

## Instructions for Joint Petition for Dissolution of Marriage Without Children

### Where Do We File?

File in the County where you or your spouse lives now. To file for Marriage Dissolution (Divorce) in Minnesota, you must have lived in Minnesota for at least the past 180 days. There is a limited exception to the residency requirements for same sex couples who were married in Minnesota but no longer reside in Minnesota. See Minn. Stat. § 518.07, subd. 2 (2013). Court administration staff cannot assist you with questions on where to file your dissolution action. You may wish to seek legal advice if you have questions.

### Who Can Use this Form?

You can use this form if you and your spouse agree on everything and there are no children born to you and your spouse before or during the marriage, or adopted into your marriage. This form may not address all of your needs or concerns. Real estate, pensions, businesses, and other types of property can be handled many different ways. There may be serious negative consequences and tax implications from your decisions on how to divide your property and handle the issues in your divorce.

These forms and instructions do not explain the many legal and financial issues involved in divorce and cannot warn you of specific problems. Please see an attorney if you have questions.

### **Do not** use this form if:

- a) You and your spouse are not in agreement on all issues, or
- b) Your spouse will not agree to sign the forms under penalty of perjury, or
- c) you and your spouse have a child together (a child is defined as a person under age 18, or under age 20 and still in high school, or a person over 18 who by reason of physical or mental condition are incapable of self-support), or
- d) A spouse is pregnant, or
- e) A spouse has given birth to a child since the marriage date.

However, this form may be used

- if there is a child born during the marriage and there is no husband of the marriage, or
- if a spouse had a child with another man while married to current husband, you can use this form if:
  - There is a Paternity Order naming another man as the father, OR
  - The spouse who gave birth to a child and the biological father have a signed *Minnesota Recognition of Parentage* (ROP) and the husband has signed *Husband's Non-Paternity Statement* (HNPS).

If applicable, a certified copy of the Paternity Order or the ROP and HNPS must be submitted to the court with the Joint Petition. Certified copies of the ROP and HNPS are available from the MN Department of Health by sending them a Request for Certified Copies form. For more information see:

<http://www.health.state.mn.us/divs/chs/osr/rop.html>

In same sex marriages, a child conceived or born during the marriage that is not legally adopted by the other spouse, may or may not be presumed to be the legal child of both spouses. [Ask a lawyer for advice](#). If both spouses claim to be the legal parents, the divorce "with children" forms are probably most appropriate, but changing the forms may be required.

### **Filling out the forms:**

Print very neatly or the court may return your forms to you. Use black or dark blue ink. Because both parties agree to dissolve the marriage, both parties are called "Co-Petitioner" and it makes no difference which party is listed first. Whoever is listed first will be referred to as "Petitioner A" and the other party will be referred to as "Petitioner B" in the Joint Petition for Dissolution of Marriage without Children. Answer every question completely. You must disclose all financial information so the Judge can determine if your proposed division of property and debt is "fair and equitable." Include property/debts you own separately and together. For example, if you have a car and only your name is on the title, you still must list the car.

### **Information you will need:**

- Pay stubs or tax return for you and your spouse
- Medical Insurance information
- Records of bank accounts and investments
- Pension information
- Legal description of any real estate and details about the mortgage and value of the real estate
- Descriptions of vehicles, their value and monthly payment amounts and total owed
- Information about credit card and other debt.

### **Public Assistance**

Question 11 asks about "Public assistance" paid by the State of Minnesota. Public Assistance means MFIP, Tribal TANF, General Assistance, Minnesota Care, Medical Assistance, or Child Care Assistance. Check YES or NO. If YES, write in the name of the county paying the assistance. Minnesota law requires you, as the filing party, to notify the public authority paying assistance that you are filing a divorce action. Use the form called "*Notice to Public Authority*" (Court Form DIV813) to notify the county of your divorce action. Hand-deliver or mail the copy of the *Notice to Public Authority* to the County Support and Collection Services office for the county paying the assistance. You may deliver or mail the copy yourself, or ask someone else to do it for you. The person who delivered or mailed the copy must fill out the *Affidavit of Mailing or Delivery* stating when the *Notice* was served on the Public Authority. The *Affidavit* must be signed under penalty of perjury. By signing under penalty of perjury, you are stating that the information in the document is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth. You will file the *Notice to Public Authority and Affidavit of Service* with the court when you file the *Summons and Petition*. The county attorney for the public authority may need to sign off on the Joint Petition and Agreement before being submitted to the court for the court's approval and signature. Be sure to contact the county attorney's office to arrange for the county attorney to review your Joint Petition and Agreement.

### **Do You Want to Change Your Name?**

You and/or your spouse can ask for a legal change of name in the Joint Petition. If you want to change your name and you have been convicted of a felony, you must get the handout “Felon Name Change Instructions” and follow the steps in the handout.

### **Do You or Your Spouse Own Real Estate?**

You must include real estate that you and your spouse own together, separately, or with other people. **WARNING:** Be sure to copy the legal description **exactly** as it is on the Deed, Contract for Deed, or Certificate of Title. You must fill out Attachment “C,” which is included at the back of the Joint Petition without Children. You will need to make a copy of Attachment “C” if there is more than one property that must be listed. Use a separate Real Estate Attachment sheet for each parcel of real estate. **Use the correct legal description** – do not guess or abbreviate. There are many ways to handle real estate and many potential problems. You should talk to an attorney if you own real estate. For example, you may want the real estate awarded to one person with a lien in favor of the other person. An attorney can help you understand the legal consequences and necessary language.

### **Answering the Income Questions:**

Questions 12 and 14 ask for monthly gross income (before taxes and deductions).

Do not guess at income. Look at your pay stub or tax return.

If you are paid monthly, enter the amount shown on your paycheck for gross income.

If you are paid twice a month, multiply gross income by 2 to get the monthly amount.

If you are paid every two weeks, multiply gross income by 2.17 to get the monthly amount.

If you are paid every week, multiply gross income by 4.33 to get the monthly amount.

If you are self-employed, or you work only part of the year, or your earnings vary, divide your yearly income by 12 to reach an average monthly income figure and write on the petition that you are averaging your income.

### **Modifying the Joint Petition**

You may make changes to the Joint Petition to fit your situation, but do not omit any paragraphs. It is recommended that you consult with an attorney before making any changes to the Joint Petition.

### **What to Do After Completing the Forms**

Both spouses must sign the “Joint Petition, Agreement, and Judgment and Decree.” It is not necessary for both spouses to sign the document at the same time, but both spouses must sign under penalty of perjury. By signing under penalty of perjury, you are stating that the information in the document is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth.

### File:

- The completed “Joint Petition, Agreement, and Judgment and Decree,” including:
  - Attachment A (Division of Assets and Value);
  - Attachment B (Division of Liabilities/Debt); and
  - Attachment C (Real Estate Attachment), even if neither party owns real estate;
- “Form 11.1: Confidential Information” with names and social security numbers.

If you are submitting financial documents such as paystubs or bank records, you must file “Form 11.2: Confidential Financial Source Documents.”

Failure to use Form 11.1 and Form 11.2 means confidential information could be available to the general public and you could be charged court costs and other charges for the failure to keep your and your spouse’s confidential information private.

Pay: The District Court filing fee.

Wait: You are not divorced until the Judge signs the Decree and the Court Administrator “enters” the Decree. Wait to receive a letter from the Court telling you that you are divorced. You will not attend a court hearing unless the Judge decides a hearing is necessary.

**If you have real estate**, there are additional steps you must take to transfer the title to the party who was granted the real estate in the divorce.

Under Minnesota law, both spouses have an interest in real estate, even if only one spouse’s name is on the deed or title of the property.

Proof of divorce and proof of who was awarded interests in the real estate is usually recorded in the real estate records before selling or mortgaging the property after the divorce.

To give that proof, the complete divorce decree can be filed in the real estate records. Or, a short version of the divorce decree can be filed, called *Summary Real Estate Disposition Judgment Form (SREDJ)*. The SREDJ only includes information needed for real estate title purposes. If you file the SREDJ, information about your children, work, and other personal matters is not available in the county real estate records. The Minnesota Judicial Branch publishes a set of instructions to help you with the SREDJ process. Those instructions can be found on the court’s website at <http://mncourts.gov/GetForms.aspx?c=15&f=572>.

### **Questions?**

If you have questions about the Joint Petition, you probably need to ask an attorney or accountant. Court staff can give you limited help with procedures. Only an attorney can give you legal advice.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.