

INSTRUCTIONS: HOW TO FILL OUT YOUR LEGAL SEPARATION WITHOUT MINOR CHILDREN - DECREE

Use these instructions only with the ***“Decree of Legal Separation – Without Minor Children.”*** If you have minor children by birth or adoption, common to you and your spouse, use the form for a ***“Decree of Legal Separation – With Minor Children.”***

What the Decree Means to You. The Decree is the Court Order that legally separates you and your spouse. You are not divorced and cannot marry someone else until you have a ***“Decree of Dissolution of Marriage.”*** The Decree, once the judge or commissioner has signed it, is important because it determines the rights and responsibilities of both you and your spouse. If either party does not do what the Decree tells him/her to do, then the other party may ask the court for help. **This is a very important document.** Once it has been signed by the judge, your rights and responsibilities are affected forever.

Failure to do what the Decree tells you to do could get you into trouble with the court. This does not mean that the court will police whether you are following the Decree. It does mean you or your spouse can request a **“Contempt Order”** or an **“Order to Enforce”** parts of the Decree if you or your spouse fail to do what the Decree tells you to do.

Getting a Legal Separation Decree. Before you and your spouse become legally separated, a judge or commissioner must sign what we call the ***“Decree of Legal Separation.”*** The Decree tells you who gets the property, who pays the debts, who pays support, and so forth.

Legal Separation by Default. If you have a Default Hearing, you must repeat as closely as possible what you requested in your ***“Petition for Legal Separation.”*** You cannot mark something different in the Decree than what you requested in the Petition. If you try to do this, the judge or commissioner will not sign the Decree. If you want to change your requests to the court, you must file an **“Amended Petition.”** It is a good idea to have your Petition handy when you follow the instructions to fill out your Decree.

The Decree. Fill out the Decree **before** you go to your hearing or **before** you give it to the judge to sign. Do **not** fill in the judge's signature and date. If the judge disagrees with anything you have written, he/she will change it before signing the Decree or he/she may ask the parties to come to a hearing.

Instructions For Filling Out The Decree

The following instructions will help you fill out each section of the Decree.) **TYPE OR WRITE IN BLACK INK ONLY.**

- A.** In the top left corner of the first page, fill out the following: your name (if you are the person filling out the petition and filing the petition with the court); your address (if not protected); your city, state and zip code; your telephone number; and your ATLAS number, if you are receiving or have received AFDC from the Arizona Department of Economic Security. If you are represented by an attorney write in the lawyer's state bar number, then indicate whether you represent yourself or if you are the lawyer whether you represent Petitioner or Respondent.
- B.** Fill in the names of the Petitioner and Respondent as they appear in the ***“Petition for Legal Separation Without Minor Children”*** and other previously filed court paperwork.
- C.** Fill in your case number. It appears on all your papers previously filed with the court.

D. THE COURT FINDS:

- 1-4d.** This section tells you that before the judge or commissioner signs the Decree, the judge or commissioner will have determined that the court has the legal power to make the orders in your case. It also confirms that you or your spouse live in Arizona, and that the parties are unable to get back together and save their marriage. The judge or commissioner must also determine that both you and your spouse want a legal separation. (If one of you does not want a legal separation, the judge or commissioner can dismiss your case or turn it in to a divorce case.) Also, this shows that the court only has jurisdiction to order a party to make payments if that party has been personally served.
- 4e. Community Property and Debt.** Mark the first box **only** if you and your spouse did **not** acquire any property together while you were married and **do not** owe money to anyone for property, goods or services you got while you were married. Otherwise, mark the box that describes whether there is or is not an agreement as to the disposition of property and debt.
- 4f. Pregnancy.** Mark the first box **only** if the wife is not pregnant. Mark the second box if the wife **is** pregnant and the husband is not the father. If wife is pregnant and the wife's husband is the father, you cannot use the forms "**LEGAL SEPARATION—WITHOUT MINOR CHILDREN.**" You must use the forms "**LEGAL SEPARATION—WITH MINOR CHILDREN.**"
- 4g. Spousal Maintenance/Support (Alimony).** Mark this box if you have requested spousal maintenance/support (alimony) in the "**Petition for Legal Separation Without Minor Children**" or if the parties have agreed that one party will pay the other party spousal maintenance/support (alimony).

E. THE COURT ORDERS:

- 1. THE PARTIES ARE LEGALLY SEPARATED.**
- 2. Enforcement of Temporary Orders.** If the court ordered temporary payment of spousal maintenance/support (alimony), debt division, or other temporary relief, fill in the dates of ALL of the temporary orders. This section allows you to enforce nonpayment of those debts.
- 3. Spousal Maintenance/Support (Alimony).**
 - a)** Mark this box if **neither party** is requesting spousal maintenance/support (alimony).
 - b)** Mark this box if you are the Petitioner and you requested spousal maintenance/support (alimony) in your Petition and you have a default hearing. You cannot get spousal maintenance/support (alimony) if the other party was served by publication. Indicate by check mark, who will pay the spousal maintenance/support (alimony) and who will receive the spousal maintenance/support (alimony). Put in the amount and the date the spousal maintenance/support (alimony) will end. Generally, spousal maintenance/support (alimony) is taxable income to the person receiving it and tax deductible for the person paying it. **Check with the IRS for specific rules and regulations.**
- 4. Property, Debts and Tax Returns.**
 - a.** Mark the first two boxes if each party will pay the debts that are unknown to the other party. By marking the third box under 4.a., you are telling the court you do **not** want to pay for bills your spouse incurred after you separated. Write the approximate date you separated on the line provided.

- b. Mark this box if there is property and debts to be divided, even if you have already divided the property. You can give the court this information on **“EXHIBIT A: COMMUNITY PROPERTY AND DEBTS”** that you must attach to the Decree if you mark this box. Instructions for Exhibit A are included at the end of this instruction.
 - c. This states that you and your spouse get to keep property, your separate property, or property that was a gift of an inheritance to you. You can also keep any personal items, clothing, and any other property you own that is not considered community property. You can give the court this information on **“Exhibit A: Property and Debt,”** which you must attach to the Decree if you mark this box. Instructions for Exhibit A are included at the end of this instruction.
 - d. This means either spouse can record the Decree if there is a transfer of title to real estate, such as land or a house. This section also requires each spouse to sign documents to transfer other property, like titles to vehicles, bank accounts, etc.
 - e. Mark this box to tell the court whether the parties will file joint or separate tax returns for previous years if taxes have not been paid. According to the IRS, “State law governs whether you are married, divorced, or legally separated. See a lawyer or accountant for advice if you are not sure which box to check **OR** call the IRS at 1-800-829-4477 **OR** visit their INTERNET website at <http://www.irs.ustreas.gov>”
5. **Other Orders.** DO NOT WRITE HERE. Judicial Officer will complete if applicable.
6. **Final Appeal Order.** This Decree/Order/Judgment is a final order and may be appealed.

F. SIGNATURE SECTION:

- Do not sign or date the Decree, the judge/commissioner must do this.
- If you have a Default Hearing, you, the Petitioner, must also promise to mail a copy of the Decree to the Respondent, after the judge has signed it.

“EXHIBIT A: PROPERTY AND DEBTS”

If you have questions about whether your property is community property or separate property, or whether your debt is community debt or separate debt, you should see a lawyer for help.

- 1. **Division of Community Property.** If you have community property, check this box.
- 2. **List of Community Property.** Describe the property. Then mark the box showing which party is being given the property. Mark the box stating “award each party the personal property in his or her possession.” If you had to use a separate sheet to list more property, mark the box that states “continued on reverse side or see attached list.” Be as specific as possible in describing your property. You must describe the property that should go to the other party and then check that box. Never list an item and then check both the Petitioner box and the Respondent box.
- 3. **Division of Retirement, Pension, Deferred Compensation.** Decide what you want to do about these assets. Generally, each spouse is entitled to a half interest in the pension or retirement or deferred compensation benefits of the other spouse based upon the length of time the parties were married. This is **very complicated, and very important** to both spouses. If you are entitled to

any interest in your spouse's retirement assets, you may be required to file a **Qualified Domestic Relations Order**. This is a very important document. The Court does not have this document. See a lawyer for help before you divide any retirement benefits.

Check the box that describes what you asked for in the Petition or what the parties have agreed to.

4. **Division of Real Property:** Use this section if you own a home or real estate together. IT IS VERY IMPORTANT THAT YOU WRITE IN THE CORRECT ADDRESS AND THE LEGAL DESCRIPTION OF EACH PIECE OF PROPERTY. Mark the box showing which spouse gets which property, **OR** whether it should be sold and any proceeds divided. If you used your own earnings to pay for property owned by your spouse, see a lawyer.
5. **Division of Community Debts:** Mark this box if the parties have community (or joint) debt. Describe the debt, including the creditor and the amount owed. Then mark the box showing which party is going to pay for the debt. If you had to use a separate sheet to list more debts, or if you continued to list debts on the reverse side of the page, check the box to indicate that to the judge.
6. Mark this box if you both agree that each spouse will pay his/her own debt, debts incurred, and owed, prior to the marriage.

Also, decide if you want the order to divide debts incurred by a spouse that are not listed to be paid by the spouse who incurred the debt. Remember, just because the Decree orders either spouse to pay debts does not mean that the creditor cannot pursue collection from the other spouse, even after the divorce decree.
7. **Separate Property.** If you checked box 5(e) on the Decree, and you and/or your spouse have separate property, describe the separate property, its value, and who the property belongs to.
8. **Separate Debt.** If you checked box 5(e) on the Decree, and you and/or your spouse have separate debt, identify the creditor, the amount owed, and who is responsible for paying the separate debt.

PAGE 8 – COMPLETE THIS PAGE ONLY IF THIS IS A CONSENT DECREE

PAGE 9 – SIGNATURE SECTION

OTHER FORMS: If you or the other party are receiving spousal maintenance/support (alimony), you will need to complete the following form:

1. ***“Judgment Data Sheet”***

REMINDER:

1. Be sure to attach “Exhibit A” about property and debts to your decree.
2. Be sure to include a quit claim deed, if a quit claim deed has been signed.