

STATE OF WISCONSIN

DIVORCE PACKAGE

UNCONTESTED - MINOR CHILDREN

With or Without Property

Control Number WI-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 Joint Divorce Package only when all of the following facts are true;
 - (a) Your marriage is irretrievably broken with no reasonable prospect of reconciliation;
 - (b) There are minor children of said marriage;
 - (c) You and your spouse agree on all the terms of the divorce
 - (d) You or your spouse has lived in Wisconsin for six months and the county of filing for thirty days immediately prior to filing the divorce.

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 dissolve the marriage, and agree to all the terms of the dissolution of marriage in filling out the forms, including property division.

3. **RESIDENCY REQUIREMENTS:** Wisconsin has residency requirements which require that you or your spouse reside in the State for a minimum of six months and the county of filing for thirty days immediately prior to filing an action for divorce.

4. **GROUND FOR DIVORCE:** The only ground upon which divorce is granted in the State of Wisconsin is an irretrievable breakdown of the marriage of which there is no reasonable prospect of reconciliation.

5. **LEGAL SEPARATION:** Wisconsin permits a judgment of legal separation on the same grounds as for an action for divorce.

This package does not contain forms for a legal separation.

6. **WAITING PERIOD:** Wisconsin law provides that no divorce shall issue until 120 days have elapsed from either the time the defendant is served with the summons, or from the date of filing of a joint petition.

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 spouse alimony without regard to fault. Factors the court will consider in determining the amount and duration of the award of support include such things as:
- (a) The financial resources of the party seeking support;
 - (b) The time necessary to acquire sufficient education or training to enable the person seeking support to find appropriate employment;
 - (c) The standard of living established during the marriage;
 - (d) The duration of the marriage;
 - (e) The contribution of each spouse to the marriage;
 - (f) The age, physical and emotional condition of the spouse seeking support, and;
 - (g) The ability of the payor spouse to meet his needs while meeting the needs of the spouse seeking support.
8. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will agreed to property distributions. In an action for divorce, the court will first set aside to each spouse that spouse's separate property. The court will then distribute the marital property following the presumption that all marital property should be divided equally. Some of the factors the court will consider in altering the equal distribution of the marital property include:
- (a) The contribution of each spouse to the acquisition of the marital property;
 - (b) The value of each spouse's separate property;
 - (c) The duration of the marriage;
 - (d) The age and health of the parties;
 - (e) The amount and sources of income of each party;
 - (f) The standard of living established during the marriage; and,
 - (g) Any other relevant factor.
9. **MEDIATION:** In any action in which it appears that legal custody or physical placement is contested, the court or circuit court commissioner shall refer the parties to the director of family court counseling services for possible mediation of those contested issues.
10. **PARENT EDUCATION PROGRAM:** The court may order the parties to attend a program addressing such issues as child development, family dynamics, how parental separation affects a child's development and what parents can do to make raising a child in a separated situation less stressful for the child as a condition to the granting of a final judgment. In many counties, attendance at such a program is mandatory.

11. **CHILD CUSTODY / VISITATION:** In determining legal custody and periods of physical placement, the court shall consider all facts relevant to the best interest of the child. The court may not prefer one parent or potential custodian over the other on the basis of the sex or race of the parent or potential custodian. The court shall consider the following factors in making its determination:
- (a) The wishes of the child's parent or parents, as shown by any stipulation between the parties, any proposed parenting plans or any legal custody or physical placement proposal submitted to the court at trial.
 - (b) The wishes of the child, which may be communicated by the child or through the child's guardian ad litem or other appropriate professional.
 - (c) The interaction and interrelationship of the child with his or her parent or parents, siblings, and any other person who may significantly affect the child's best interest.
 - (d) The amount and quality of time that each parent has spent with the child in the past, any necessary changes to the parents' custodial roles and any reasonable life-style changes that a parent proposes to make to be able to spend time with the child in the future.
 - (e) The child's adjustment to the home, school, religion and community.
 - (f) The age of the child and the child's developmental and educational needs at different ages.
 - (g) The mental and physical health of the parties, the minor children and other persons living in a proposed custodial household.
 - (h) The need for regularly occurring and meaningful periods of physical placement to provide predictability and stability for the child.
 - (i) The availability of public or private childcare services.
 - (j) The cooperation and communication between the parties and whether either party unreasonably refuses to cooperate or communicate with the other party.
 - (k) Whether each party can support the other party's relationship with the child, including encouraging and facilitating frequent and continuing contact with the child, or whether one party is likely to unreasonably interfere with the child's continuing relationship with the other party.
 - (l) Whether there is evidence that a party engaged in abuse.
 - (m) Whether there is evidence of interspousal battery or domestic abuse.
 - (n) Whether either party has or had a significant problem with alcohol or drug abuse.
 - (o) The reports of appropriate professionals if admitted into evidence.
 - (p) Such other factors as the court may in each individual case determine to be relevant.
12. **CHILD SUPPORT:** Whenever the court enters a judgment of divorce, the court shall do all of the following:

- (a) Order either or both parents to pay an amount reasonable or necessary to fulfill a duty to support a child. The support amount must be expressed as a fixed sum unless the parties have stipulated to expressing the amount as a percentage of the payer's income.
- (b) Ensure that the parties have stipulated which party, if either is eligible, will claim each child as an exemption for federal income tax purposes, or as an exemption for state income tax purposes

The court shall determine child support payments by using the percentage standard established by the State. If the court finds that use of the percentage standard is unfair to the child or the requesting party, the court shall state in writing or on the record the amount of support that would be required by using the percentage standard, the amount by which the court's order deviates from that amount, its reasons for finding that use of the percentage standard is unfair to the child or the party, its reasons for the amount of the modification and the basis for the modification.

In addition to ordering child support for a child, the court shall specifically assign responsibility for and direct the manner of payment of the child's health care expenses. In assigning responsibility for a child's health care expenses, the court shall consider whether a child is covered under a parent's health insurance policy or plan at the time the court enters a judgment of divorce, the availability of health insurance to each parent through an employer or other organization, the extent of coverage available to a child and the costs to the parent for the coverage of the child.

13. **NAME CHANGE:** Upon request, the court may order that the wife's maiden or former name be restored.

For more information, see the Wisconsin Divorce Law Summary.

FORMS LIST

This packet contains the following:

1. Petition **(WI-FA-4110)**
2. Summons **(WI-FA-4104)**
3. Financial Disclosure Statement **(WI-FA-4139)**
4. Admission of Service **(WI-FA-4119)**
5. Marital Settlement Agreement **(WI-FA-4150)**
6. Order to Appear **(WI-FA-4142)**
7. Findings of Fact, Conclusions of Law and Judgment of Divorce
(WI-FA-4160)

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Petition (WI-FA-4110)** – The Petition for Divorce is the document by which you and your spouse are asking the court to grant the divorce along with any other relief requested.

2. **Summons (WI-FA-4104)** – This form is used to officially notify the Respondent of the institution of a suit for divorce. It contains instructions to the Respondent regarding when and how to respond, as well as the potential consequences of failing to respond timely.

3. **Financial Disclosure Statement (WI-FA-4139)** – A statement of all income, expenses, assets, and liabilities. This form is exchanged between spouses to verify full disclosure and filed with the court to assist the judge in making decisions. Two separate forms are included, one for the Petitioner and one for the Respondent.

4. **Admission of Service (WI-FA-4119)** – This form is used by the Respondent to acknowledge receipt of the Petition, Summons, and any other document initially filed in a divorce proceeding.

5. **Marital Settlement Agreement (WI-FA-4150)** – 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 any other agreements reached between the parties.

6. **Order to Appear (WI-FA-4142)** – This form is used by the Court to order a party to appear in Court on a specific day for a hearing.

7. **Findings of Fact, Conclusions of Law and Judgment (WI-FA-4160)**
– This document grants the divorce and any other relief requested.

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 (Petitioner) should complete the *Petition (WI-FA-4110)* and *Summons (WI-FA-4104)*. Once completed, make at least four copies of both documents and file them with the Clerk of Court in the county of filing. The Clerk will take the original *Petition (WI-FA-4110)* and *Summons (WI-FA-4104)* for filing and will *authenticate* the copies. The Clerk will also assign a Case Number to your case. This number must be included on all documents. A filing fee must also be paid at this time. It is best to call ahead to determine the amount of the filing fee and accepted methods of payment.

STEP 2: After the *Petition (WI-FA-4110)* and *Summons (WI-FA-4104)* have been filed with the Clerk, you must provide the Family Court Commissioner with a copy of the *Petition (WI-FA-4110)* and *Summons (WI-FA-4104)*. You will be provided at this time a document entitled *Notice and Order, Administrative Dismissal Date, Requirement to Attend Parent Education Program*. This document should be copied and attached to each set of pleadings so that it is served on the Respondent at the same time as the *Petition (WI-FA-4110)* and *Summons (WI-FA-4104)*.

STEP 3: Within 90 days of the filing of the *Petition (WI-FA-4110)*, the Respondent must next be served with (provided copies of):

- Authenticated copy of *Petition (WI-FA-4110)*
- Authenticated copy of *Summons (WI-FA-4104)*
- *Notice and Order, Administrative Dismissal Date, Requirement to Attend Parent Education Program*
- A blank *Financial Disclosure Statement (WI-FA-4139)*
- *Admission of Service (WI-FA-4119)*

You may have a friend or relative who is over the age of 18 and a resident of the State of Wisconsin serve the Respondent, but you, the Petitioner, cannot serve your spouse. The Respondent should be instructed to complete the *Admission of Service (WI-FA-4119)* and return it to you for filing with the Clerk of Court.

STEP 4: Both parties should next complete and exchange with each other copies of the *Financial Disclosure Statement (WI-FA-4139)*. Once completed, both parties' *Financial Disclosure Statement (WI-FA-4139)* should then be filed with the Clerk of Court.

STEP 5: After completing the *Financial Disclosure Statements (WI-FA-4139)*, the parties should jointly complete the *Marital Settlement Agreement (WI-FA-4150)*, making certain to agree to all of the terms contained therein. Once completed, this document should then be filed with the Clerk of Court.

STEP 6: Both parties should next attend the Parent Education Class. Upon completion of the class, a certificate will be provided to the parties. This certificate of completion should then be filed with the Clerk of Court.

STEP 7: The Petitioner should next complete the *Order to Appear (WI-FA-4142)* and *Findings of Fact, Conclusions of Law, and Judgment of Divorce (WI-FA-4160)*.

STEP 8: A hearing must now be scheduled. To schedule a date for hearing, you must present to the Clerk copies of the following documents:

- *Petition (WI-FA-4110)*
- *Summons (WI-FA-4104)*
- *Admission of Service (WI-FA-4119)*
- *Financial Disclosure Statement (WI-FA-4139)*
- *Marital Settlement (WI-FA-4150)*
- *Certificate of Completion of Parent Education Program*
- *Order to Appear (WI-FA-4142)*
- *Findings of Fact, Conclusions of Law, and Judgment of Divorce (WI-FA-4160)*

The Petitioner will need to make arrangements with the Clerk to have the *Order to Appear (WI-FA-4142)* served on the Respondent. In addition, the Petitioner will also need to provide the Clerk with 2 stamped envelopes addressed to the Petitioner and Respondent. A small judgment entry fee will also need to be paid at this time.

STEP 9: If the parties have agreed to all the terms of divorce and the Judge approves the terms contained in the *Marital Settlement Agreement (WI-FA-4150)*, the Court will grant the divorce at the Pre-Trial Conference.

STEP 10: Both parties will receive a copy of the file-stamped *Findings of Fact, Conclusions of Law and Judgment (WI-FA-4160)* from the court with the Judge's signature after about three (3) weeks from the time it was filed. This document serves as the final divorce paper and must be kept as proof of the divorce.

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.

This package is a guide and you should complete all forms based upon your situation.

CHECKLIST

- ☐ The filing party (Petitioner) completes *Petition (WI-FA-4110)* and *Summons (WI-FA-4104)*, makes at least four copies of both and files them with Clerk. Filing fee paid.
- ☐ Family Court Commissioner provided with copy of *Petition (WI-FA-4110)* and *Summons (WI-FA-4104)*. *Notice and Order, Administrative Dismissal Date, Requirement to Attend Parent Education Program* provided to you, copied and attached to each set of pleadings
- ☐ Within 90 days of the filing of the *Petition (WI-FA-4110)*, Respondent served with:
 - Authenticated copy of *Petition (WI-FA-4110)*
 - Authenticated copy of *Summons (WI-FA-4104)*
 - *Notice and Order, Administrative Dismissal Date, Requirement to Attend Parent Education Program*
 - A blank *Financial Disclosure Statement (WI-FA-4139)*
 - *Admission of Service (WI-FA-4119)*
- ☐ Respondent instructed to complete *Admission of Service (WI-FA-4119)* and return it for filing.
- ☐ Both parties complete and exchange *Financial Disclosure Statements (WI-FA-4139)*. Once completed, both *Financial Disclosure Statements (WI-FA-4139)* filed with the Clerk.
- ☐ Parties jointly complete *Marital Settlement Agreement (WI-FA-4150)*. Once completed, document filed with Clerk.
- ☐ Both parties attend Parent Education Class. Upon completion, certificate of completion filed with Clerk.
- ☐ Petitioner completes *Order to Appear (WI-FA-4142)* and *Findings of Fact, Conclusions of Law, and Judgment of Divorce (WI-FA-4160)*.
- ☐ Hearing scheduled. Clerk presented copies of:

- *Petition (WI-FA-4110)*
- *Summons (WI-FA-4104)*
- *Admission of Service (WI-FA-4119)*
- *Financial Disclosure Statement (WI-FA-4139)*
- *Marital Settlement (WI-FA-4150)*
- *Certificate of Completion of Parent Education Program*
- *Order to Appear (WI-FA-4142)*
- *Findings of Fact, Conclusions of Law, and Judgment of Divorce (WI-FA-4160)*

☐ *Order to Appear (WI-FA-4142)* served on Respondent. Petitioner provides Clerk with 2 stamped envelopes addressed to Petitioner and Respondent. Judgment entry fee paid.

☐ Judge approves terms of *Marital Settlement Agreement (WI-FA-4150)*. Court grants divorce.

☐ **Both parties receive copy of file-stamped *Findings of Fact, Conclusions of Law and Judgment (WI-FA-4160)* from Court with Judge's signature.**

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 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/WI/WI-006-D.htm>

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