which the parties or one of them resides. **15 VSA § 593**

4. **GROUND FOR DIVORCE:** To obtain a no-fault divorce in Vermont, the spouses must have lived apart from each other for six consecutive months, and the court must conclude that the resumption of marital relations is not reasonably probable. The court will conclude that resumption is not probable unless one of the spouses objects. **15 VSA § 551.**

5. **WAITING PERIODS:** Except under extraordinary circumstances, no divorce action shall be heard on its merits until after the expiration of six months from the date of service, if the custody of a child or children of either party is involved.

A decree of divorce shall become absolute at the expiration of three months (the “nisi period”) from the entry thereof but, in its discretion, the court may fix an earlier date upon which the decree shall become absolute. If one of the parties dies prior to the expiration of the “nisi period,” the decree shall be deemed absolute immediately prior to death. **15 VSA § 554**

6. **LEGAL SEPARATION:** A legal separation, forever or for a limited time, may be granted for any of the causes for which an absolute divorce may be granted. A legal separation is different than 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. **15 VSA § 555.**

**ATTENTION: This divorce package DOES NOT include forms for a legal separation.**

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 if you desire.

In a contested case, the court may order either spouse to make maintenance payments, either rehabilitative or permanent in nature, to the other spouse if it finds that the spouse seeking maintenance:

- a. Lacks sufficient income, property, or both, to provide for his or her reasonable needs, and
- b. Is unable to support himself or herself through appropriate employment at the standard of living established during the marriage or is the custodian of a child of the parties.

The maintenance order shall be in such amounts and for such periods of time as the court deems just, after considering all relevant factors including, but not limited to:

- i. The financial resources of the party seeking maintenance, the property apportioned to the party, the party's ability to meet his or her needs independently, and the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;
- ii. The time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;
- iii. The standard of living established during the marriage;
- iv. The duration of the marriage;
- v. The age and the physical and emotional condition of each spouse;
- vi. The ability of the spouse from whom maintenance is sought to meet his or her reasonable needs while meeting those of the spouse seeking maintenance; and
- vii. Inflation with relation to the cost of living. **15 VSA. § 752**

A contested divorce is beyond the scope of this divorce package. 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 *Separation and Property Settlement Agreement*, which will be incorporated by reference into the *Final Order 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.

In a contested case, the court shall settle the rights of the parties to their property, by including in its judgment provisions which equitably divide and assign the property. All property owned by either or both of the parties, however and whenever acquired, shall be subject to the jurisdiction of the court. Title to the property, whether in the names of the husband, the wife, either parties, or a nominee, shall be immaterial, except where equitable distribution can be made without disturbing separate property.

In making a property settlement, the court may consider all relevant factors, including but not limited to:

- (a) The length of the marriage;
- (b) The age and health of the parties;
- (c) The occupation, source and amount of income of each of the parties;
- (d) Vocational skills and employability;
- (e) The contribution by one spouse to the education, training, or increased earning power of the other;
- (f) The value of all property interests, liabilities, and needs of each party;
- (g) Whether the property settlement is in lieu of or in addition to maintenance;
- (h) The opportunity of each for future acquisition of capital assets and income;
- (i) The desirability of awarding the family home or the right to live there for reasonable periods to the spouse having custody of the children;
- (j) The party through whom the property was acquired; and
- (k) The contribution of each spouse in the acquisition, preservation, and depreciation or appreciation in value of the respective estates, including the nonmonetary contribution of a spouse as a homemaker;
- (l) The respective merits of the parties. **15 VSA. § 751**

9. **PARENT EDUCATION PROGRAM:** The Court may order the parties to a divorce action to attend an educational program designed to educate the parents on the effects of divorce upon children.

10. **PARENTAL RIGHTS AND RESPONSIBILITIES:** The court may order parental rights and responsibilities to be divided or shared between the parents on such terms and conditions as serve the best interests of the child. When the parents cannot agree to divide or share parental rights and responsibilities, the court shall award parental rights and responsibilities primarily or solely to one parent. In making an order awarding parental rights and responsibilities, the court shall be guided by the best interests of the child, and shall consider at least the following factors:

- (a) The relationship of the child with each parent and the ability and disposition of each parent to provide the child with love, affection and guidance;
- (b) The ability and disposition of each parent to assure that the child receives adequate food, clothing, medical care, other material needs and a safe environment;
- (c) The ability and disposition of each parent to meet the child's present and future developmental needs;
- (d) The quality of the child's adjustment to the child's present housing, school and community and the potential effect of any change;

- (e) The ability and disposition of each parent to foster a positive relationship and frequent and continuing contact with the other parent, including physical contact, except where contact will result in harm to the child or to a parent;
- (f) The quality of the child's relationship with the primary care provider, if appropriate given the child's age and development;
- (g) The relationship of the child with any other person who may significantly affect the child;
- (h) The ability and disposition of the parents to communicate, cooperate with each other, and make joint decisions concerning the children where parental rights and responsibilities are to be shared or divided.
- (i) In addition, the court shall consider evidence of abuse, and the impact of the abuse on the child and on the relationship between the child and the abusing parent.

The court shall not apply a preference for one parent over the other because of the sex of the child, the sex of a parent or the financial resources of a parent. **15 VSA § 665**

Any agreement between the parents which divides or shares parental rights and responsibilities shall be presumed to be in the best interests of the child. An agreement between the parties which is a complete agreement on parental rights and responsibilities shall include provisions that address at least the following:

- (a) Physical living arrangements;
- (b) Parent child contact;
- (c) Education of the minor child;
- (d) Medical, dental and health care;
- (e) Travel arrangements;
- (f) Procedures for communicating about the child's welfare; and
- (g) If parental rights and responsibilities are to be shared or divided, a procedure for resolving disputes. Such procedures may include but shall not be limited to mediation and binding arbitration.

If the court finds that an agreement between the parents is not in the best interests of the child or if the court finds that an agreement was not reached voluntarily the court shall refuse to approve the agreement. **15 VSA § 666**

- 11. PARENT CHILD CONTACT:** The legislature finds and declares as public policy that after parents have separated or dissolved their marriage it is in the best interests of their minor child to have the opportunity for maximum continuing physical and emotional contact with both parents, unless direct physical harm or significant emotional harm to the child or a parent is likely to result from such contact. **15 VSA § 650**

12. **CHILD SUPPORT:** The legislature finds and declares as public policy that parents have the responsibility to provide child support and that child support orders should reflect the true costs of raising children and approximate insofar as possible the standard of living the child would have enjoyed had the marriage not been dissolved. **15 VSA § 650**

Guidelines for child support have been established which reflects the percent of combined available income which parents living in the same household in Vermont ordinarily spend on their children. The amounts of child support determined under the guideline shall be presumed to be the total support obligation of parents. **15 VSA § 654**

Except in situations where there is shared or split physical custody, the total child support obligation shall be divided between the parents in proportion to their respective available incomes and the noncustodial parent shall be ordered to pay, in money, his or her share of the total support obligation to the custodial parent. The custodial parent shall be presumed to spend his or her share directly on the child. **15 VSA § 656**

The total support obligation shall be presumed to be the amount of child support needed. Upon request of a party, the court shall consider the following factors in respect to both parents. If, after consideration of these factors, the court finds that application of the guidelines is unfair to the child or to any of the parties, the court may adjust the amount of child support:

- (a) The financial resources of the child.
- (b) The financial resources of the custodial parent.
- (c) The standard of living the child would have enjoyed had the marital relationship not been discontinued.
- (d) The physical and emotional condition of the child.
- (e) The educational needs of the child.
- (f) The financial resources and needs of the noncustodial parent.
- (g) Inflation.
- (h) The costs of meeting the educational needs of either parent, if the costs are incurred for the purpose of increasing the earning capacity of the parent.
- (i) Extraordinary travel and other travel-related expenses incurred in exercising the right to parent-child contact.
- (j) Any other factors the court finds relevant.

If the parties agree, the court may include in the child support order an additional amount designated for the purpose of providing for postsecondary education. **15 VSA § 659**

13. **NAME CHANGE:** Upon granting a divorce to a woman, unless good cause is shown to the contrary, the court may allow her to resume her maiden name or the name of a former husband. **15 VSA § 558**

The court may change the names of the minor children of divorced parents when application for that purpose is made in the complaint for divorce. **15 VSA § 559**



## FORMS LIST

**This packet utilizes the following forms:**

1. Cover Sheet (**VT-OF-800**)
2. Summons, Complaint for Divorce, Notice of Appearance and Affidavit of Child Custody (**VT-OF-836**)
3. Child Support Order (**VT-OF-802**)
4. Health Department Vermont Record of Divorce or Annulment (**VT-OF-838**)
5. Affidavit of Military Service (**VT-OF-231**)
6. Notice and Acknowledgement of Receipt of Summons and Complaint (**VT-OF-820**)
7. Answer to Divorce Complaint and Notice of Appearance (**VT-OF-837**)
8. Affidavit of Income and Assets (**VT-OF-813**)
9. \*Child Support Worksheet
10. Separation and Property Settlement Agreement (**VT-DO-11A**)
11. Parental Rights and Responsibilities Agreement (**VT-OF-825**)
12. Confidential Information Form (**VT-OF-849**)

\*This form must be obtained from the Clerk of Court in the County of filing. There may be additional county-specific forms required for filing. Contact the Clerk of Court in the County of filing to determine whether additional forms are necessary.

## **FORM EXPLANATIONS**

All forms utilized by 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. **Cover Sheet (VT-OF-800)** – An official information document for the court’s files. When you go to the court to file your documents, ask the court clerk if there is an updated or county-specific form.
2. **Summons, Complaint for Divorce, Notice of Appearance, and Affidavit of Child Custody (VT-OF-836)** – This four-part document includes the Summons (the official notification to your spouse that the divorce suit has been filed), the Complaint for Divorce (the document in which you are asking the court to grant your divorce), and your Notice of Appearance (whereby you present yourself to the court and submit your mailing address), and your Affidavit of Child Custody (whereby you provide information to the Court regarding minor children of the marriage).
3. **Child Support Order (VT-OF-802)** – This document is used by the Court to detail the specific findings regarding the amount of child support to be paid and the terms of the award.
4. **Health Department Vermont Record of Divorce or Annulment (VT-OF-838)** – This document is used for record keeping purposes only.
5. **Affidavit of Military Service (VT-OF-231)** – This document is used to provide the Court with information regarding the military status of a party.
6. **Notice and Acknowledgement of Receipt of Summons and Complaint (VT-OF-820)** – This document is used to certify to the Court that the Defendant received a copy of the Complaint and Summons filed in an action for divorce.
7. **Answer to Divorce Complaint and Notice of Appearance (VT-OF-837)** – This form is used by the Defendant to enter an appearance in an action for divorce and to respond to the allegations contained in the Complaint.
8. **Affidavit of Income and Assets (VT-OF-813)** – This form is used to provide the Court with a detailed report of all income and assets of the parties.

9. **\*Child Support Worksheet** – This form is used to calculate the correct amount of child support to be paid in a divorce action involving minor children. This document is available from the Clerk of Court.
10. **Separation and Property Settlement Agreement (VT-DO-11A)** – This form is used to detail the agreements reached between the parties regarding such things as the division of assets and debts of the marriage, child support and custody issues. This agreement, if approved by the judge, will be incorporated into the *Final Divorce Order* in your case.
11. **Parental Rights and Responsibilities Agreement (VT-OF-825)** – This form is a stipulated agreement by the parties regarding custody, visitation, and other necessary arrangements for care of the minor children of the parties.
12. **Confidential Information Form (VT-OF-849)** – This form is used to provide necessary but confidential information, particularly social security numbers, to the court such that it is not revealed as part of the public record of the case.

**Note:** \*These forms must be obtained from the Clerk of Court in the County of filing. There may be additional county-specific forms required for filing. Contact the Clerk of Court in the County of filing to determine whether additional forms are necessary.

## **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 should complete the following forms:

- *Cover Sheet (VT-OF-800)*
- *Summons, Complaint for Divorce, Notice of Appearance and Affidavit of Child Custody (VT- OF-836)*
- *Health Department Vermont Record of Divorce or Annulment (VT-OF-838)*
- *Affidavit of Military Service (VT-OF-231)*
- *Confidential Information Form (VT-OF-849)*

(\*These forms must be obtained from the Clerk of Court in the County of filing.)

**STEP 2:** Once completed, make several copies (at least three) of all forms and then the above-listed forms should be filed with the Clerk of Court in the County of filing. Have any extra copies not needed by the court stamped “Filed” by the clerk. You and your spouse should keep these stamped “Filed” copies for your records and for future use in the case. A filing fee is paid at this time. You must call ahead to determine the amount of the filing fee and accepted methods of payment.

**STEP 3:** Your spouse must next be served with copies of the above-filed documents. Deliver a stamped “Filed” copy of all filed documents in the case, along with a *Notice and Acknowledgement of Receipt of Summons and Complaint (VT- OF-820)*, *Answer to Divorce Complaint and Notice of Appearance (VT- OF-837)*. Instruct your spouse to complete both documents and return them to the Clerk of Court for filing. It is important to remember that your spouse must agree with all of the allegations contained in the *Complaint for Divorce*, or the matter becomes a contested divorce, which is beyond the scope of this package. If you collaborated with your spouse in the development of the Complaint, this should not be a problem.

After completion, your spouse may mail these forms directly to or hand-deliver them to the court (or return them to you for copying and subsequent filing). In any event, be sure that all necessary copies are made for both parties and stamped “Filed” by the court. If these documents are mailed in rather than hand-delivered, a self-addressed, postage-paid envelope must be included for the court to return any “stamped ‘filed’” copies of documents.

**STEP 4:** In cooperation with your spouse, each party should complete and file with the Clerk of Court the following:

- *\*Child Support Worksheet*
- *Affidavit of Income and Assets (VT-OF-813)* (one completed by each party)
- *Parental Rights and Responsibilities Agreement (VT-OF-825)*
- *Proposed Child Support Order (VT-OF-802)*

(\*This form must be obtained from the Clerk of Court in the County of filing.)

In order to fill out the *Affidavit of Income and Assets*, you and your spouse must exchange tax returns for the last two years (with all attachments) and file a written certification with the court that you have exchanged these tax returns (ask the clerk if there is a form for filing this certification). The first three forms (*Child Support Worksheet*, *Affidavit of Income*, and *Parental Rights and Responsibilities Agreement*) should be completed and filed individually first and stamped “Filed” copies of each document obtained. Attach a stamped “Filed” copy of the three documents as exhibits to the *Proposed Child Support Order*, and file this completed document. Do not forget to obtain a stamped filed copy of the proposed order (with the attachments) for your and your spouse’s records.

Also, while at the clerk’s office, pick up a document that the clerk will provide for you (to save time, you may want to obtain this document in advance of your initial filing of documents):

1. *Proposed Final Order of Divorce*

**STEP 5:** The parties should next jointly complete the *Separation and Property Settlement Agreement (VT-DO-11A)*, making certain to agree to all of the terms contained therein, as they will be incorporated into the terms of the *Final Divorce Order*. Once completed, the separation agreement should also be filed with the Clerk of Court.

A stamped “Filed” copy of your *Separation and Property Settlement Agreement (VT-DO-11A)* and a stamped “Filed” copy of your *Parental Rights and Responsibilities Agreement (VT-OF-825)* should then be attached to the *Proposed Final Order of Divorce* form that you previously obtained from the Clerk. File this completed document (with the *Separation and Property Settlement Agreement* and the *Parental Rights and Responsibilities Agreement* attached).

**STEP 6:** The Clerk of Court should next be contacted to inquire whether the parties are required to attend a *Parent Education Program*. If so, each party should make

arrangements to attend the program and submit any *Certificate of Completion* to the Court as evidence of attendance.

**STEP 7:** After the required waiting period has elapsed, obtain a date for your “uncontested divorce hearing” from the clerk or court administrator. Both spouses should attend this hearing. Bring all of your documents to the hearing. The plaintiff spouse will have to answer some brief questions from the Judge to confirm the information in the filed documents. If all is in order, the Judge will sign the *Final Order of Divorce*. You and your spouse must take the signed *Final Order of Divorce* and FILE with the court clerk. At that time, request an *Acceptance of Service of Final Order of Divorce* from the clerk, who will provide you with the form. Both you and your spouse must sign one of these forms, and FILE with the clerk.

**STEP 8:** The divorce will not become final and official until the “nisi period” has ended. The “nisi period” is three months long, and gives the parties a chance to change their minds about the divorce. At the conclusion of the nisi period, the divorce will become final.

## CHECKLIST

- ☐ The filing party completes the following forms:
- *Cover Sheet (VT-OF-800)*
  - *Summons, Complaint for Divorce, Notice of Appearance and Affidavit of Child Custody (VT- OF-836)*
  - *Health Department Vermont Record of Divorce or Annulment (VT-OF-838)*
  - *Affidavit of Military Service (VT-OF-231)*
  - *Confidential Information Form (VT-OF-849)*
- ☐ Above-listed forms filed with Clerk of Court. Filing fee paid.
- ☐ Spouse served with copies of above-filed documents, along with a *Notice and Acknowledgement of Receipt of Summons and Complaint (VT-OF-820)* and an *Answer to Divorce Complaint and Notice of Appearance (VT-OF-837)*. Spouse instructed to complete both documents and return to Clerk for filing.
- ☐ Tax returns (with attachments) from the past two years exchanged by you and your spouse, and a certification of the exchange is filed with the court.
- ☐ In cooperation with spouse, complete and file with Clerk the following:
- *\*Child Support Worksheet*
  - *Affidavit of Income and Assets (VT-OF-813)* (one completed by each party)
  - *Parental Rights and Responsibilities Agreement (VT-OF-825)*
  - *Proposed Child Support Order (VT-OF-802)*
- (*\*This form must be obtained from the Clerk of Court in the County of filing.*)
- ☐ The parties jointly complete and file with the Clerk a *Separation and Property Settlement Agreement (VT-DO-11A)*, making certain to agree to all terms contained therein.

- ☐ The parties jointly complete and file with the Clerk a *Proposed Final Order of Divorce* (obtained from Clerk), complete with a stamped “Filed” *Separation and Property Settlement Agreement (VT-DO-11A)* and a stamped “Filed” *Parental Rights and Responsibilities Agreement (VT-OF-825)* attached.
- ☐ If necessary, both parties attend a *Parent Education Program* and submit any *Certificate of Completion* to Court as evidence of attendance
- ☐ After required waiting period elapses, date obtained for “uncontested divorce hearing”. Both spouses attend hearing. Judge signs *Final Order of Divorce*. You and spouse take signed *Final Order of Divorce* and FILE with clerk. Both you and your spouse receive from clerk *Acceptance of Service of Final Order of Divorce*, and FILE with the clerk.
- ☐ After the three month “nisi period,” your divorce becomes final.



### NOTE ABOUT COMPLETING THE FORMS

The forms in this packet may contain “form fields” created using Microsoft Word and Adobe Acrobat. “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.

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/VT/VT-006-D.htm>

## **DISCLAIMER**

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