

YAVAPAI COUNTY
Self-Service Center

INSTRUCTIONS: COMPLETING DOCUMENTS FOR LEGAL SEPARATION WITH MINOR CHILDREN

USE THIS PACKET ONLY IF YOU WANT TO FILE FOR LEGAL SEPARATION AND YOU AND YOUR SPOUSE HAVE MINOR CHILD(REN) TOGETHER OR WIFE IS CURRENTLY PREGNANT WITH HUSBAND'S CHILD.

DEFERRAL OF FILING FEES OR SERVICE COSTS:

The court charges a filing fee to file for a divorce. If you believe you are unable to afford the fees and service costs, you may request a deferral. This means you will be making regular payments on the amount you owe the court for filing and/or service. If the court denies your request for a deferral, you must pay all filing fees at the time of filing and for service after filing.

ADVICE AND HELP FROM ATTORNEYS AND MEDIATORS:

Even if you are representing yourself in court, it is always a good idea to ask an attorney to look over the papers to see if they are correct. An attorney can also help you decide many important legal issues.

There are people in the community who will help you with your legal problems. They are called mediators. Additionally, mediation is available through the court.

DOMESTIC VIOLENCE:

Domestic violence can be part of any marriage. Domestic violence includes physical violence directed against you or your children, such as hitting, slapping, pushing, or kicking. Domestic violence includes threats of physical violence against you or your children or verbal abuse used to control you. Court documents request your address and phone number. If you are a victim of domestic violence and you do not want your address to be known to protect yourself or your children from further violence, get a P.O. Box or use another address.

TYPE OR PRINT IN BLACK INK ONLY.

CONFIDENTIAL SENSITIVE DATA SHEET:

Most court files are open to the public for review. Use this form to keep your sensitive information confidential. By writing your sensitive data on this form and then writing "SEE CONFIDENTIAL SENSITIVE DATA FORM" on the papers you file with the court, the public will not have access to this information.

REQUEST FOR ORDER FOR PROTECTED ADDRESS:

You may file this form if your address is not known to the other party and you reasonably believe that physical or emotional harm may result to you or a minor child if your address is not protected. If the court grants this request, the other party will serve you by delivering your copy of any filed documents to the Clerk of the Superior Court. The Clerk will then mail you the papers at the address you provide.
YOU MUST KEEP YOUR ADDRESS CURRENT WITH THE CLERK.

DOMESTIC RELATIONS COVER SHEET:

Complete the Petitioner and Respondent information and the attorney information if applicable. Also mark the appropriate box in the "Nature of Action" section. Leave the rest of the form blank.

SUMMONS:

Fill in the following information: Your name, address, and **daytime** telephone number in the upper left corner of each document. Fill in your name as Petitioner and your spouse's name as Respondent. You will be given a case number at the time you file. Fill in your spouse's name on the line below the shaded box. DO NOT fill out the rest of the form. The Clerk of Court will complete it when you file.

PRELIMINARY INJUNCTION:

READ THE FORM CAREFULLY, then fill in the following information: Your name, address, and **daytime** telephone number in the upper left corner of each document. Fill in your name as Petitioner and your spouse's name as Respondent. You will be given a case number at the time you file. Complete the information requested near the bottom of the second page. DO NOT sign the form. The Clerk of Court signs the form.

PETITION FOR LEGAL SEPARATION WITH CHILDREN:

1. Make sure your form is titled PETITION FOR LEGAL SEPARATION WITH MINOR CHILDREN in the upper right hand part of the first page
2. In the top left corner of the first page, fill out the following information: your name, mailing address, DAYTIME telephone number and your ATLAS number if you are receiving or have received assistance from the Arizona Department of Economic Security.
3. Fill in the name of the "Petitioner" and "Respondent" the same way you did on the Summons and Preliminary Injunction. You are the Petitioner; your spouse is the Respondent. You must do that for every document you ever file with the court regarding this case. **You will always be the Petitioner; your spouse will always be the Respondent.**
4. You will be given a new case number at the time you file all your documents. You must use that case number for every document you ever file with the court regarding this case.
5. If you and your spouse have minor child(ren) together who were born prior to the marriage, mark the box in front of "Request for Order of Paternity".

GENERAL INFORMATION:

Note: If both you and the other party are in agreement as to how to split your property and legal decision-making for child(ren)/parenting time arrangements, you may proceed by Consent Decree (see Rule 45, Arizona Rules of Family Law Procedure). If you proceed by Consent Decree, and either party receives Temporary Assistance for Needy Families (TANF) or IV-D assistance, the Attorney General will need to sign Exhibit A of your Decree or provide you with a separate statement that shows agreement with the child support amount.

1. **Information about you.** Fill in your (the Petitioner's) name, address, date of birth, occupation and length of time lived in Arizona. This is basic information about you, the PETITIONER.
2. **Information about your spouse.** Fill in your spouse's (the Respondent's) name, address, date of birth, occupation, and length of time lived in Arizona. This is basic information about your spouse, the RESPONDENT.
3. **Information about your marriage.** Fill in the date that you were married, and the city and state or country where you were married. **If you did not enter into a covenant marriage, check the box.** Please review A.R.S. §25-901 for the definition of a covenant marriage.
4. **Residency requirement.** This tells the Court that you and/or your spouse lives in Arizona, or

are stationed here while in the Armed Forces, before you file the legal separation papers. **This MUST be true. IF IT IS NOT TRUE, you cannot file until it is true.**

INFORMATION ABOUT PROPERTY AND DEBT:

The information you give in Paragraphs 5 and 6 tells the Court about your property and debts, and how you think your property and debts should be divided.

- ✓ Community property is generally any property you and/or your spouse purchased or paid for during the marriage, no matter who used the property or who paid the money. Unless property was a gift or inheritance, all property acquired during the marriage is community property, and both you and your spouse are entitled to roughly an equal share of this property.
- ✓ Community debt or bills are generally any debt you and/or your spouse acquired during your marriage.
- ✓ If you have questions or have a lot of community property or debt, you should speak with a lawyer **BEFORE** you file for legal separation.

5a. Property acquired during the marriage (Community Property).

If you and your spouse do not have any property from the marriage, check the first box.

If you and your spouse have property together, check the second box. If you checked the second box, you must tell the court what property should go to you and what property should go to your spouse. Generally, the court will divide the property equitably, unless there are good reasons to divide it differently. It is unlikely that the court will give most or all of the property to either spouse. If you and your spouse cannot agree, the Court may order that the property be sold and any money received divided between you and your spouse or may decide which party will get the property.

List the property that you want the court to award to your spouse (the Respondent) and list the property that you want the court to award to you (the Petitioner). Describe the property thoroughly for identification purposes and tell the court how much you think the property is worth. You can use the brand name and model where applicable, and serial numbers.

Types of property:

- a. **Real Property (land or home).** Check who you think should keep the property. You can ask the court to give you the home, to give the home to your spouse, or to sell the home and divide the proceeds. Write the complete address of the property. Most property has a legal description such as "LOT 77, PINE TREE ACRES, according to Book 111 of Maps", which appears on your deed. Use this description. A cemetery plot is considered real property.
- b. **Household furniture.** This includes sofas, beds, tables, and so forth.
- c. **Household furnishings.** This includes things in the house other than furniture, for example: dishes, small appliances, rugs, and so forth.
- d. **Other.** List things that you want or you want your spouse to have that have not already been listed.
- e. **Pension/retirement fund/profit sharing/stock plans/401K.** You and your spouse each generally have a right to a one-half interest in the other spouse's plan, for the number of years you were married. The longer the marriage, the greater your financial interest in your spouse's plan (your interest, usually, includes up to 50 percent of the benefits/plan if you have been married the whole time the plan has existed). **Check this box if you want to divide your interest in a pension or profit sharing/retirement/401K plan. If you check this box will need a document called a Qualified Domestic Relations Order or QDRO.** The Self-Service Center and the Court **do not** have Qualified Domestic Relations Order forms.
- f. **Motor vehicles.** List the vehicle identification number (VIN), the year and make of the car (Ford, Honda) and the model (Mustang, Lumina). The VIN is on the title or registration. If you owe

money on the vehicle, fill in the name of that person or institution as lien holder.

5b. Property acquired before marriage. Separate property.

If you did not have or bring any property into the marriage, check the first box.

If your spouse did not have or bring any property into the marriage, check the second box.

If you or your spouse brought property into the marriage, check the third and/or fourth box.

If you checked the third and/or fourth box, you must tell the court what property you brought into the marriage and what property your spouse brought into the marriage.

List the separate property you want the court to award. Put a check in the box to award the property to which person. You should describe the property thoroughly for identification purposes. You can use the brand name and model where applicable, and serial numbers.

6a. Debts incurred during the marriage.

If you and your spouse do not owe money on any debts from the marriage, check the first box and go directly to paragraph 6b.

If you and your spouse owe money on any debts from the marriage, check the second box.

If you check the second box, tell the Court which debts you should pay and which debts your spouse should pay. Generally, the Court will attempt to make a fair division of the debts. If you get the property on which money is owed, you probably will be given the debt. Ordering one person to pay all the debt is unusual. Think about what a fair division of the debts would be before answering this question. Put enough information to identify each debt.

If you and your spouse have been separated and have acquired new debts on your own before filing for dissolution of marriage, you may want the court to order that each of you pay for any new debt after the date you separated. You can make this request on the last page of your Petition under Letter E "Community Debts."

6b. Separate debts. Debts incurred prior to marriage. If you and your spouse did not owe money on any debts before you were married, check the first box. If you owed money on debts before you were married, check the second box. If your spouse owed money on debts before you were married, check the third box. If either you or your spouse owe money on any debts you or your spouse brought into the marriage, describe the debts, and tell the Court which debts you should pay and which debts your spouse should pay.

INFORMATION ABOUT TAX RETURNS

7. Tax Returns: Decide what you want to do about income tax returns. Check any box that applies to you.

INFORMATION ABOUT SPOUSAL MAINTENANCE (ALIMONY)

8. Spousal Maintenance is the term used to describe money paid from one spouse to the other spouse as part of a divorce or legal separation. You may know the term as alimony. Spousal maintenance is designed as a safety net for a spouse who cannot provide for his or her needs or who meets other requirements listed in the Petition under paragraph 8. Look at paragraph 8 to see if spousal maintenance applies to you or your spouse. If spousal maintenance applies, check the box that is most applicable. If none of the boxes apply, or you do not want spousal maintenance, go to paragraph 9. Check as many boxes as apply to your situation. **Spousal maintenance is paid separately from child support and is not a substitute for or a supplement to child support.**

INFORMATION ABOUT OUR CHILDREN UNDER 18 YEARS OF AGE

(9) - (12) complete all questions.

13. Pregnancy. If the wife is **NOT** pregnant at this time, check the first box and go to paragraph 13. If the wife is pregnant, check the second box. Fill out the date the baby is due and fill in any information regarding the parents of the unborn child.

14. **Written Agreements.** Check this box **ONLY** if you and your spouse have written agreements regarding legal decision-making, parenting time and child support that **both of you signed which you will file at the same time as this Petition.** File the **ORIGINAL** of the agreement(s). If you have only discussed these issues and do not have a written agreement, do **NOT** check this box.
15. Generally, the Attorney General's office may be a third party to your case if you or your spouse receives Temporary Assistance for Needy Families (TANF) or IV-D assistance. Contact your local office if you are unsure of the Attorney General's involvement.

OTHER STATEMENTS TO THE COURT. Check only one box for each statement:

Status of Marriage and Conciliation. Your marriage is irretrievably broken or you wish to live separately and apart from your spouse. Irretrievably broken means your marriage is over **AND** the conciliation requirements do not apply or have been met. This means you do not think marriage counseling through the court will help.

If you think marriage counseling through the court will help you save your marriage, you can request the court to order you and your spouse to attend a counseling screening session. Complete a PETITION FOR CONCILIATION and file it in the Clerk's office. There is no filing fee for a Petition for Conciliation. The form and instructions are available at the Self-Service Center and the Clerk's Office.

Child Legal Decision-Making Jurisdiction. If you have children who are common to you and your spouse and you are now divorcing, generally the children should have lived in the State of Arizona for at least 6 months, or Arizona must be the children's primary place of residence before you file for divorce. If this is the case, the court has the power to decide legal decision-making. If you have questions regarding this requirement or for other reasons why the court may not have jurisdiction, see a lawyer for help. Then check the box:

This Court has jurisdiction to decide legal decision-making issues.

REQUESTS TO THE COURT. This section requests that the Court grant you and your spouse a legal separation and tells the Court other requests you are making:

A. LEGAL SEPARATION. Mark the box.

B. SPOUSAL MAINTENANCE. If you or your spouse should not pay spousal maintenance, check the first box. Check the second box **only** if you want yourself or your spouse to pay spousal maintenance (alimony) to the other. Check the box if you (the Petitioner) will be paying spousal maintenance. Check the second box if your spouse (the Respondent) will be paying spousal maintenance (**You can check a box only if you checked the same box in the spousal maintenance section on page 5, paragraph 8.**) **If you request spousal maintenance, choose what you believe to be a reasonable monthly amount and tell the Court how long you think the spousal maintenance should be paid. Base the amount of any request on the receiving party's need and the income of the spouse paying the spousal maintenance. Spousal maintenance is not a substitute for, or a supplement to, court ordered child support.**

C. COMMUNITY PROPERTY. This tells the court you believe your division of the property is fair, and the Court should divide the property as requested by you in your petition.

D. COMMUNITY DEBT. This tells the court you believe your division of the debt is fair, and the court should divide the debts as requested by you in your petition. **IF YOU HAVE BEEN**

SEPARATED FROM YOUR SPOUSE FOR ENOUGH TIME THAT YOU OR YOUR SPOUSE MAY HAVE ADDITIONAL DEBTS, WRITE THE DATE OF SEPARATION ON THE LINE PROVIDED IF YOU WANT EACH SPOUSE TO PAY THE DEBTS ACQUIRED AFTER YOU SEPARATED.

- E. SEPARATE PROPERTY.** This states that you will keep the property you owned before the marriage and that your spouse will keep the property he or she owned before the marriage.
- F. CHILDREN OF THE PARTIES WHO WERE BORN PRIOR TO THE MARRIAGE.** If you and the other party have any child(ren) together who are under the age of 18 and were born prior to the marriage, mark the box and write in the name(s).
- G. LEGAL DECISION MAKING.** Check only one box.

SOLE LEGAL DECISION-MAKING AND PARENTING TIME. If you want sole legal decision-making, check the box that applies, including the parenting time for which you are asking. Tell the court whether you want legal decision-making for the child(ren) to go to you (the Petitioner) or your spouse (the Respondent).

OR

JOINT LEGAL DECISION-MAKING: If you are asking for joint legal decision-making, you must complete and file a Joint Parenting Plan signed by both parents that the court must -approve. A parenting plan is available in this packet.

H. PARENTING TIME: The Parenting Time Guidelines for Yavapai County are included in this packet for your information and to help you determine the parenting time.
Check only one box.

Reasonable parenting time. This suggests an amount of parenting time appropriate to the circumstances. The amount of parenting time can vary by agreement of both parents.

Supervised parenting time. You may request supervised parenting time if you believe the other parent cannot adequately care for the children without another person present. You may request this if the other parent abuses drugs or alcohol; is violent or abusive.

No parenting time. You may mark this option only if the other parent has seriously harmed, abused or otherwise is a serious danger to the child(ren)'s physical and emotional health, or if there is a criminal court order stating no contact between the child and the other parent.

- I. CHILD SUPPORT:** Tell the court who you think should pay child support. The income of the parties, parenting time, insurance cost and childcare cost generally determines the amount of the support according to child support guidelines. You must check the appropriate boxes.
- J. INSURANCE AND HEALTH CARE EXPENSES FOR CHILD(REN):** Check only one box. Tell the court which parent should provide insurance for the children. Generally, whichever parent has the most affordable insurance plan available through work, generally should pay for insurance. Adjustments can be made to child support to reflect the costs of insurance for the child(ren).
- K. TAX EXEMPTION:** Decide how you and your spouse will declare the tax dependency exemptions, for which children, for which years.
- L. OTHER ORDERS:** Tell the court anything else you may want ordered that has not been

covered in your Petition.

OATH AND VERIFICATION OF PETITIONER. Sign this form in front of a notary public. By doing so, you are telling the Court that everything contained in the Petition for Legal Separation is true.

NOTICE: RE CREDITORS

This document explains about what happens and what does not happen to debts you and your spouse have incurred during your marriage. **Read it carefully and be sure to serve a copy of the Notice with the other papers you will serve on your spouse.**

ORDER AND NOTICE TO ATTEND PARENT EDUCATION PROGRAM CLASS

Fill in your name as Petitioner, the other party's name as Respondent. Below "THE COURT FINDS" are three boxes. Mark the box for Legal Separation.

GO ON TO INSTRUCTIONS AND FORMS FOR

- 1. CHILD SUPPORT WORKSHEET FOR CHILD SUPPORT AMOUNT**
- 2. CHILD SUPPORT ORDER**
- 3. INCOME WITHHOLDING ORDER**

LEGAL DECISION-MAKING/PARENTING TIME PLAN.

Instructions included with form.

RESOLUTION STATEMENT

This form is not needed unless the Court requests it or the other party files a response. If this happens, follow the instructions provided with the form.

DISCLOSURE AND DISCOVERY: Parties are generally required to exchange information and documents about the case. For more complete information, see Rules 49-65 of the Arizona Rules of Family Law Procedure (ARFLP). If your case proceeds to trial, the Self-Service Center has a PRETRIAL PACKET and WITNESS & EXHIBIT PACKET available.

Self-represented persons are required to know and follow proper procedures, just like an attorney. The Arizona Rules of Family Law Procedure, which are found in the Law Library, contain the rules you are required to follow. No allowance is made for a person who does not understand or is unaware of things that must be done.

WARNING! IF YOU IGNORE A COURT ORDER, FAIL TO ADEQUATELY PREPARE FOR A SCHEDULED CONFERENCE OR HEARING, OR FAIL TO ATTEND A CONFERENCE OR HEARING, THE JUDICIAL OFFICER MAY ORDER SANCTIONS AGAINST YOU, INCLUDING HOLDING YOU IN CONTEMPT OF COURT OR REQUIRING YOU TO PAY THE OTHER PARTY'S ATTORNEY FEES.

IF YOU DO NOT HEAR FROM THE COURT WITHIN A REASONABLE AMOUNT OF TIME, CONTACT THE COURT TO SEE IF THERE IS SOMETHING ELSE YOU MUST DO.

THEN GO ON TO: WHAT TO DO AFTER I HAVE COMPLETED ALL THE FORMS