

DIVORCE PACKET #1

BASIC DIVORCE



Use **Divorce Packet #1 Basic Divorce ONLY** when:

- ✂✂ You want a divorce or annulment; **AND**
- ✂✂ You and your spouse do **NOT** have children (born or adopted) who are younger than 18 years old; **AND**
- ✂✂ You do **NOT** want the Court to help you divide marital property and/or marital debts; **AND**
- ✂✂ You do **NOT** want the Court to order your spouse to pay you alimony; **AND**
- ✂✂ Either you or your spouse has resided (lived) in Delaware for at least 6 months or has been stationed in Delaware as a member of the military for at least 6 months.

Although this packet appears to discuss only what you need to do if you want a divorce, you also should use this packet if you want an annulment.

HOW TO USE THE PACKET

The beginning of this packet contains general information about the divorce process. The remainder of this packet is divided into sections that describe a different step you (Petitioner) must take to file a Divorce or Annulment Action (hereinafter referred to only in the context of divorce). If at a certain step, you must file a Court form, that section will contain instructions on how to complete the Court form and a sample of the completed form. **ONLY FILE THE FORMS IN THE FORMS PACKET.** The forms in this packet are designed only to assist you in completing the forms in the **FORMS PACKET.**

YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE. For example, you do not have to file the forms in Section 2 at the same time as the forms in Section 1. Read the information carefully to make sure you know what you are supposed to do and when.

Please look for the **shaded** written instructions and the following symbols throughout this packet. They will help guide you.



READ THIS SECTION CAREFULLY



THIS DOCUMENT MUST BE FILED



FILL IN THE BLANKS OR PROVIDE INFORMATION HERE



YOU DO NOT HAVE TO TAKE THESE STEPS IMMEDIATELY.

Furthermore, instructions and samples of "certificates" and "licenses" are not included in this packet.

When you see "(sample only)" next to the name of a form, only a sample of that form is included in the packet.

If you must file both the original form **AND** a copy of the original form, you will see next to the name of the form "*(file original and one copy)*."

Once again, review the instructions and sample forms carefully before completing each form you must file.



TIPS AND REMINDERS

- ✍️ Make sure to read any FAQ's on Divorce Actions. These will give you information you need to properly file the Divorce Action and to better understand the process.

- ✍️ Remember, just because you properly complete the forms does not necessarily mean that the Court will give you (grant) what you want. It is up to you at the Court Hearing to prove why the Court should give you (grant) what you want.

- ✍️ Representing yourself may take a lot of time, may be difficult, and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. If at any point in the divorce process you are not sure about representing yourself, you should talk to an attorney.

- ✍️ Please remember that **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE.** Should you have a question as to what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if the attorney is willing to meet with you and answer your questions without having to hire such attorney for full representation. Also ask before meeting with the attorney what fees may be involved for such limited service.

- ✍️ Bring your photo identification with you (such as your driver's license or state issued photo identification card) whenever you get a Court form notarized.

~~✂✂✂~~ THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE.

PLEASE READ AND REMEMBER THESE IMPORTANT TIPS

REMEMBER

- ~~✂✂~~ Keep a copy of every document and Court paper.
- ~~✂✂~~ Keep all notes, documents, Court papers, etc. together and organized in a folder with the most recent papers on top.
- ~~✂✂~~ Bring the folder with your papers with you every time you go to Court.
- ~~✂✂~~ When you file a document with the Court, bring an extra copy with you and ask to have the extra copy "clocked in." Keep the clocked in copy in your folder so you have proof of the time and date you filed each document.
- ~~✂✂~~ When you complete a document or form for filing with the Court, always include the full case name and docket number (if there is one).
- ~~✂✂~~ When you must mail something, we suggest you mail (on the same day) the document(s) 2 different ways: (1) U.S. mail; AND (2) "certified mail, return receipt requested" so that you have proof that the other party received the envelope. If you cannot afford to pay for "certified mail" we suggest you get a "certificate of mailing" at the post office to prove that you mailed the envelope to the other party.

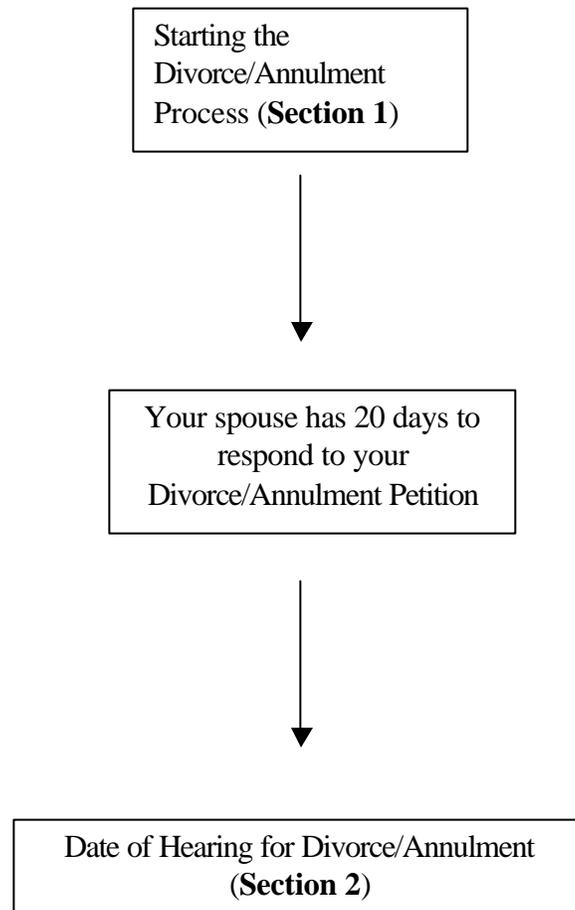


PACKET SECTIONS



REMEMBER, ONLY FILE THE FORMS IN THE FORMS PACKET. The instruction and sample forms in this section are designed only to assist you in completing the forms in the Forms Packet.

THE DIVORCE/ANNULMENT PROCESS



Section 1

STARTING THE DIVORCE

 Instructions on how to complete the Section 1 forms and samples of the Section 1 forms are at the end of this Section.

 You **MUST** file **ALL** the forms below when you file the **Petition for Divorce/Annulment**.

 ~~✍~~ **Petition for Divorce/Annulment form** (*file original and one copy*).

 ~~✍~~ **Information Statement form** (sample only).

 ~~✍~~ **Division of Public Health/Vital Statistics form** (sample only).

You can get this form at the Family Court.

 ~~✍~~ **A Certified Copy of your Marriage License** (*file original and one copy*).

If you were married in Delaware, you can get a **certified copy of your Marriage License** at the **Clerk of the Peace** of the county in which you got married. However, if you were married in Kent County, you must go to the Division of Public Health and Vital Statistics in Dover.

 ~~✍~~ **Request for Notice form**.

If you do not know your spouse's address (home, work, or otherwise,) you must ask to meet with someone in the Family Court Intake Unit. Ask the person who works in Intake for an **Affidavit that a Party's Address is Unknown form**.

 If you do not know where your spouse lives or your spouse does not live in Delaware, you must ask the Court on this form to publish **AT YOUR EXPENSE** notice that you are filing this action.

BELOW ARE OPTIONAL FORMS



ONLY file the following forms if you and your spouse have agreed on the terms of your divorce and you want the Court to be able to have the power to make you and your spouse follow your agreement (“enforce the Separation Agreement”):



 **Original Separation Agreement** (*file original and one copy*).

   The **Separation Agreement** is **NOT** a Court form and is **NOT** included in the **Divorce Packet**. You must write down how you and your spouse are dividing your marital property and/or marital debts and any other agreements (such as custody, visitation, child support, alimony etc.) that you and your spouse have regarding your divorce. On the top of the paper, write the case name, file number and petition number (if there is one). Title the paper **“Separation Agreement.”** Make sure you **AND** your spouse sign the **Separation Agreement** and that each signature is notarized. When you file this document, you **ALSO MUST** file a **Stipulation to Incorporate the Separation Agreement**. 

 **Stipulation to Incorporate the Separation Agreement form** (*file original and one copy*).

Make sure you **AND** your spouse sign the **Stipulation to Incorporate the Separation Agreement form** and that each signature is notarized. When you file this form, you **ALSO MUST** file your **Separation Agreement**.



You may file a **Separation Agreement** and the **Stipulation to Incorporate the Separation Agreement AT ANY TIME** until the day of your Property Division/Alimony Hearing. However, if you check the “Incorporate our Separation Agreement” box on the **Petition for Divorce/Annulment**, you **MUST** file the **Separation Agreement** and the **Stipulation to Incorporate the Separation Agreement WITH** your **Petition for Divorce/Annulment**.



Additional Instructions for Section 1



If your spouse IS in the military, you either must have your spouse sign a **Waiver of Rights under the Soldiers and Sailors Civil Relief Act of 1940** or you must file a **Motion to Appoint an Attorney**. You should start this process as early as possible because it takes time. The Court will not schedule your Divorce Hearing until you complete this process.



Your spouse has **20 days** from the date of service (date of delivery of the Court papers) to respond to your **Petition for Divorce/Annulment**. Your spouse may file an **Answer** to your **Petition for Divorce/Annulment** on which your spouse may admit or deny any of the statements you made in your **Petition for Divorce/Annulment**. On the **Answer**, your spouse may counterclaim for divorce or annulment and/or may request that the Court determine matters of custody, visitation, child support, division of marital property/marital debts, alimony, attorney fees and/or court costs.

 If your spouse on the **Answer** does add a **counterclaim**, you will have **20 days** from the date of service to file with the Court an **Answer** (response) to the counterclaim and mail a copy of the **Answer** to the counterclaim to your spouse.

 Instead of filing an **Answer** your spouse may file an **Affidavit of Appearance and Waiver of Rights form** on which your spouse will give up the right to file an **Answer**.

 **THE COURT CANNOT CONSIDER WHETHER OR NOT TO GRANT YOUR PETITION FOR DIVORCE AT THE HEARING IF WITHIN 30 DAYS OF THE DIVORCE HEARING, YOU AND YOUR SPOUSE OCCUPIED THE SAME BEDROOM OR HAVE HAD SEXUAL RELATIONS.** If you and your spouse have had sexual relations or occupied the same bedroom within **30 days** of your Divorce Hearing, please notify the Court as soon as possible so that the Court either can reschedule your Hearing or, if you prefer, can dismiss your **Petition for Divorce/Annulment**.

**SECTION 2 BEGINS AFTER
INSTRUCTIONS AND SAMPLES OF THE SECTION 1 FORMS.**



**TAKE A DEEP BREATH,
YOU DO NOT HAVE TO
BEGIN SECTION 2 UNTIL
THE MORNING OF YOUR
DIVORCE HEARING.**