

**CIRCUIT COURT
STATE OF TENNESSEE**

DIVORCE PACKET

NO CHILDREN - NO OR FEW PROPERTY OR ASSETS

**PACKET
TN-008-D**

(Irreconcilable differences)

This packet contains the following:

1. Instructions for completing the forms;
2. Petition for Decree of Divorce,
3. Final Decree of Divorce,
4. Separation and Property Settlement Agreement,
5. Non-Military Affidavit.

You and your spouse must agree to all terms of the divorce to use this packet.

GENERAL INSTRUCTIONS

WHO MAY USE THESE FORMS?

You may use this petition form for divorce only when all of the following facts are true;

- 1. The breakdown of the marriage must be due to irreconcilable differences between the parties.**
- 2. There were no children born to or adopted by you and your spouse, and the wife is not pregnant.**
- 3. There are property or/and assets of the marriage and the parties have agreed to all of the terms of division of those assets/property in the separation and property settlement agreement.**
- 4. You were a resident of Tennessee when the grounds for divorce arose.**
- 5. For more information, see the Tennessee Divorce Law Summary.**

DIVORCE INSTRUCTIONS

Scope of this outline :

This outline discusses divorce based upon irreconcilable differences between the parties. This is the “no-fault” divorce ground in Tennessee.

Steps to No-Fault Divorce

STEP 1: One party completes the Petition for Divorce and both parties complete the Separation and Property Settlement Agreement and attach the Agreement to the Petition as exhibit “A”. The Petition and Separation and Property Settlement Agreement are then filed with the Clerk of the Circuit court in your County. A filing fee is paid. A Civil Cover may be required and should be available from the clerk. If your county does not have a divorce proctor, the Non-Military Affidavit may also be required to be filed with the clerk.

STEP 2: After the above steps are completed, contact the clerk for a time to present the Decree to the Court. No divorce may be heard until sixty (60) days have elapsed from the filing of the petition for divorce if the parties have no minor children and ninety (90) days if there are minor children. Ask the clerk what procedures the Judge uses in your county for this and follow this procedure.

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.

If a Certificate of Mailing is on any form, a copy of the form should be mailed to the person indicated.

This package is a guide and you should complete all forms based upon your situation, making any necessary revisions.

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

_____,)
Petitioner) Docket No. _____
)
vs.) **PETITION FOR DIVORCE**
)
_____,)
Respondent)

COMES, _____, Petitioner, and files this Petition for Divorce against Respondent, _____ and would state in support thereof the following:

1. This Court has jurisdiction of the parties and subject matter pursuant to Tennessee Code Annotated, Volume 6A, Title 36, Section 4-101 et seq.

2. Petitioner and/or Respondent is/are actual and bona fide resident(s) of _____ County, State of Tennessee, and was/were for _____ months/years immediately prior to the commencement of this action.

3. The Parties were lawfully married on _____ day of _____, 20____ in _____ County, _____ and said marriage is registered in _____ County, _____, _____.

4. There were no children born to or adopted by the Parties. Wife is not now pregnant.

5. Petitioner and Respondent separated on _____ day of _____, 20____, and from that date up to the present, Petitioner and Respondent have lived separate and apart without any cohabitation.

6. The vital statistics of the Parties are as follows:

Petitioner: _____ Respondent: _____

Address: _____ Address: _____

Social Security Number: _____ Social Security Number: _____

Date and place of birth: _____ Date and place of birth: _____

Race: _____ Race: _____

Number of previous marriages: _____ Number of previous marriages: _____

8. The Petitioner and Respondent have no property, either real or personal, that they are asking the court to divide or distribute. The Parties have executed a Separation and Property Settlement Agreement disposing of all jointly owned property and settling all jointly owed debts and rights and liabilities of the parties, a copy of which is attached hereto as Exhibit "A".

9. The parties would show that they are entitled to a Decree of Divorce on the grounds of irreconcilable differences between the parties, pursuant to Tennessee Code Annotated, Volume 6A, Title 36, Section 4-101.

10. Party _____ (DOES/DOES NOT) request restoration of my former name, _____. This request is not made for any illegal or fraudulent reason.

11. The Petitioner further states the following:

() I do not know of any other cases in the State of Tennessee or any state or territory involving the same claim or subject matter as this case.

OR

() I know of the following related cases concerning the same claim or subject matter as this case

WHEREFORE, Petitioner, _____ requests against Respondent, the following relief:

- (a) A Decree of Divorce dissolving the bonds of matrimony between the parties based upon irreconcilable differences between the parties, the same to become final upon entry;
- (b) That the Separation and Property Settlement Agreement disposing of all jointly owned property and settling all jointly owed debts and rights and liabilities of the parties, a copy of which is attached hereto as Exhibit "A", be incorporated into the final judgment of divorce;
- (c) For judgment and relief as set forth in this Petition;
- (d) For such other relief and judgment as is just and equitable in the premises.

Respectfully submitted,

Signature of Petitioner

Print Name: _____

STATE OF TENNESSEE

COUNTY OF _____

COMES NOW, Petitioner, _____, and being first duly sworn, deposes and states that he/she is the Petitioner in the above-entitled action, that he/she has read the foregoing Verified Petition and voluntarily executed the same, and that he/she knows the contents thereof to be true, except as to those items stated on information, and believes those items to be true.

Name of Petitioner

Signature of Petitioner

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____ by _____, Petitioner.

NOTARY PUBLIC

Residing At: _____

My Commission Expires: _____

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

_____,)
Petitioner) Docket No. _____
)
vs.) **FINAL DECREE OF DIVORCE**
)
_____,)
Respondent)

This matter was heard on the _____ day of _____, 20____, upon the pleadings and Affidavit of the Petitioner and Respondent filed herein. Upon such, the court makes the following:

FINDINGS OF FACT

1. Petitioner and/or Respondent has/have been actual bona fide resident(s) of _____ County, State of Tennessee for _____ years/months next preceding the filing of the petition herein.
2. The Petitioner and Respondent were lawfully married to each other on _____ day of _____, 20__ in _____, _____.
3. The Petitioner's Social Security Number is _____, and the Respondent's Social Security Number is _____.
4. There were no children born to or adopted by the Parties and the wife is not now pregnant.
5. Since _____, 20____, the date of separation, the parties have lived continuously separate and apart from each other without cohabitation.

6. There are no property rights to be adjudicated between the Parties. The parties have agreed to all property and debt issues in the Separation and Property Settlement Agreement of the Parties attached hereto as Exhibit "A".

7. There is no reasonable prospect of reconciliation of this marriage.

8. Party _____, requests restoration of his/her former name _____ be restored unto her. This request is not made for any illegal or fraudulent reason.

9. The Court finds that it has jurisdiction of the parties and the subject matter of the Petition.

10. In the event either party fails to perform his or her obligations under the Decree of Divorce, such person shall be required to pay all costs and attorney fees of the other party incurred in enforcing the terms of the Decree of Divorce.

11. Each party is ordered to execute and deliver to the other party without cost any documents necessary to implement the provisions of this Decree of Divorce.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the court concludes as a matter of law that the Petitioner is entitled to a Decree of Divorce from the Respondent on the ground of irreconcilable differences between the parties.

JUDGMENT

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

a) That the bonds of matrimony existing between _____ and _____, are hereby dissolved and _____ and _____ be and hereby are awarded a Decree of Divorce from each other on the grounds of irreconcilable differences

between the parties, final upon entry of this decree and the parties shall from date forward are declared to be single persons;

b) That the Separation and Property Settlement Agreement entered into by and between the parties and attached hereto as Exhibit "A" is incorporated herein by reference and shall have the same force as if stated herein in full;

c) That _____ is hereby restored her maiden name of _____.

SO ORDERED, this the _____ day of _____, 20____.

BY THE COURT:

CIRCUIT COURT JUDGE

MAILING CERTIFICATE

I certify I mailed, postage prepaid, by first class mail, a true and correct copy of the foregoing DECREE OF DIVORCE to the following, this _____ day of _____, 20__:

_____,
Respondent

Address

Petitioner

SEPARATION AND PROPERTY SETTLEMENT AGREEMENT

WHEREAS, _____, hereinafter referred to as "Petitioner", and _____, hereinafter referred to as "Respondent", are now married; and

WHEREAS, the parties are separated and now living separate and apart and desire to make a mutually acceptable settlement of their rights, liabilities, obligations and property rights arising out of and during the course of their marital relationship. No reconciliation is contemplated; and

WHEREAS, Petitioner and/or Respondent has/have been actual bona fide resident(s) of _____ County, State of Tennessee, and was/were for _____ years/months immediately prior to the commencement of this action; and

WHEREAS, the Parties were lawfully married on _____ day of _____, 20__ in _____ County, _____;

WHEREAS, there were no children born to or adopted by the Parties. Wife is not now pregnant; and

WHEREAS, Petitioner and Respondent separated on _____ day of _____, 20__, and from said date up to the present, Petitioner and Respondent have lived separate and apart without any cohabitation. The parties are entitled to a Decree of Divorce on the grounds of irreconcilable differences between the parties, pursuant to Tennessee Code Annotated, Volume 6A, Title 36, Section 4-101; and

WHEREAS, Respondent hereby waives his right to file an Answer in this matter, or withdraws any Answer he may have filed, agrees that his default may be entered and agrees that the Court may award Petitioner an uncontested Decree of Divorce and Judgment in this matter consistent with the terms of this Agreement and without further notice to Respondent; and

WHEREAS, The parties hereto agree that the provisions of this Separation and Property

Settlement Agreement shall be incorporated into any judgment or Decree of Divorce, and that this Agreement shall survive, and shall not be merged into any judgment, decree or order, which may be issued.

NOW THEREFORE, FOR AND IN CONSIDERATION OF the mutual benefits and advantages accruing to each party, the undersigned do hereby solemnly covenant, agree and contract as follows:

1. CHILD CUSTODY: No children were both to this marriage, wife is not now pregnant and no children were adopted by the parties.

2. PROPERTY SETTLEMENT: Husband and Wife are in possession of all personal property belonging to each, and neither makes any claim to any personal property in the possession of the other, except as stated below.

Wife shall be entitled to the exclusive use, possession and title to the following assets:

- (a)
- (b)

Husband shall be entitled to exclusive use, possession and title to the following assets:

- (a)
- (b)

The Parties agree to the following additional provisions relating to property settlement:

3. DEBTS: Wife shall be responsible for her individual debts and Husband shall be responsible for his individual debts. The Parties further agree that the joint debts of the parties shall be paid as follows:

(a) Debt to _____ in the approximate amount of \$_____ shall be paid by _____ and _____ shall convey her/his interest same to _____.

(b) Debt to _____ in the approximate amount of \$_____ shall be paid by _____.

4. ALIMONY: Neither Party claims entitlement to alimony as they are not entitled to same and both Parties expressly waive any claim to alimony.

5. LEGAL REPRESENTATION DISCLOSURE: Each party agrees that neither party has been represented by an attorney in this matter and that both parties have had an opportunity to consult, with any attorney of his/her choice.

6. FURTHER DOCUMENTS: Each party agrees that he or she will sign and execute any further or additional documents as may be necessary to put into effect the intended purposes hereof.

7. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties and each party acknowledges that there are no further agreements not expressly included herein and that this Agreement may be modified, altered, or amended only in writing, duly signed and notarized by each in the form of this original.

8. FULLY READ AND UNDERSTAND: Each party represents and acknowledges that he or she has fully read this Agreement, consulted with each other, carefully considered same, and have signed and executed same after such consultation, and after consulting with their respective attorneys, that the signing of this Agreement is free and voluntary without force or collusion by

either party or any third party, and that each party signed same with the full knowledge of said party's rights, obligations, and responsibilities.

9. MODIFICATION: This Agreement shall estop and preclude either party from making other or further demands and claims upon the other, not included herein, except that such legal action may be taken by either party as is necessary to enforce or modify the terms and provisions hereof, except that the Property Settlement provision shall not be subject to modification.

10. SUBSEQUENT DIVORCE: It is agreed and understood that this Agreement finally settles all rights of the parties and the property jointly or individually owned by the parties, and that this Agreement, and the enforceability thereof, is not contingent upon either party or both parties being granted a divorce on any grounds. However, if either or both parties are granted a divorce on any grounds, the parties agree that this Agreement shall be made a part thereof and that such decree or judgment shall not conflict with the terms hereof.

11. CONTROLLING LAW: This Agreement shall be governed, enforced and interpreted according to the laws of the State of Tennessee.

12. EFFECTIVE DATE: This Agreement shall not be enforceable until duly executed by both Petitioner and Respondent.

13. HEIRS AND ASSIGNS: This Agreement shall be binding upon the heirs, administrators, estate and assigns of the parties.

IN WITNESS WHEREOF, Petitioner has executed this Agreement on the ____ day of _____, 20____, and Respondent has executed this Agreement on the ____ day of _____, 20____.

Signature of Petitioner
Print Name: _____

Signature of Respondent
Print Name: _____

STATE OF TENNESSEE

COUNTY OF _____

Personally appeared before me, _____ (name of the natural person executing the instrument), with whom I am personally acquainted, and who acknowledged that such person executed the within instrument for the purposes therein contained.

Witness my hand, at office, this _____ day of _____, 20 _____.

Notary Public: _____

Print Name: _____

My commission expires:

STATE OF TENNESSEE

COUNTY OF _____

Personally appeared before me, _____ (name of the natural person executing the instrument), with whom I am personally acquainted, and who acknowledged that such person executed the within instrument for the purposes therein contained.

Witness my hand, at office, this _____ day of _____, 20 _____.

Notary Public: _____

Print Name: _____

My commission expires:

IN THE _____ COURT OF _____ COUNTY, TENNESSEE

_____,)
Petitioner) Docket No. _____
)
vs.) NON-MILITARY AFFIDAVIT
)
_____,)
Respondent)

I, {full legal name}, being sworn, certify that the following information is true:

[Mark all that apply]

- 1. I know of my own personal knowledge that Respondent is not on active duty in the armed services of the United States.
- 2. I have inquired of the armed services of the United States and the U.S. Public Health Service to determine whether the Respondent is a member of the armed services and am attaching certificates stating that Respondent is not now in the armed services.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

DATED: _____

Signature of Petitioner
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____

STATE OF TENNESSEE

COUNTY OF

Sworn to or affirmed and signed before me on _____ day of _____, 20____ by
_____.

NOTARY PUBLIC

My Commission Expires: _____

TENNESSEE DIVORCE LAW SUMMARY

Notes: This summary is not intended to be an all-inclusive summary of the laws of divorce in the State of Tennessee, but does contain basic and other procedures.

Grounds

Tennessee law permits no-fault divorces based irreconcilable differences between the parties. Additional grounds include; impotency, bigamy, adultery, desertion, conviction of a felony and sentence of imprisonment, conviction of an infamous crime, attempt on the life of the other, pregnancy of the wife without the husband's knowledge by one other than the husband, physical cruelty, addiction to drugs or alcohol, cruel and inhuman treatment and abandonment. **TCA 36-4-101**

Residency requirements

Tennessee law requires that the acts complained of must have been committed while the plaintiff was a resident of the state. If the acts complained of were committed outside of Tennessee and the plaintiff resided outside of the state at the time, either of the parties must have resided in Tennessee for six (6) months prior to the filing of the petition. **TCA 36-4-104**

Venue

The petition for divorce may be filed in the county where the parties last shared a residence, where the defendant resides if a resident of Tennessee, or where the plaintiff resides if the defendant is a non-resident. **TCA 36-4-105**

Name of court and title of action/parties

An action for divorce filed in the State of Tennessee is filed in the *Circuit* or *Chancery Court*. The title of the action initiating the divorce is the *Petition for Divorce*, while the title of the action granting the divorce is referred to as the *Final Decree of Divorce*. The party filing the action for divorce is called the *Petitioner*, while the other party is referred to as the *Respondent*. **TCA 36-4-105**

Legal separation

Tennessee law permits a judgment of separation. **TCA 36-4-102**

Waiting period

Divorces filed upon the grounds of irreconcilable differences require that there be a sixty (60) day waiting period between the time of the filing of the petition and the hearing of the divorce if the parties have no minor children. If the parties have minor children, the Tennessee law requires a ninety (90) day waiting period between the filing of the petition and the hearing of the action. **TCA 36-4-103**

Alimony

The courts may award alimony to either spouse. Alimony may be periodic, lump sum, or rehabilitative. Some of the factors the court considers in determining the amount and term of alimony include:

1. The value of any separate property and the value of each party's marital property.

2. Whether the spouse seeking alimony is the custodian of a child whose circumstances are such that the spouse not seek employment.
3. The need of the spouse seeking alimony to seek additional training or education to find appropriate employment.
4. The standard of living established during the marriage.
5. The duration of the marriage.
6. The needs and obligations of each spouse.
7. The comparative financial resources of each spouse, and
8. Any factor the court deems equitable and just. **TCA 36-6-100**

Distribution of property

Tennessee is an equitable distribution state. This means that the court will divide the marital property between the parties as it deems equitable and just, after setting aside to each spouse the separate property of each. Some of the factors the court considers in dividing the property between the parties include:

1. The duration of the marriage.
2. The age, physical and mental health, vocational skills, employability, earning capacity, estate, financial liabilities and financial needs of the spouses.
3. The tangible and intangible contributions of each spouse to the education, training, or increased earning power of the other.
4. The relative ability of each party for future acquisitions of capital assets and income.
5. The contributions of each party to the acquisition, preservation, appreciation, depreciation or dissipation of the marital or separate property.
6. The value of each party's separate property.
7. Any other factors necessary to achieve an equitable distribution.

TCA 36-4-121

Child custody

Tennessee courts will decide the issue of custody based upon the best interests of the child. In determining the best interests of the child, the court must consider the child's reasonable preference for custody. Joint custody is presumed to be in the child's best interests. There is no presumption that either spouse is more suited than the other for custody of the child.

The court shall consider all relevant factors including the following where applicable:

1. The love, affection and emotional ties existing between the parents and child.
2. The ability of the parents to provide the child with food, clothing, medical care, education and other necessary care and the degree to which a parent has been the primary caregiver, and
3. The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment. **TCA 36-6-106**

Child support

In a proceeding for dissolution of marriage or legal separation, the court may order either or both parties to pay a reasonable amount necessary for the support of a child of the marriage.

The Tennessee legislature has established child support guidelines which establish the presumptive correct amount of child support. Deviation from the guidelines require a specific finding by the court that application of the guidelines would be unjust or inappropriate and such findings must be included in the judgment. **TCA 36-5-101**

Rights of non-custodial parent

The non-custodial parent is entitled to various rights under Tennessee law, including, but not limited to:

1. Unimpeded telephone conversations with the child at least twice a week at reasonable times and for reasonable durations.
2. To send mail to the child which the other parent shall not open or censor.
3. To receive notice and relevant information as soon as practicable but within twenty-four (24) hours of any event of hospitalization, major illness or death of the child.
4. To receive directly from the child's school copies of the child's report cards, attendance records, names of teachers, class schedules, standardized test scores and any other records customarily made available to parents.
5. To receive copies of the child's medical, health or other treatment records directly from the physician or health care provider who provided such treatment or health care, and,
6. To be free of unwarranted derogatory remarks made about such parent or such parent's family by the other parent to or in the presence of the child. **TCA 36-6-110**

OTHER

If the court determines that it would be in the best interests of the child, grandparents may be granted visitation rights. **TCA 36-6-306**