

PACKET # 1

BASIC DIVORCE

FORMS

DIVORCE PACKET #1

BASIC DIVORCE FORMS



This packet contains the blank Court forms that you must complete for filing.



ONLY FILE THE FORMS IN THIS FORMS PACKET.
DO NOT file the forms in the Instructions Packet.



The forms in this packet are in the same order as the instructions and sample forms in the Instructions Packet:

Petition for Divorce/Annulment form

Information Statement form

Request for Notice form

Stipulation to Incorporate the Separation Agreement form

Affidavit of Non-Military Service form



The Family Court of the State of Delaware

In and For ☐ New Castle ☐ Kent ☐ Sussex County

In re the Marriage of:

Petitioner

v. Respondent

Court Use Only:

Name		
Street Address		
Apt. or P.O. Box Number		
City	State	Zip Code
Social Security Number		Date of Birth
Attorney Name and Phone Number		

Name		
Street Address		
Apt. or P.O. Box Number		
City	State	Zip Code
Social Security Number		Date of Birth
Attorney Name and Phone Number		

File Number
Petition Number

PETITION FOR DIVORCE/ANNULMENT

I. GENERAL INFORMATION

1. Date of marriage: _____ Place of marriage: _____
City: _____ County: _____ State: _____

2. Date of separation: _____

3. Your occupation/job title: _____

4. Your spouse's occupation/job title: _____

5. How long you have lived in Delaware: _____

6. How long your spouse has lived in Delaware: _____

7. At what address is your spouse most likely to receive mail? (*Check ONE*)

☐ My spouse's home address as described above.

☐ My spouse receives mail at the following address that is different from the address described above: _____
Street Address

Apt. or P.O. Box Number City State Zip Code

☐ My spouse lives out-of-state or after a reasonable search, I do not know where my spouse receives mail. It is unlikely that my spouse can be personally served. My spouse should be served by mail and/or publication of notice **AT MY EXPENSE**, as provided by 13 Del. C. § 1508.

☐ My spouse is a foreign citizen and/or has resided in a foreign country within 2 years before filing this Petition. The Embassy address of the country in which my spouse is a citizen or has resided is : _____
Name of Embassy

Street Address Suite Number (if any)

City State Zip Code

8. Check and complete **ALL** that apply for the following:

- ☐ Wife **IS** currently pregnant
- ☐ Wife is **NOT** currently pregnant.
- ☐ We have children of the marriage (born or adopted) who either are younger than 18 years old or are 18 years old and still in high school. *(If you check this box, list the children below. Attach additional sheets if necessary.)*

NAME OF CHILD(REN) (First, Middle, Last)	DATE OF BIRTH (Month, Day, Year)	ADDRESS OF CHILD(REN) (Street Address, City, State, Zip Code)

9. Check **ONE** and complete as directed.

- ☐ I have not brought an action for divorce or annulment in any court against this spouse **AND** to the best of my knowledge, information and belief, my spouse has not brought an action for divorce or annulment against me in any court.
- ☐ Either my spouse or I have filed for divorce or annulment against the other before the date of filing this Petition. *If you check this box, complete the below. Attach additional sheets if necessary.*

TYPE OF ACTION (divorce or annulment)	PERSON who filed the action	STATE the action was filed	COUNTY the action was filed	COURT the action was filed	DATE the action was filed	RESULT of the action

II. ☐ DIVORCE (Check here if you want a divorce)

(And complete this section.)

1. ALL of the following must be true before the Family Court will consider your Petition for Divorce. **Check BOTH statements below to acknowledge that they are true:**

- ☐ *MY MARRIAGE IS IRRETRIEVABLY BROKEN. (Our relationship as husband and wife is destroyed.)*
- ☐ *RECONCILIATION (GETTING BACK TOGETHER) WITH MY SPOUSE IS NOT PROBABLE.*

2. I want a divorce and we have separated because of: (Check **ALL** that apply) (At the Court Hearing, you must prove each reason you check.)

- ☐ Incompatibility between the parties *(Because we cannot get along as husband and wife, our marital relationship is destroyed and we separated.)*
- ☐ Misconduct of my spouse *(physical abuse, psychological abuse, infidelity, abandonment, etc.)*
- ☐ My spouse's mental illness *(You must provide proof of mental illness)*
- ☐ Voluntary separation *(Both my spouse and I have agreed to separate and to end the marriage.)*

III. ☐ ANNULMENT (Check here if you want an annulment)

(And complete this section.)

You only may ask for an annulment if at least one of the below statements is true. At the Court Hearing, you must prove each reason you check. (Asking for an annulment is like asking the Court to declare that your marriage never happened.) If none of the below applies, you should meet with an attorney before asking the Court for an annulment.

I want an annulment because of the following reasons: (Check **ALL** that apply)

It has been less than 91 days since I learned that:

- ☐ My spouse did not have the legal capacity to agree to the marriage (the ability to understand at the time of the wedding that we were getting married and the legal effect of the wedding) because of mental incapacity, alcohol, drugs or other incapacitating substances.
- ☐ I got married to my spouse as a result of a fraudulent act or misrepresentation by my spouse **AND** such fraudulent act or misrepresentation goes to the essence of the marriage. (For example, my spouse promised me that he/she was single and after we got married, I learned my spouse never got divorced from his/her previous spouse. It has been less than 91 days since I learned of this misrepresentation.)

- ☐ I got married to my spouse because my spouse or another person exercised duress over me **OR** another person exercised duress over my spouse. (For example, I was forced to get married to my spouse because my life was threatened if I did not marry my spouse.)
- ☐ We got married because of a jest or a dare.

AND/OR

It has been exactly one year (365 days) or less since:

- ☐ I learned that the marriage could not be consummated because of the physical inability to have sexual intercourse and at the time we got married I did not know of the physical inability.
- ☐ We have gotten married and/or my spouse was underage and we did not have the consent of his/her parents or guardian or of the Court to enter into the marriage.

III. RELIEF REQUESTED (What you want the Court to do)

**(YOU MUST COMPLETE THIS SECTION
WHETHER YOU WANT A DIVORCE OR AN ANNULMENT)**

1. I ask that the Family Court:
- A. Issue Summons directed to my spouse requiring my spouse to answer the Petition for Divorce/Annulment.
 - B. Enter an Order (Decree) for Divorce/Annulment, thereby divorcing Petitioner (me) and Respondent (my spouse) from the bonds of matrimony or annulling the marriage.

2. I also ask that the Family Court decide all the matters checked below. (*Check what you want the Family Court to decide or to order. Some of the matters require an additional filing fee. At the Court Hearing, you must prove each reason that you check. If you do **NOT** want the Court to decide any of the below matters, do **NOT** check any of the boxes.*)

- | | |
|--|--|
| <input type="checkbox"/> Property Division
(divide our marital property and/or debts) | <input type="checkbox"/> Custody
(custody of children) |
| <input type="checkbox"/> Visitation
(visitation of children) | <input type="checkbox"/> Child Support
(have my spouse pay me for the support of our children) |
| <input type="checkbox"/> Temporary Alimony
(have my spouse pay me alimony until the divorce is final) | <input type="checkbox"/> Court Costs
(have my spouse pay me for my court costs for this action) |

- ☐ Permanent Alimony
(have my spouse pay me alimony after
the divorce is final)
- ☐ Counsel fees
(have my spouse pay me for my attorney
fees for this action)
- ☐ Change my name to _____
(must be maiden or former name – only wife may make this request)
- ☐ Incorporate our Separation Agreement
(enforce your Separation Agreement)
(If you want the Family Court to enforce your Separation Agreement, you **MUST** attach the
original Separation Agreement signed by both parties and notarized **AND** the original
Stipulation to Incorporate the Separation Agreement that also is signed by both parties and
notarized).

Sign here _____
Petitioner (person filing this Petition) or Petitioner's Attorney

**The verification section below is to be completed by and signed in the presence of a Notary
Public or Clerk of Court.**

VERIFICATION

STATE OF DELAWARE)
) SS.
_____ COUNTY)

BE IT REMEMBERED, that on this date _____, personally appeared
before me, a Notary Public for the State and County aforesaid, _____
who, being duly sworn by me did depose and say that he/she is the PETITIONER in the above
captioned action and that all of the facts set forth in the Petition for Divorce/Annulment are true
and correct to the best of his/her knowledge and belief.

Petitioner (person filing the Petition for Divorce/Annulment)

SWORN TO AND SUBSCRIBED before me on aforesaid date,

Notary Public or Clerk of Court

The Family Court of the State of Delaware

INFORMATION SHEET - PLEASE PRINT

Date: _____ File No. : _____

Please fill in A to K pertaining to you the Applicant (Petitioner).

A. Name: _____

B. Address: _____

C. Phone: Home: _____ Work: _____

D. Employer & Work Address: _____

Hours/Shift: _____

E. Social Security No.: _____ F. Date of Birth. _____

G. Description: Sex: _____ Race: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____

Marks/Scars/Tattoos: _____

H. Type of Vehicle operated by you : _____

I. License No: _____ J. Your relationship to the Defendant/Respondent: _____

K. Attorney: _____

Please fill in L to V pertaining to the Defendant/Respondent..

L. Defendant/Respondent is a: (Check One) **ADULT** **JUVENILE**

M. Name: _____

N. Address: _____

O. Phone: Home: _____ Work: _____

P. Employer and Work Address: _____

Hours/Shift: _____

Q. Social Security No.: _____ R. Date of Birth: _____

S. Description: Sex: _____ Race: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____

Marks/Scars/Tattoos: _____

T. Drivers License No.: _____ U. Type of vehicle operated by Defendant/Respondent _____

V. Parents Name (if a juvenile): _____

If you are filing for Custody, Visitation or Support please fill out the information on the other side in reference to the child(ren) that are involved.

Children (Custody/Visitation/Support)

Name	Relationship	Birthdate
		/ /
		/ /
		/ /
		/ /
		/ /
		/ /
		/ /

DIRECTIONS TO RESPONDENT'S RESIDENCE

Please fill in AA to JJ pertaining to any additional Respondents. (For more respondents use additional sheets)

AA. Defendant/Respondent is a: (Check One) ☐ ADULT ☐ JUVENILE

BB. Name: _____

CC. Address: _____

DD. Phone: Home: _____ Work: _____

EE. Employer and Work Address: _____

Hours/Shift _____

FF. Social Security No.: _____ GG. Date of Birth: _____

HH. Description: Sex: _____ Race: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____

Marks/Scars/Tattoos: _____

II. Drivers License No.: _____ T. Type of vehicle operated by Defendant/Respondent. _____

JJ. Parents Name (if a juvenile): _____

The Family Court of the State of Delaware

In and For ☐ New Castle ☐ Kent ☐ Sussex County

In re the Marriage of:

Petitioner

v. Respondent

Court Use Only:

Name		
Street Address		
Apt. or P.O. Box Number		
City	State	Zip Code
Social Security Number		Date of Birth
Attorney Name and Phone Number		

Name		
Street Address		
Apt. or P.O. Box Number		
City	State	Zip Code
Social Security Number		Date of Birth
Attorney Name and Phone Number		

File Number
Petition Number

REQUEST FOR NOTICE

Did your spouse notify you that he/she will pick up a copy of the Petition for Divorce/Annulment at the Family Court?

If NO, complete Section A and the bottom of the page.

If YES, complete Section B and the bottom of the page

TO: Clerk of Court – Divorce

A. PLEASE ISSUE SUMMONS. (Check **ONE**)

☐ Service of a copy of the Summons and Petition shall be effected upon Respondent (my spouse) by delivering copies thereof to Respondent (my spouse) personally.

☐ My spouse does not live in Delaware **OR** after a reasonable search, I do not know where my spouse lives or receives mail. It is unlikely that my spouse can be personally served. Therefore, please send a copy of the Summons and Petition by certified or registered mail **AT MY EXPENSE** to Respondent (my spouse) at the address specified in the Petition and publish notice as provided in 13 Del. C. §1508 in the following newspaper in the County where I am filing this action:

Name of Newspaper:

Address of Newspaper:

Contact Name:

Phone No.:

Fax No.:

B. PLEASE WITHHOLD ISSUANCE OF SUMMONS. (Check below)

☐ Respondent (my spouse) has notified me that he/she or his/her attorney will appear in your office at the Family Court to receive a copy of the Petition and will sign an Appearance document. Should Respondent (my spouse) or Respondent's attorney fail to so appear, you will receive further direction.

Date: _____

Petitioner (person filing the Petition) or Petitioner's Attorney

The Family Court of the State of Delaware

In and For ☐ New Castle ☐ Kent ☐ Sussex County

_____)	
Petitioner,)	
)	File No.: _____
v.)	
)	Petition No.: _____
_____)	
Respondent.)	

STIPULATION TO INCORPORATE THE SEPARATION AGREEMENT

IT IS HEREBY STIPULATED and agreed by and between the Parties that the attached Separation Agreement, signed by both Parties on this date, _____, be incorporated into the Final Decree of Divorce.

Petitioner

Respondent

Date: _____

Date: _____

Sworn to and subscribed before
me this date, _____.

Sworn to and subscribed before
me this date, _____.

Notary Public

Notary Public

IT IS SO ORDERED this date, _____.

Judge



The Family Court of the State of Delaware

In and For ☐ New Castle ☐ Kent ☐ Sussex County

In re the Marriage of:

Petitioner

v. Respondent

Name		
Street Address		
Apt. or P.O. Box Number		
City	State	Zip Code
Social Security Number		Date of Birth
Attorney Name and Phone Number		

Name		
Street Address		
Apt. or P.O. Box Number		
City	State	Zip Code
Social Security Number		Date of Birth
Attorney Name and Phone Number		

File Number
Petition Number

**The section below is to be completed by and signed in the presence of a
Notary Public/Clerk of Court on the day of your Divorce Hearing.**

AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF DELAWARE)
)
) ss.
_____ COUNTY)

BE IT REMEMBERED, that on this date _____, personally
appeared before me, a Notary Public for the State of Delaware in the County declared above,
_____, ("Affiant"), who, being duly sworn by me according to law, did
depose and say:

1. That Affiant is the Petitioner in the Petition for Divorce;
2. That Respondent is not in the military service of the United States of America; and
3. That Affiant has made this Affidavit pursuant to the provisions of § 200 of the Act of Congress entitled "Soldiers and Sailors Civil Relief Act of 1940" (50 U.S.C.A. App. 520) approved October 17, 1940.

Petitioner

SWORN TO AND SUBSCRIBED before me this date, _____.

Notary Public or Clerk of Court