

STATE OF VERMONT

DIVORCE PACKAGE

NO CHILDREN

With or Without Property

Control Number VT-008-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 *Final Divorce Stipulation*.
- (c) There were no children born to or adopted by you or your spouse and the wife is not pregnant.
- (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. **VSA 15-11-593.**

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. **VSA 15-11-592**

4. GROUNDS 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. **VSA 15-11-551.**

5. WAITING PERIODS

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. **VSA 15-11-592.**

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. **VSA 15-11-554**

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. **VSA 15-11-555.**

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 courts might award alimony. 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.** See, **VSA 15-11-752**, for more information.

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 *Final Divorce Stipulation*. You and your spouse must agree to the property and debt division and memorialize your agreement in the *Final Divorce Stipulation*, 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.

9. 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. If the wife desires a name-change, fill in the appropriate spaces in your divorce documents. **VSA 15-11-558.**

FORMS LIST

This packet contains the following forms:

- A. Health Department Record of Divorce (**VT-OF-838**)
- 1. Cover Sheet (**VT-OF-800**)
- 2. Summons, Complaint for Divorce and Notice of Appearance (**VT-OF-835**)
- 3. Final Stipulation of Divorce and Separation Agreement (**VT-802D**)
- 4. Defendant's Notice and Acknowledgment of Receipt of Summons and Complaint (**VT-OF-820**)
- 5. Answer to Divorce Complaint and Notice of Appearance (**VT-OF-837**)
- 6. Affidavit of Military Service (**VT-OF-231**)
- 7. Confidential Information Form (**VT-OF-849**)

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.**

A. Health Department Record of Divorce (VT-OF-838) - A Health Department record to be filed with your divorce.

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 and Notice of Appearance (VT-OF-835) – This three-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.)

3. Final Stipulation of Divorce and Separation Agreement (VT-802D) – This form is a contract in which you and your spouse agree to the division of all your property and debts. If approved by the Judge, it will be incorporated into the Final Order of Divorce.

4. Defendant’s Notice and Acknowledgment of Receipt of Summons and Complaint (VT-OF-820) – This form is for your spouse to sign and file with the court clerk, thereby notifying the court that he or she has received a copy of the *Summons* and *Complaint for Divorce*.

5. 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.

6. Affidavit of Military Service (VT-OF-231) – This document is used to provide the Court with information regarding the military status of a party.

7. 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: 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.

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

Form 1- Cover Sheet
Form 2- Summons, Complaint for Divorce and Notice of Appearance
Form 3- Final Stipulation of Divorce
Form 6- Affidavit of Military Service
Form 7- Confidential Information Sheet
Form A- Health Department Record of Divorce

You and your spouse must sign in the appropriate signature spaces. Any form that has a notary public section on the form must be signed in front of a notary public.

STEP 2: Attach the completed *Final Stipulation of Divorce* to the *Complaint for Divorce*.

STEP 3: Make several (at least three) copies of all your completed and signed forms. *Both you and your spouse should keep a complete set of stamped “Filed” copies. Go to the courthouse with your spouse* and FILE the original documents and any copies that the court clerk may need. Pay filing fees. You and your spouse must keep several stamped “filed” copies of the filed documents. The clerk is a valuable resource to you, and can often answer your questions about filing documents, timing, and the mechanics of the divorce process.

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 4: Serve your spouse (the defendant) with the Summons and Complaint, along with blank copies of form 4 & form 5 (see below). Your spouse will then need to complete and return the following forms for filing:

Form 4- Defendant’s Notice and Acknowledgment of Receipt of Summons and Complaint
Form 5- Answer to Divorce Complaint and Notice of Appearance

Note: When filling out the Answer (form 5), your spouse/defendant **must** admit *all* the allegations of the Complaint or your divorce will become *contested* rather than *uncontested*. This forms package is created for use only in *uncontested* divorces. If your divorce is or becomes contested, you should consider consulting a lawyer to handle your divorce.

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 5: Complete the *Proposed Final Order of Divorce* and attach a stamped "filed" copy of your *Final Divorce Stipulation*. FILE the *Proposed Final Order of Divorce* (with attached *Final Divorce Stipulation*).

STEP 6: 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 7: 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.

CHECKLIST

- ☐ Forms 1, 2, 3, 6, 7, & A completed and filed with the court clerk.
- ☐ Filing Fees paid.
- ☐ Defendant served with summons & complaint, completes forms 4 & 5 and files them with the court
- ☐ Stamped “filed” copies of all forms retained by you *and* your spouse.
- ☐ *Proposed Final Order of Divorce* completed; *Final Divorce Stipulation* is attached and filed with the court.
- ☐ Date for “uncontested divorce hearing” obtained from clerk.
- ☐ *Final Order of Divorce* signed by Judge.
- ☐ *Final Order of Divorce* FILED with the court clerk, and certified copies retained by you and your spouse. *Acceptance of Service of Final Order* completed by both you and your spouse and filed 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.

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THESE FORMS WERE PREPARED FOR STATEWIDE USE. HOWEVER, SOME COUNTIES OR JUDGES MAY REQUIRE CERTAIN MODIFICATIONS TO THE FORMS FOR USE IN YOUR PARTICULAR COUNTY AND MAY REQUIRE SPECIAL FORMS NOT INCLUDED. CHANGES REQUIRED BY PARTICULAR JUDGES ARE NOT UNCOMMON EVEN IF THE FORMS HAD BEEN PREPARED BY YOUR ATTORNEY. REGARDLESS, YOU SHOULD BE ABLE TO USE THESE FORMS AND INSTRUCTIONS, WITH ANY REQUIRED MODIFICATIONS, TO MAKE IT THROUGH THE PROCESS. IF YOU NEED TO MAKE CHANGES, OR IF SPECIAL FORMS ARE REQUIRED IN YOUR COUNTY, YOU CAN MAKE THE CHANGES AND REFILE, OR OBTAIN THE SPECIAL FORMS EITHER FROM THE CLERK OR A CLOSED DIVORCE FILE WHICH YOU CAN USE AS AN EXAMPLE.