

INSTRUCTIONS & CHECKLIST

PACKET “C-1” -- DISSOLUTION WITHOUT CHILDREN

NOTE: If an Order of Protection has been issued by the Justice Court or Municipal Court, see Pro Se Packet K for instructions on how to transfer the Order of Protection to District Court.

BEFORE YOU BEGIN: READ THESE INSTRUCTIONS

The Montana Supreme Court has enacted Court Rules for Privacy and Public Access to Court Records in Montana. These rules apply to all court records. There is certain information that you cannot put in a court record which should be maintained as confidential.

Fill out the **SENSITIVE DATA FORM** in this packet to keep the following sensitive information confidential in a court record:

- 1) Complete Social Security Numbers
- 2) Complete Financial Account Numbers
- 3) Full birth dates of any person involved in this case

- File the **SENSITIVE DATA FORM** when you file your other court documents. Keep a copy in a safe place.
- The Clerk will keep the Sensitive Information Form separately. The public will not have access to this document, unless the court orders it.

Use these formats when required to put sensitive information in any **other** court documents.

- For a social security number, use this format: **XXX-XX-1234**.
- For a date of birth, use this format: **age ____**.
- For financial account numbers, use this format: **ending in the last four digits of 1234**

STARTING THE DIVORCE PROCESS ---- “DISSOLUTION”:

There are many forms to be completed. Doing one step at a time will make the entire process easier.

The First page of each document has a block in the top left hand corner for your information. If you provide your email address you must confirm with the Clerk of Court that you would like orders either physically mailed or emailed to you.

Fill in each parties full legal name on the lines in the left hand box. YOU ARE THE **PETITIONER**. You will always be the Petitioner, even if you need to respond to documents filed by the other party. The other party is, and will remain, the **RESPONDENT**.

The title of each document is located in the right hand box on the first page of each document. The title is in capital letters and bold. For example: **PETITIONER’S PROPOSED PARENTING PLAN**. The bottom of

each page of all documents will have the title of the document and the page numbers to make it easier for you to keep the documents in order.

Step 1.--- Fill Out The Forms

You might want to use a pen with **blue ink** so you always know which are the originals and which are copies. Also, put N/A (“not applicable”) in any spaces that don’t apply to your situation.

- **Form # 35 - AFFIDAVIT OF INABILITY TO PAY FILING FEES AND OTHER COSTS:** Look at the table on page two of this document. If you qualify financially, according to this table, and would like your fees to be waived, fill out this form. On page 4 you **MUST** list the VAULES of the property you have control over. The value is what the group of items could be sold for at a rummage sale or what you would pay for the group of items at a rummage sale. You do not have to list the value of your spouse’s property if you do not have access to it at this time.

- **Form #36 – Petition for Dissolution (without children)**
Fill in every section. Sign page 6 in two places in front of a notary public.
Please note: The Clerk of Court’s Office can notarize these documents. Notaries also can be found at banks, law offices, libraries, etc.

- **Form #37 – Summons and Temporary Economic Restraining Order**
Read thoroughly. Clerk of District Court will date and sign this documents.

- **Form #38 Petitioner’s Preliminary Declaration of Disclosure**
Read thoroughly. Complete. Sign on page 6 in front of a notary public. THIS DOCUMENT IS NOT FILED WITH THE COURT BUT WILL BE GIVEN TO THE OTHER PARTY WITH A COPY OF THE OTHER DOCUMENTS.

- **Form #39 Petitioner’s Notice of Service of Preliminary Declaration of Disclosure**
Complete and sign. You may need to leave the date of service blank until you know for sure when this document will be given to the other party.

- **Form #40 SERVICE OPTION #1
Notice and Acknowledgment of Receipt of Summons & Petition**
READ ENTIRE DOCUMENT BEFORE CONTINUING. If you decide the other party will comply, complete the form and sign on page 3. You may also use Form #40 to hand deliver the documents, if there is no Protective Order or the equivalent in place, and the other party will sign the Acknowledgement and give it back to you.

- **Form #41 SERVICE OPTION #2 Praecipe**
Complete form #41 if you plan to use a Montana County Sheriff’s Department for Service. Give as much information about the other party as possible so the Sheriff can find the other party for service.

OTHER SERVICE OPTIONS:

- a. You may hire a local Process Server.
- b. You may have a person who knows both parties serve a copy of the documents to the other party. The server then signs an AFFIDAVIT OF SERVICE in front of a notary and you file the Affidavit with the Clerk of District Court. The Self Help Law Center has this form and will provide it upon request.

Step 2.--- Making Copies

- Make one copy of Forms #35 and #38
- Make two copies of all other forms
- If using Form #40 for Service, make 3 copies

Step 3. --- Filing Your Case With Clerk of Court.

- Bring the originals and 2 copies of every form (**except #38**) to the Clerk of District Court's Office for filing. The Clerk will assign a cause number and department number to identify your case with the Court. **One** copy will be for your own personal records, the other copy is for service to the other party.
- \$200.00 Fee** -- cash/money order/personal check (subject to change). If you cannot afford the fee, fill out Form #35, the "Affidavit of Inability to Pay" in this packet. If the Judge decides you cannot afford to pay the filing fee, your fees may be waived in whole or in part.
- The Clerk will file stamp **ALL** your documents (**copies and originals**). The Clerk will keep the originals and give you back the copies. One set of copies are for you to keep. **One copy is for service upon your spouse**. The original Summons will be retained by the Clerk of Court and they will issue a Duplicate Original to use for service.
- Form #38 & #39 - You **MUST** provide a copy of Form #38 to your spouse. Your dissolution file is a public file and you should not file Form #38 with the Clerk of Court. File Form #39 certifying that you have served your spouse with a copy of Form 38.

SERVING DIVORCE PAPERS ---- "DISSOLUTION":

Step 4. --- Serving the Other Party.

NOTE: If there is a **TOP** or **Order of Protection** that prohibits you from contacting your spouse, service of these documents must only be accomplished following the directions in #1 or #2 below. You must not personally deliver these documents to your spouse.

There are four ways to serve the copies of documents you have now prepared on the other party.

- 1) Form #41 – Praecipe - You give one set of copies of the documents to the Sheriff for delivery. You will be charged a fee unless you filed, and the judge approved, an Affidavit of Inability to Pay Filing Fees and Other Costs.

Documents to Include With the Praecipe Given to the Sheriff's Office:
Form # 36, 38, 39, 37 (Duplicate Original AND 1 copy of 37)

OR

- 2) Form #40 - Acknowledgment of Service – You may mail the other party copies of Forms #36, #38, #39, #37 and 2 copies of Form #40 to the other party with a return envelope, postage prepaid, addressed to you. It is your responsibility to make sure the other party signs and returns the Acknowledgment of Service form. If signed and returned, file the Acknowledgment of Service (Form #40) with the Clerk of Court.

You can personally deliver the documents (Form #36, 38, 39, 37) and 2 copies of Form#40 to the other party, **UNLESS there is a TOP or Order of Protection in place**. It is your responsibility to make sure the other party signs and returns the Acknowledgment of Service form (Form #40). If signed and returned, file the Acknowledgment of Service form with the Clerk of Court.

OR

3) You may hire a local Process Server.

OR

4) You may have a person who knows both parties serve a copy of the documents to the other party. The person who served the documents signs an AFFIDAVIT OF SERVICE in front of a notary and you file the Affidavit with the Clerk of District Court. This form can be obtained at the Self Help Law Center.

YOU HAVE COMPLETED THE FIRST PART OF YOUR LEGAL WORK. FOR FUTURE ACTION AND TO GET YOUR FINAL DECREE OF DISSOLUTION YOU WILL NEED EITHER PACKET C-2 OR PACKET G.

IF 21 DAYS PASS SINCE YOUR SPOUSE WAS SERVED, AND YOUR SPOUSE HAS NOT FILED A RESPONSE TO YOUR PETITION ----- YOU MAY STILL OBTAIN A DIVORCE, BUT YOU WILL NEED TO PICK UP AND COMPLETE PACKET G, "DEFAULT."

III. REACHING AGREEMENT:

STEP 5. -- Final Agreements.

If the other party files a Response, it is best if you are able to reach an agreement between yourselves on property.

- Form #42 Once you've reached agreement, complete this form and sign **before a notary public**.
- Make 2 copies of each form - one for yourself and one for your spouse.
- File original Form #42 with the Clerk of Court.
- Form #44 Complete and sign before a notary public. Mail copy to spouse.
- Form #45 Complete & sign before a notary public. Mail copy to spouse.
File #45 with the Clerk of Court. Do not file #44.

SKIP TO STEP 7.

IV. UNABLE TO REACH AGREEMENT:

STEP 6. -- Asking the Court to Decide.

- Form #43 If you can't agree on property division, complete this form, sign, and file the original with the Clerk of Court. Mail a copy to your spouse. You should receive notice from the Court of the next step in your case.
- Form #44 Complete and sign before a notary public. Mail copy to spouse.
- Form #45 Complete & sign before a notary public. File the original with the Court and mail copy to your spouse.

V. FINAL PAPERWORK:

STEP 7. -- Just a Little More Paperwork !!!

- Form #46 Complete - do not sign. The Judge will sign at the hearing.
- Form #47 Complete caption - do not sign. (You will sign later - see Step #14.)
- Form #48 Complete the sections you can. After the hearing you will **fully** complete the form.
- Form #49 Complete caption only.
- Form #50 If you are changing your name back to your former name as part of the divorce, complete this Order for Name Change. This will be a confidential document since it contains your birth date. This Order may then be used to change your name with various agencies such as the Dept. of Motor Vehicles, Social Security office, etc.
- Make 1 copy of Form 46, 47, 48, 49 and 50 for your records.
- Make 3 copies of Form #46. Keep one for your records.
- Deliver the originals of these forms and the two copies of Form #46 to the Clerk of Court -- **with Form #48 and 49.**
- If you have filed Form #42 (Settlement Agreement) you will be notified of the hearing date for the final decree of dissolution.
- If you have filed Form #49 (Request for Hearing) you will be notified of the hearing date to decide the issues.

VI. HEARING IN COURT:

You have chosen to represent yourself. Arrive at the courthouse early. While divorce can be very difficult and emotional, the Court expects the parties to be civil and remain focused on the legal issues.

STEP 8. -- Court Hearing - on Contested Issues.

Be prepared to present evidence to the Court and discuss your position. In order to understand what is involved in a hearing, you may wish to observe a contested family law hearing at least 30 days before your hearing. Contact the Clerk of Court for the schedule.

STEP 9. -- Court Hearing - Final Decree - Non-contested.

You have reached an agreement with your spouse and he/she has signed the Marital and Property Settlement Agreement wherein he/she consented to the entry of the final decree (Document #41a, page 5). Both parties can attend the hearing on the final decree, but it is NOT NECESSARY that your spouse attend. You should be prepared to be sworn in, sit in the witness stand, and answer any questions asked of you by the opposing party or the Judge.

VII. AFTER THE HEARING:

STEP 10. -- Final Paperwork.

- A filing fee of \$45 (subject to change) must be paid to the Clerk of Court before the Final Decree is filed. This fee is waived if the Judge approved your Affidavit of Inability to Pay at the beginning of your case.
- Copies of the Final Decree will be available at the Clerk of Court's office. The Clerk's office charges \$10 per copy. However, you have already supplied two extra copies of the Final Decree. The Clerk's office will conform (stamp them with the date) these copies with the original without any cost. The Clerk should then certify (i.e. "make them official") the two copies. The cost for certification is \$2.00 each.
- Form #47 Complete, sign, and mail a copy to your spouse, together with one certified copy of the Final Decree (Form #43) signed by the Judge. File original Form #44 with the Clerk of Court. Filing Form #44 starts the 30-day period for appeal by either party.
- Form #50 If you are changing your name, you need a certified copy of Form #9 after the Judge signs it. You will take the certified copy of Form #50 to the Department of Motor Vehicles and other agencies in order to change your name on your driver's license, social security card, bank accounts, etc. This is a confidential document and will be sealed in your court file

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