

YAVAPAI COUNTY
Self-Service Center

DECREE OF LEGAL SEPARATION OF MARRIAGE WITH CHILDREN

You can use this Decree when you have minor children with your spouse **AND**:

1. You will have a Default Hearing **OR**
2. You will have a Short Cause Hearing **OR**
3. You had a Trial and the Court told you to file a Decree **OR**
4. All requirements of Rule 45, ARFLP, have been met, and a Consent Decree is to be entered.

YOU ARE NOT LEGALLY SEPARATED UNTIL THE JUDGE/COMMISSIONER SIGNS THE DECREE. The Decree shows who gets what property, who pays which debts, who will have legal decision-making for the child(ren), who pays support, etc. Failure to follow the Decree may result in the other party requesting a Contempt Order or Order of Enforcement from the Court.

INSTRUCTIONS: COMPLETING THE DECREE OF LEGAL SEPARATION OF MARRIAGE WITH CHILDREN

The section letter or number of the instructions matches the paragraph letter or number on the Decree form.

TYPE OR WRITE IN BLACK INK ONLY

If your legal separation is being obtained by...

Complete the Decree by...

Default	Copying exactly what you wrote in the Petition
Short Cause Hearing	Inserting the agreement you and your spouse reached and both of you signing the Decree in front of a notary.
Trial.....	Writing in the decisions made by the judge at trial and then both of you signing the Decree in front of a notary.
Consent	Inserting the agreement reached with your spouse and both of you signing the Decree in front of a notary.

INSTRUCTIONS: COMPLETING THE "COURT FINDS" SECTION OF THE DECREE

- (A) Fill in the Petitioner (or attorney) information.
- (B) Fill in the Respondent (or attorney) information.
- (C) Write the Petitioner and Respondent names.
- (D) Write your case number.
- (E) Check this box if you requested paternity to be established for a child during the separation proceeding.
- (F) Check this box if you are requesting a Consent Decree.

- (1) to (8) No instructions needed.
- (9) If the statement is true, mark the box in front of it. If it is false, leave blank.
- (10) If the statement is true, mark the box in front of it. If it is false, leave blank.
- (11a)-(11b) Leave blank unless spousal maintenance was requested in the Petition and is to be awarded.
- (12a)-(12c) Mark the box in front of the statement that is true. At least **one** box must be marked.
- (12d)-(12f) Mark the box in front of the statement that is true. At least **one** box must be marked.
- (13) If the statement is true, mark the box in front of it. If it is false, leave blank.
- (14) Select any that apply.

- (15a) Mark this box if legal decision-making was agreed upon and you have filed a Parenting Plan, you and the other party did not agree about legal decision-making, or you and the other party have agreed to joint legal decision-making.
- (15b) Leave blank.
- (15c)-(15d) Mark either box.
- (15e) Leave blank.
- (15f) If you marked the 15d box, also mark this box if it applies.
- (15g) Leave blank.
- (16) Mark the appropriate box if you asked for supervised/no parenting time by the non-legal decision-making spouse in your Petition or the parties have agreed to this or the Judge ordered this at a trial.
- (17) Mark this box if you are filing this as a Consent Decree.

INSTRUCTIONS: COMPLETING THE “COURT ORDERS” SECTION OF THE DECREE

- (1) No instructions needed.
- (2) If the Court ordered temporary payment of child support, spousal maintenance (alimony), debt division, or other temporary orders, mark the box and fill in the dates of ALL of the temporary orders.
- (3a) Mark this box if neither party is to receive spousal maintenance.
- (3b) Complete all information only if either party is to pay spousal maintenance. Leave the amount and dates blank unless the Judge already ordered an amount to be paid.
- (4a) to (4f) Mark all boxes that apply.

Note: According to the IRS, “State law governs whether you are married, divorced, or legally separated. If you are divorced under a final decree by the last day of the year, you are considered unmarried for the whole year.” See a lawyer or accountant for advice if you are not sure which box to check below.

- (4g) Mark this box if you and your spouse are to file joint tax returns for last year (not this year) or any other past years.
- (4h) Mark this box if you and your spouse are to file separate tax returns for last year (not this year) or any other past years.
- (4i) Mark this box if you and your spouse are to file separate tax returns for this year and all future years.
- (4j) Mark this box if you and your spouse are to exchange financial information for tax purposes.
- (5a) Mark this box if a child common to the parties is expected to be born and fill in the expected date of birth.
- (5b1) Mark this box if there were children common to the parties who were born prior to the marriage and the judge/commissioner will make an order about paternity. Fill in the name of the person the judge/commissioner will name as the father.
- (5b2) Fill in the name(s) of the child(ren) you have with your spouse.
- (5c1) Mark this box if either the Petitioner or the Respondent is to be awarded sole legal decision-making for the minor child(ren). If joint legal decision-making is to be awarded, skip to (5c7).
- (5c2) If sole legal decision-making is to be awarded, mark who is to have it and complete sections 5c3 through 5c6.
- (5c3) Mark this box if parenting time is to occur according to a Parenting Plan.
- (5c4) Mark this box if there is no Parenting Plan and parenting time is to occur according to the Yavapai County Parenting Time Guidelines.
- (5c5) Complete this section if parenting time is to be supervised.
- (5c6) Mark the box if no parenting time is to be awarded to one or both of the parties.
- (5c7) Mark this box if Joint Legal Decision-Making is to be awarded.
- (5d) Mark who is to pay the child support to the other party. Fill in the amount of child support due either from the Parent’s Worksheet or the Judge’s order. Leave the rest of the spaces blank for the judge/commissioner to fill in.
- (5e1) Mark who will be responsible for medical and dental insurance, based on the request made in your Petition for Legal Separation or the parties’ agreement or the Judge’s order.
- (5e2) Mark what percent each party will pay for uninsured expenses.

- (5f) No instructions needed.
- (5g) No instructions needed.
- (5h) This section applies **only** if a child(ren) was born during the marriage but is not common to the marriage. Mark which party should have no legal rights to this child and provide the requested information.
- (5h1) If the wife is pregnant with a child not common to the marriage, include the expected due date of the child.
- (6) Mark the appropriate box.
- (7) No instructions needed.
- (8) Mark the box(es) showing whether you have attached exhibits for property and debts and/or legal decision-making to this Decree.
- (9) List any other orders that are not already described in the Decree.

SIGNATURES

The Petitioner must sign in front of a notary, or a Deputy Clerk at the time of filing. Leave the Respondent's signature line blank only if you are proceeding by Default. If there has been a trial, or a short cause hearing is set or this is Consent Decree, the Respondent is required to sign in front of a notary. If either party has an attorney, s/he must also sign.

INSTRUCTIONS FOR COMPLETING EXHIBITS A AND B

- File **EXHIBIT A** if there is community property or debts, or this is a Consent Decree or the Attorney General is involved in your case. The Attorney General would be involved if any party is receiving benefits under Temporary Assistance for Needy Families (TANF) or the Title IV-D program.
- File **EXHIBIT B** if you and your spouse agree on legal decision-making and parenting time.
- If you don't need EXHIBIT A or B, your Decree is complete. Go to **WHAT TO DO NEXT**

INSTRUCTIONS: COMPLETING EXHIBIT A - COMMUNITY PROPERTY AND DEBT

If your legal separation is being obtained by...

Complete Exhibit A by...

Default

Short Cause Hearing

Trial.....

Consent

Copying exactly what you wrote in the Petition

- Community Personal Property - section 5a
- Community Real Property - section 5a
- Community Debts - section 6a

Inserting the agreement you and your spouse reached and both of you signing Exhibit A in front of a notary.

Writing in the decisions made by the judge at trial and then both of you signing Exhibit A in front of a notary.

Inserting the agreement reached with your spouse and both of you signing Exhibit A in front of a notary.

- (1a) Mark this box if there is community property to be divided.
- (1b) Mark the boxes in front of the name of the types of community property you and your spouse acquired during the marriage. Describe the property then mark the box showing which party will get it or if it will be sold and the money split between the parties.
- (1c) Mark the box that describes how retirement, pension, deferred compensation or 401(k) plans are to be awarded. Write in all requested information.
- (1d) Use this section if you and your spouse have community property real estate (home, etc.). **IF YOU DO NOT PROVIDE THE LEGAL DESCRIPTION, YOU MAY HAVE TO GO BACK TO COURT AT A LATER DATE TO AMEND YOUR DECREE. THERE IS A FEE TO DO THIS.**
- (1e) You can update the amounts owed, only if the amounts are less than those amounts in the Petition or the parties agree to update the amounts. Then put which debts are to be the responsibility of which party. **REMEMBER, JUST BECAUSE THE DECREE ORDERS ONE SPOUSE TO PAY A DEBT DOES NOT MEAN THE CREDITOR CANNOT PURSUE COLLECTION FROM THE OTHER SPOUSE, EVEN AFTER THE DECREE IS SIGNED BY THE JUDGE.**

- (2a) Describe the types of separate property you and your spouse acquired during the marriage and how it is to be awarded.
- (2b) List the separate debts of each party and who is to be ordered to pay.
- (2)-(3) Check boxes only if this is a Consent Decree.

SIGNATURES

The Petitioner must sign in front of a notary, or a Deputy Clerk at the time of filing. If there has been a trial, or a short cause hearing is set or this is Consent Decree, the Respondent is required to sign in front of a notary. If either party has an attorney, s/he must also sign. If the Attorney General is involved in your case, they will need to sign or provide you with a separate signed form. The Attorney General would be involved if any party is receiving benefits under Temporary Assistance for Needy Families (TANF) or the Title IV-D program.

INSTRUCTIONS: COMPLETING EXHIBIT B - PARENTING PLAN OR JOINT LEGAL DECISION-MAKING AGREEMENT:

If your legal separation is being obtained by...

Complete Exhibit B by...

- Default
- Short Cause Hearing
- Trial.....
- Consent

- Copying exactly what you wrote in the Petition.
 - Refer to the “Legal Decision-Making Agreement” in Petition packet.
- Inserting the agreement you and your spouse reached and both of you signing it in front of a notary.
- Writing in the decisions made by the judge at trial and then both of you signing it in front of a notary.
- Inserting the agreement reached with your spouse and both of you signing it in front of a notary.

IF THIS IS A JOINT LEGAL DECISION-MAKING AGREEMENT, BOTH PARTIES MUST SIGN. If there has been a trial, or a short cause hearing is set or this is a Consent Decree, the Respondent is also required to sign in front of a notary. If either party has an attorney, s/he must also sign. If you are proceeding by Default, only the Petitioner is required to sign.

EDUCATION ORDER: COMPLETE ONE OF THE TWO INCLUDED ORDERS: Beginning January 2024, all final orders involving the legal decision-making and parenting time will require that the court also issue a separate education order. The orders are for either **joint** legal decision-making or for **sole** decision-making. The education order will serve to guide the schools regarding education-related issues. Parents are required to provide a copy of the signed order to the child(ren)’s school(s).

WHAT TO DO NEXT

- File the papers listed in the table below with the Clerk of the Superior Court.

Clerk of Superior Court
 YAVAPAI COUNTY COURTHOUSE
 120 S Cortez Street
 Prescott, AZ 86303

Clerk of Superior Court
 YAVAPAI COUNTY SUPERIOR COURT
 2840 N. Commonwealth Drive
 Camp Verde, AZ 86322

If you are obtaining your legal separation by.....

	<u>Default</u>	<u>Short Cause Hearing</u>	<u>After Trial</u>	<u>Consent</u>
Documents to file	<ul style="list-style-type: none"> * Application and Affidavit for Default * Motion and Affidavit for Default without a Hearing (if applicable) * Decree * Exhibit B <p>Optional (file only if required)</p> <ul style="list-style-type: none"> * Exhibit A * Any other documents to be incorporated into the Decree 	<ul style="list-style-type: none"> * Request for a Short Cause Hearing * Decree * Exhibit B * Parent's Worksheet * Child Support Order * Income Withholding Order <p>Optional (file only if required)</p> <ul style="list-style-type: none"> *Exhibit A *Any other documents to be incorporated into the Decree 	<ul style="list-style-type: none"> * Decree * Exhibit B * Parent's Worksheet * Parenting Plan * Child Support Order * Income Withholding Order <p>Optional (file only if required)</p> <ul style="list-style-type: none"> * Exhibit A * Any other documents to be incorporated into the Decree 	<ul style="list-style-type: none"> * Decree * Exhibit B * Parent's Worksheet * Parent Ed Certificate * Parenting Plan * Child Support Order * Income Withholding Order <p>Optional (file only if required)</p> <ul style="list-style-type: none"> * Exhibit A * Any other documents to be incorporated into the Decree

Copies: Two (2) sets of everything.

Envelopes: Two (2) envelopes with four (4) stamps each. Address one (1) to the Petitioner and the other to the Respondent.

Note: If you have already filed the final version of any of the papers listed above, and they are in your file, you do not need to file them again.

WHAT HAPPENS NEXT:

Default without a hearing.....	The judge/commissioner will review your file. If everything is in order, and the Default requirements are satisfied, s/he will sign the Decree and you and your spouse will receive a copy in the mail.
Default with a hearing.....	You will receive a notice in the mail of the date and time of the hearing.
Short Cause hearing.....	You will receive a notice in the mail of the date and time of the hearing.
After Trial.....	Follow the instructions given by the judge/commissioner.
Consent.....	See below:

Wait to hear from the court (this will take at least 30 days). You will receive copies of the Decree in the mail if the judicial officer has signed the Decree. If the judicial officer has not signed the Decree and a hearing has been set, you will be notified of the time and date of the hearing. You will also be notified if the Petition is denied without a hearing being set. IF YOU DO NOT HEAR FROM THE COURT WITHIN A REASONABLE TIME, CONTACT THE COURT TO SEE IF THERE IS SOMETHING ELSE YOU MUST DO.