

**MINNESOTA STATE COURTS**

**SUMMARY DISSOLUTION PROCEDURE**

**INFORMATION BOOKLET**

**Summary Dissolution Information Booklet**

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## WHAT IS THIS BOOKLET ABOUT?

This booklet will tell you how to:

- (1) Obtain counseling services if you want to try to save your marriage.
- (2) Decide if you should talk to an attorney.
- (3) Consider if you can or should use the Summary Dissolution Procedure.
- (4) Figure out what you own and what you owe.
- (5) Take steps to get a Summary Dissolution.

This booklet is about one way to end a marriage through a kind of divorce called **Summary Dissolution**.

The legal word for **divorce** in Minnesota is **dissolution**. There are two ways of getting a divorce, or dissolution, in Minnesota. The most common way is a regular dissolution. A shorter and easier way is the **Summary Dissolution**.

But not everyone can, or should, use it. To see if you qualify to use the Summary Dissolution, answer the questions below. To decide if it is a good idea for you to use the Summary Dissolution, read this booklet, especially the section “Is the Summary Dissolution Procedure Right for You” starting on page 1.

### Checklist for who can use the Summary Dissolution

A couple may use the streamlined procedures for Summary Dissolution if:

1. there are no living minor children who have been born to or adopted by the parties before or during the marriage, unless someone other than the husband has been adjudicated the father;
2. no spouse is pregnant;
3. parties have been married for less than eight years as of the date the Joint Petition was filed;
4. neither party owns any real estate;
5. there are no unpaid debts in excess of \$8,000.00 incurred by either or both of the parties during the marriage, excluding debt on automobiles;
6. the total *fair market value* of the marital assets does not exceed \$25,000.00, including *net equity* on automobiles;
7. neither party has *nonmarital* assets in excess of \$25,000.00; and
8. neither party has been a victim of *domestic abuse* by the other.

**Definitions:** “*Fair market value*” is the amount of money you could get if you sold the asset to a stranger. “*Net equity*” is the fair market value minus any debt on the automobile. “*Non-marital property*” is things owned from before the marriage, things inherited during the marriage, and gifts to an individual spouse alone which was received during the marriage, from someone other than the spouse. *Domestic abuse* means that there has been physical harm or assault by one spouse against the other spouse, or threats that cause fear of being physically harmed or assaulted.

## IS THE SUMMARY DISSOLUTION PROCEDURE RIGHT FOR YOU?

The Summary Dissolution Procedure can save you time, money, and effort. Court hearings, a common part of a regular dissolution, may require you to take time off from work. Attorney fees can become expensive. If you and your spouse can agree on how to fairly divide the property you have and who will pay the debts you owe, and if you qualify for a Summary Dissolution, then the Summary Dissolution Procedure may be right for you. However, you should know that there are some things

you can ask for in a regular marriage dissolution, that you cannot get in a Summary Dissolution. For example:

- (1) Do you or your spouse have a pension or retirement benefits? Do you wish to receive part of your spouse's retirement benefits, or do you wish to give part of your retirement benefits to your spouse? You cannot divide pension or retirement benefits in a Summary Dissolution. Each spouse must keep their own pension or retirement benefits.
- (2) Did you or your spouse operate a business during your marriage? Do you wish to divide the business? You cannot divide a business in a Summary Dissolution.
- (3) Do you want to receive or pay "*spousal maintenance*?" If you or your spouse need spousal maintenance at this time you should not use Summary Dissolution. The Court cannot order payment of spousal maintenance in a Summary Dissolution Decree. Do you want to make sure that your spouse cannot ask for spousal maintenance in the future? If so, do not use Summary Dissolution. The court cannot deny spousal maintenance now and forever in a Summary Dissolution. The Decree in a Summary Dissolution will "reserve" spousal maintenance. This means that at any time in the future, you or your spouse could file formal motion papers, appear at a hearing, and ask the court to order spousal maintenance. **Definition:** Spousal maintenance is money paid by one spouse to another after the divorce is final to help with monthly living expenses. Spousal maintenance used to be called alimony.

These are only some examples of what you cannot do in a Summary Dissolution.

You should also know that there is no trial or hearing in the Summary Dissolution Procedure. No judge or other court officer will review your property agreement and division of debts to make sure that it is fair. Each of you will be relying upon the honesty of the other in completing the petition. Frequently, the anger, fear, frustration, and guilt that come along with a divorce can affect the ability of people to agree upon things. Many times a spouse may give up an important right or interest in order to get the divorce over. This is an unfortunate consequence of the breakdown of a marriage. If you find yourself in such a position you should consider using some other procedure to get a divorce. Not all divorces have to involve frequent court hearings. Attorneys can help each of you negotiate a fair settlement when you have difficulty talking to each other about property or debts. In addition, many counties offer mediation services in which a trained person is present to help you talk about matters that may lead to arguments when just the two of you are alone.

With the Summary Dissolution Procedure, once the decree is filed, it is extremely difficult to get it changed. There is no right to a new trial or to an appeal. There are some cases where agreements under a Joint Petition for Summary Dissolution of a Marriage can be challenged. These include where (1) you were treated unfairly in the property agreement because your spouse hid information or property from you; (2) you were forced to go through the Summary Dissolution against your will by your spouse; and (3) there are serious mistakes in the agreement. You will have to see an attorney if you wish to challenge the agreement you made in the Summary Dissolution Procedure.

Correcting mistakes and unfairness can be expensive, time-consuming, and difficult. It is very important for both of you to be honest, cooperative, and careful when completing the Joint Petition if you choose to use the Summary Dissolution Procedure.

If you are not sure if you qualify for a Summary Dissolution or if you should use a Summary Dissolution, ask an attorney. If you do not qualify or if you decide a Summary Dissolution is not right for you, there are other forms you may use for a marriage dissolution. These forms are available at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) or at the courthouse.

There is no court hearing with a Summary Dissolution. You may not need an attorney, although you might wish to discuss your rights with one before you get your marriage dissolved. (See page 4 for details on how an attorney can help you.)

To get a summary dissolution, you will need to prepare the **Joint Petition for Summary Dissolution of a Marriage**. Both spouses must sign the Joint Petition under penalty of perjury. By signing under penalty of perjury, you and your spouse 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. Next you file the Joint Petition with the Court Administrator in your county. If your petition is approved, you should receive a Notice of Entry of a Decree of Dissolution from the court 30 days after you file it, which means your marriage is ended. The dissolution is not final until the decree is entered.

If you wish to use the Summary Dissolution Procedure, you must, at the time you file the Joint Petition, sign a statement which says that you have read and understood this booklet and have seen any educational videos that may be available at the time. It is important that you read the whole booklet carefully.

You should think carefully about what you are doing before you file the Joint Petition. Once the Decree of Dissolution is entered, it is very difficult to get it changed. You will need to talk to an attorney to see if you can get the judgment changed.

#### **SPECIAL IMMIGRATION WARNING**

If you are an alien who became a lawful permanent resident on the basis of your marriage to a U.S. citizen or a lawful permanent resident, obtaining a divorce within two years might lead to your deportation. You should consult an attorney before obtaining a divorce.

### **ARE YOU SURE YOUR MARRIAGE CAN'T BE SAVED?**

Before you take any legal steps to end your marriage, consider possible ways of saving it. Check the Yellow Pages under Marriage Counseling or Counseling Services or obtain a referral from an agency or friend if you wish to contact a Marriage Counselor.

In addition to private counselors, many communities and religious organizations offer marriage counseling services. Some larger businesses also offer counseling to their employees. Your medical insurance may make counseling services available if the problems in your marriage started because of alcohol or drug abuse.

In most cases, these services are available for free or for a small cost based upon your ability to pay.

### **DO YOU NEED AN ATTORNEY?**

#### **Must you have an attorney to get a divorce with the Summary Dissolution Procedure?**

You are not required to have an attorney. But you may want to talk to an attorney to decide if a Summary Dissolution is the right way for you to get a divorce or whether a regular dissolution might be better. You should also know that court personnel cannot advise you in this process and if you do not complete the form properly or follow the instructions, you may lose your filing fee and not get the divorce.

## **If you want legal advice, does that mean you have to hire an attorney?**

No. You may hire an attorney, of course, but you can also talk to an attorney just once or twice (generally at a reasonable cost) for advice on how to carry out the Summary Dissolution. Before you talk to the attorney, ask what the fee will be.

If you are concerned about whether you can pay an attorney, read the information below about finding an attorney.

## **Do you have to accept your attorney's advice?**

No, you don't. And if you are not pleased with what one attorney advises, you can feel free to go to another one. You and your spouse may desire to seek advice from different attorneys.

## **How can an attorney help you with the Summary Dissolution?**

1. The most important thing an attorney can do for you is to help you decide, based upon your personal situation, whether you should get a regular divorce or a Summary Dissolution.

An attorney can check through the Property Settlement Agreement to help you figure out whether you have thought of everything you should have. (It's easy to forget things you don't see or deal with very often--savings bonds, retirement funds, safe deposit boxes, and so on.)

2. There may be situations where it is difficult to figure out what should count as marital property and what should count as non-marital property. (See pages 13-14 of the booklet to find out what these words mean.) Suppose that you had money before you got married, and after you were married you put that money into a savings account in both your names, then both of you put some of your earnings into that account and also used some of the money in the account to buy things. It may not be easy for you to decide how the money that is in the account should be divided. An attorney can help you to make these decisions.
3. There may be some other special situations in your property settlement that are not covered by the examples in this booklet.

## **Where can you find an attorney?**

If you have friends who have gone through a divorce you can ask them who they had for an attorney and what they thought of the attorney. You can also check the Yellow Pages of the phone book under "Attorneys" or check the Internet.

The Minnesota State Bar Association has an online referral system at <http://www.mnfindalawyer.com/>.

If you feel you cannot pay for an attorney, you may contact the legal aid office in your area. You must meet certain low-income and other guidelines to get these legal services. The legal aid office may refer you to a volunteer attorney program which can help you.

## **SOME TERMS YOU NEED TO KNOW**

As you read this booklet you will find some words and phrases that you do not know or which may not mean what you think they do. It is very important that you understand the meaning of these words as

you will be making some important decisions using them. These words include: **marital property, non-marital property, fair market value, irretrievable breakdown of the marriage, ownership interest in land and spousal maintenance.** Marital and non-marital property and fair market value are defined in the section of this booklet titled "Completing the Summary Dissolution Form."

### **Irretrievable breakdown of the marriage**

In Minnesota, it is not necessary to show that anyone is at fault for the breakdown of a marriage. All that is necessary is that you are sure that you and your spouse have serious permanent differences that make it impossible for you to go on being married. The results of divorce can be very serious and you should be careful that you have tried everything you can before seeking a dissolution of your marriage.

### **Ownership interest in real estate**

In order to use the Summary Dissolution process, you and your spouse must not own or be buying any land.

In general this means:

- (1) You are not buying and do not own any land.
- (2) You are not buying and do not own a farm, a house, a townhouse, timeshare, condominium, or any part of any building.

#### **SPECIAL WARNING FOR NATIVE AMERICANS**

If you are a Native American, you may have an ownership interest in tribal lands that will prevent you from using the Summary Dissolution Procedure. You may want to check with your tribal council to see if this is true.

### **Spousal maintenance (Alimony)**

Spousal maintenance (alimony) is money paid by one spouse to the other after the marriage is over. Under certain special situations, either of you may seek to have the other pay some money to help you. In regular dissolution proceedings spousal maintenance may be waived and forever denied. However, you cannot give up that right in this Summary Dissolution proceeding. Minnesota law now requires each of you save (reserve) the right to get spousal maintenance if you use the Summary Dissolution process. If you later want spousal maintenance, you may need to talk to an attorney to see if you qualify and to help you get it.

## **COMPLETING THE SUMMARY DISSOLUTION FORM**

In order to get a Summary Dissolution, you must complete and file the Joint Petition for Summary Dissolution of a Marriage. The form is available online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) or at any county Court Administrator's Office. Although the form looks complicated, it can be easily completed by following the instructions given for each line below. If you have questions, you may want to look at the example given after this section. Remember, you **must** answer the questions listed in the form. If you do not, your divorce will not be granted and you may lose the filing fee you have paid.

You begin the form by filling in the information required at the top. You must type or print clearly using black or dark blue ink. Because both parties are in agreement 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 Summary Dissolution form. The Instructions assume that the person completing the form is “Petitioner A.”

### **Line 1**

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Line 1 requires some basic information. Begin by filling in your first, middle, and last name.

On Line 1a list former names that you may have had. If, for example, you adopted a hyphenated name following the marriage, you should indicate the name you used before the marriage, including a maiden name, if applicable.

On Line 1b fill in your current residential address. This is the address where you currently lives, even if you have a mailing address that is different.

On Line 1c fill in the name of the county where you currently live.

On Line 1d fill in your date of birth.

On Line 1e fill in your phone numbers. You should at least list a number where you can be reached during the day if the court administrator should need to talk to you.

### **Line 2**

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Line 2 requires some basic information about the other party (i.e. spouse). Begin by filling in the spouse’s first, middle, and last name.

On Line 2a list former names that the spouse may have had. If, for example, the spouse adopted a hyphenated name following the marriage, the spouse should fill in the name used before the marriage, including a maiden name, if applicable.

On Line 2b fill in the spouse’s current residential address. This is the address where the spouse currently lives, even if the spouse has a mailing address that is different.

On Line 2c fill in the name of the county where the spouse currently lives resides.

On Line 2d fill in the spouse’s date of birth.

On Line 2e fill in the spouse’s phone numbers. The spouse should at least list a number where she / he can be reached during the day if the court administrator should need to talk her / him.

### **Line 3**

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On Line 3 fill in the month, day, and year in which you and your spouse were married.

### **Line 4**

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On Line 4 fill in the name of the city and state where you and your spouse were married.

### **Line 5**

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Line 5 asks a group of questions about where you live at the time you file the Joint Petition. You must answer all the questions listed in Line 5. For each question, you should answer “yes” or “no” by putting your initials in the appropriate column and the spouse should answer “yes” or “no” by putting her / his initials in the appropriate column.

Lines 5a and 5b ask if either you or your spouse have been living in Minnesota for at least six (6) months at the time you file the Joint Petition. One of you must have been living in Minnesota for at least six months, unless you qualify under Lines 5c and 5d, Line 5e and 5f, or Line 5g.

Lines 5c and 5d ask if either you or your spouse are a member of the armed forces and have been stationed in Minnesota for at least six (6) months.

Lines 5e and 5f ask if you remained a resident of Minnesota, even though you have lived outside the state. If you have lived outside the state for some reason--for example, for temporary employment or to attend school--but have never intended to move permanently to another state, you have remained a resident of Minnesota.

Line 5g asks if you and the spouse were civilly married in Minnesota, and you and your spouse no longer live in Minnesota, and there is no other state that will allow an action for dissolution because of the sex or sexual orientation of you and the spouse. Based on a new law effective August 1, 2013, Minnesota retains jurisdiction to dissolve a same sex marriage if these specific conditions apply.

## **Line 6**

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On Line 6 are questions concerning minor children and other dependents you or the spouse may have. A “minor child” is a child under age 18, or age 18 but still in high school. If you and the spouse have living minor children together you may not use the Summary Dissolution Procedure. 6b asks if there are children born to Petitioner A since the marriage date, who are not biological or adopted children of Petitioner B, and 6c asks if there are children born to Petitioner B since the marriage date, who are not biological or adopted children of Petitioner A. If there are, you cannot use the Summary Dissolution Procedure unless someone other than the Husband has been adjudicated the father. Being named on the birth certificate is not the same as being adjudicated.

## **Line 7**

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Line 7 asks whether a spouse of the marriage is pregnant. If so, you may not use the Summary Dissolution Procedure. A Husband and Wife are legally required to provide support for an unborn child. A court must decide how much support the Husband and Wife are required to furnish and where the child will live. Those decisions cannot be made by the Husband and Wife as part of the Summary Dissolution Procedure. If you and your spouse are a same sex couple and meet the statutory requirements set forth in Minn. Stat. § 518.07, subd. 2, you may be able to use the Summary Dissolution Procedure if a spouse of the marriage is pregnant.

## **Line 8**

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Line 8 asks whether you have ever been the victim of domestic abuse. You have been the victim of domestic abuse if your spouse has physically harmed or assaulted you, or your spouse's actions or threats have caused you to fear that you may be physically harmed or assaulted. If this is so, you may be afraid to ask for a fair division of property. For this reason if you have ever been the victim of

domestic abuse or if an order for protection has ever been issued, the Summary Dissolution Procedure is not available to you. You should immediately seek the advice of an attorney and should not complete the Summary Dissolution Procedure.

### **Line 9**

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On Line 9 you or your spouse must state whether either of you have filed for a divorce somewhere else, either in this state or in another state. If you have and you both now want to file a Joint Petition for Summary Dissolution, you must have the other action dismissed.

### **Line 10**

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On Line 10 you and your spouse must agree to check "yes" to show that there has been an irretrievable breakdown in your marriage. This means that you and your spouse do not have any hope to save your marriage. It does not matter why or whose fault it was that the marriage failed, but simply that you both agree that you no longer wish to remain married to each other. If you cannot agree that there has been an irretrievable breakdown in your marriage you may not use the Summary Dissolution Procedure.

### **Line 11**

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Line 11 asks whether you and your spouse own or have an interest in real estate, such as a lot, a farm, a house, a townhouse, a timeshare, a condominium, or any other type of building. If, for example, you and your sister have received a farm as part of an inheritance, you have an interest in real estate, even though you may not live on the farm or receive any of the income from it. If you and your spouse have any interest in real estate, whether together, separately, or with someone else, you may not use the Summary Dissolution Procedure.

### **Line 12, 13, and 14**

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Lines 12, 13, and 14 of the Joint Petition are questions relating to the amount of property you and your spouse own. Several worksheets are included in this booklet to help you to answer the questions that are asked. As you complete the worksheets that are included in this section, transfer the amounts to the proper lines of the Joint Petition for Summary Dissolution. The Minnesota summary process for dissolution of marriage requires each spouse to determine the **fair market value** of (1) **non-marital property** and of (2) **marital property** and then subtract any amounts still owing on the property to determine its **present value**. (The terms are defined below.)

"**Fair market value**" is an estimate of the amount of money you could get if you sold items to a stranger, as, for example, through an advertisement in the newspaper. It does **not** mean what you paid for it originally, and it does **not** mean what it would cost you to replace it if you lost it. When you list your property, you must list items although you are still paying for them. The **present value** of property you are still paying for is the fair market value **minus** the amount you still owe. If you do not owe anything for the property, then the fair market value is the same as the present value.

One way of estimating the "**fair market value**" of your property is to use prices for equivalent items in newspaper advertisements for second-hand goods. Other ways include having items appraised, calling dealers, and, for vehicles, asking for the "blue book" value from your dealer or lending institution.

### **Lines 12 and 13 Non-marital Property**

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In this section of the booklet you must determine the present value of your "**Non-marital Property**." "**Non-marital Property**" is property that each spouse owns separately from the other spouse. In most cases that includes:

1. anything each of you owned before you got married;
2. anything you inherited even after you were married;
3. anything that was given to you as a gift, even after you were married; and
4. if you have had a legal separation, anything you received or earned after the date of the Court Order granting the legal separation.

Remember, if you are still paying for an item that you bought before the marriage you must subtract the amount you still owe from the fair market value to get the present value.

Worksheets A and B are provided on the next two pages for your use in determining the total value of your non-marital property. Petitioner A will enter the TOTAL from Worksheet A—Petitioner A's Non-Marital Property on Line 12, page 4 of the Joint Petition. Petitioner B will enter the TOTAL from Worksheet B—Petitioner B's Non-Marital Property on line 13, page 4 of the Joint Petition.

You should know that some property may be part **marital** and part **non-marital**. You should review the comments on page 13 of this booklet to understand this. In this section you must list the value of the non-marital part, figure out the total value of your non-marital property and fill in the amount in the correct box on the Summary Dissolution Petition.

## WORKSHEET A—PETITIONER A'S NON-MARITAL PROPERTY

## WORKSHEET B—PETITIONER B'S NON-MARITAL PROPERTY

## **Line 14 Marital Property**

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In order to complete Line 14, you must determine the present value of your "**Marital Property**." "**Marital Property**" is everything that you and your spouse have together that does not fit the definition of non-marital property. It does **not** matter who paid for the item. For example, if only one person worked outside the home earning an income and the other spouse worked as a homemaker, the property is still considered marital property. It also does **not** matter that the property is in only one person's name or that only one person uses the property.

You should carefully complete Worksheet C on pages 14 and 15. The Worksheet includes types of property to help you remember the property you own. Certain types of property, such as retirement benefits, profit sharing, IRA's, and Deferred Income are generally held only in the name of the person who is receiving those benefits, although they are marital property. For those items, you must each fill in the proper space (Petitioner A or Petitioner B) in the Present Value column of the Worksheet. If you do not have that type of property write -0- in the Present Value column.

Some property you must actually list. First, you must write the make, model and year for each vehicle that is marital property. Remember to subtract the amount you still owe on an automobile when figuring its present value. Second, you must list under "13. Miscellaneous" on page 16, every item or type of property with a **fair market value** of \$100 or more that is not included in categories 1-12. (For example, clothing, household goods, etc.) Listed below you will find information that may be helpful in valuing certain types of property.

To determine the value of a pension or profit sharing account, you should call the employer and ask for the most recent statement for the account.

IRA's are Individual Retirement Accounts

Keogh Plans are retirement plans for self-employed people. You should consult with an expert to determine the value of a Keogh Plan.

You can call the insurance company to find out the value of whole or universal life insurance policies.

Valuing business interests is a complex undertaking. You should consult with an expert to determine the value of any business.

In addition to checking advertisements for the selling price of vehicles like yours, you may wish to use the "blue book" value. Remember, you must subtract the balance of the loan from the fair market value.

**Note:** Pensions and retirement benefits that accumulated during the marriage are marital property regardless of whether the benefits were acquired through your employment or through your spouse's employment. If you wish to receive part of your spouse's retirement benefits, you cannot use this summary proceeding for dissolution of marriage and you should consult with an attorney.

If a spouse operated a business during the marriage that business may be marital property regardless of the fact that only one spouse conducted the business. If you wish to receive part of your spouse's business, you cannot use this summary proceeding for dissolution of marriage, and you should consult with an attorney.

Once you have determined and entered the total present value of the various types of your marital property on Worksheet C, you can then transfer this information to line 14, page 4 of the Joint Petition for Summary Dissolution of Marriage.

You should also use Worksheet C to indicate how your marital property will be divided after the dissolution of your marriage. For each type of property listed on Worksheet C, enter the amount of that property that you and your spouse have agreed will be awarded to Petitioner A or Petitioner B. This information will be entered on line 16, page 4 of the Joint Petition. See page 12 of this booklet for further information about the division of marital property.

#### Note: Combined Marital and Non-Marital Property

Sometimes property can be **marital** and **non-marital**. For example, a spouse may have earned some pension benefits before the marriage and also earned additional benefits during the marriage. As another example, one spouse may have purchased an item that was partially paid for before marriage and partially paid for after marriage. In these examples, the property is **marital** and **non-marital**, and you must list the property in both the **marital** and **non-marital** worksheets. Sometimes determining the value of the **marital** and **non-marital** portions is very complicated especially when the property is something that is already difficult to value such as a pension or an interest in a business. If you have property that you believe is **marital** and **non-marital**, you may wish to consult with an attorney for help in dividing the property.

## WORKSHEET C--MARITAL PROPERTY

List all property below.			Place the present value of the item below.	Place that portion of the present value of the item again in the column below for the person who will receive the item.	
Item	Fair Market Value	Amount Owed	Present Value (FMV-Amount Owed)	Awarded to Petitioner A	Awarded to Petitioner B
1. Pensions—Petitioner A					
1. Pensions—Petitioner B					
2. Profit Sharing—Petitioner A					
2. Profit Sharing—Petitioner B					
3. IRA's—Petitioner A					
3. IRA's—Petitioner B					
4. Keogh Plans—Petitioner A					
4. Keogh Plans—Petitioner B					
5. Deferred Income—Petitioner A					
5. Deferred Income—Petitioner B					
6. Savings/Checking					
7. Stocks and Bonds					
8. Life Insurance					
9. Business Interests					
10. Household Goods					
11. Cars, Trucks & Vans					
12. Other Vehicles					

## **WORKSHEET C--MARITAL PROPERTY**

**TOTAL** (Add the values in the Present Value column. Fill in the amount here and on Line 14 of the Joint Petition for Summary Dissolution of a Marriage.

6

## **Line 15 Debts**

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In order to complete Line 15, you must compute the total of all the outstanding debts that you (individually or jointly) incurred during the marriage and still owe, except for money you owe for buying automobiles. Worksheet E -- Division of Debts (see page 17) will help you to figure out the total debt you still owe and help you to divide the debts between you and your spouse. To complete the worksheet, you must do three things: (1) you must identify all debts that you incurred during the marriage that you still owe, regardless of whether the debts are in both names or in one spouse's name, and fill that amount in on Line 15, page 4 of the Joint Petition for Summary Dissolution of a Marriage; (2) you must list the creditor (the person or company to whom the money is owed) and the amount that still remains to be paid; and (3) you must determine who will pay each debt. Worksheet E will help you to complete later parts of the Joint Petition. You can agree to divide the amount owed to a creditor between the two of you if it will help to make a fair division of the debts.

Remember that while you do not include the amounts you owe for automobiles when you figure Worksheet E, you must still decide who will pay any debt owed for an automobile and list it on the division of debts on lines 17 and 18 on pages 7 and 8 of the Joint Petition. Use Worksheet D below to enter those amounts.

WORKSHEET D -- AUTOMOBILE DEBTS

AUTO LOANS	<u>CREDITOR</u>	<u>AMOUNT</u>	<u>PETITIONER</u> <u>A</u> PAYS (ENTER AMOUNT)	<u>PETITIONER</u> <u>B</u> PAYS (ENTER AMOUNT)
Automobile Loans				

**WORKSHEET E--DIVISION OF DEBTS**

<b>Type of Debt</b>	<b>Creditor</b>	<b>Amount Owed</b>	<b>Petitioner A Pays (Enter Amount)</b>	<b>Petitioner B Pays (Enter Amount)</b>
1. Credit Cards				
2. Student Loans				
3. Taxes				
4. Medical Bills				
5. Other Debts				
TOTAL (Add the amount of debts here and on Line 15 of the Joint Petition for Summary Dissolution of a Marriage)		\$		

## **Line 16 The Division of Property Agreement**

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This is one of the most important parts of the Summary Dissolution Procedure. When you completed the Marital Property Worksheet C on pages 14 and 15 of this booklet, you were asked to decide who should be awarded the items of property you listed. You were also asked to total the amounts that each person received. You should now review that worksheet. Each of you should be receiving about the same amount of property and be required to pay the same amount of debts as the other. If one of you is taking more property but paying off a larger amount of debts, then the agreement may still be fair. If one of you is receiving much more property than the other, the agreement may not be fair and you should review your worksheets to see what can be changed to make it fairer. If you cannot agree on a fair division of your marital property, you may wish to consult an attorney for help in making a fair division. If you still cannot agree, you should not use the Summary Dissolution Procedure. You should know that you can transfer your non-marital property to your spouse if it will help both of you to reach a fair division of property.

You should now transfer the information on the division of property from the Marital Property Worksheet C on pages 14 and 15 and fill in the Division of Property Agreement found on Line 16, page 4, of the Joint Petition. If you have questions, you may wish to review the example in this next section of this booklet.

## **Lines 17 and 18 The Division of Debts Agreement**

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On these two charts, list the names of the creditors that each of you will individually pay and the amount you will pay them, using the information you filled in on Worksheet E--Division of Debts on page 17 of this booklet. You can agree to divide the amount owed to a creditor between the two of you if it will help to make a fair division of the debts. It is important to make sure that the division of property and debts is fair. If you cannot agree on a fair division of your debts, you may wish to consult an attorney for help. If you still cannot agree, you should not use the Summary Dissolution Procedure.

**Note:** You should know that if your spouse does not pay a debt he or she agreed to pay as part of the Summary Dissolution Procedure, the person to whom the money is owed may attempt to collect the debt from you even if you list your spouse as responsible for the debt in the Joint Petition. If the creditor makes you pay the debt, you might later seek a court order to get your spouse to pay you back the money you were forced to pay because your spouse did not live up to the agreement. If you have reason to worry about this, you should see an attorney to discuss your rights and obligations.

If you have credit card accounts that you both have been using, you should consider closing them and opening separate accounts. If you don't, you may be required to pay debts on your spouse's charges after your marriage is dissolved.

## **Line 19**

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Each of you must list your current gross monthly income on Line 19. That is the amount you earn before any deductions are made. Each of you must then complete Worksheet F on page 20 to help you figure your total current necessary monthly expenses and fill in that amount in the proper places on Line 19. These figures are necessary if either of you would later decide to seek spousal maintenance. Maintenance will not be ordered as part of the Summary Dissolution Procedure, but the Decree “reserves” spousal maintenance, which means that either person can seek a court order for spousal maintenance in the future. If you want a court order that prevents both you and your spouse from asking for spousal maintenance in the future, you should not use Summary Dissolution.

Each of you should make and keep a copy of Worksheet F. If you do not, the court may have difficulty in setting the proper amount of spousal maintenance if it is requested in the future.

**WORKSHEET F--NECESSARY MONTHLY EXPENSES**

<b>EXPENSE</b>	<b>PETITIONER A'S AMOUNT</b>	<b>PETITIONER B'S AMOUNT</b>
1. Housing		
2. Housing Insurance		
3. Utilities (Water, phone, electricity, heat, garbage)		
4. Internet / Cable / Satellite		
5. Food		
6. Debt Payments		
7. Clothing		
8. Laundry and Dry Cleaning		
9. Health Ins. (Medical/Dental)		
10. Transportation (including car payments)		
11. Car Insurance		
12. Life Insurance		
13. Recreation, Entertainment, Travel		
14. Newspapers and Magazines		
15. Social and Church Obligations		
16. Personal Allowances and Incidentals		
17. Baby Sitting and Child Care		
18. Housing Maintenance		
19. Children's School Needs and Allowances		
20. Court-ordered Support Obligations		
21. Miscellaneous		
22. TOTALS	\$ _____. (Fill in this amount on Line 19c of the Joint Petition)	\$ _____. (Fill in this amount on Line 19d of the Joint Petition)

## **Line 20**

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On Line 20 you are asked to indicate what you will do about health insurance. **You should answer only one of the questions on Line 20.** If you are both employed and get health insurance through work, then you may each agree to be responsible only for yourself. If one of you is not currently employed or does not have health coverage through work, your spouse may continue to carry health insurance provided that any costs for the insurance are paid by you. Health insurance coverage can be a significant issue and should be carefully considered by both of you before completing this section. If you are unable to obtain health insurance and your spouse refuses to carry you, you may want to consult with an attorney and not complete the Summary Dissolution Procedure.

## **Line 21**

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If you wish to change your name after your divorce is granted, you may do so on Line 21. You are not required to do so. Petitioner A may use any of the names listed on Line 1a of the Joint Petition and Petitioner B may use any of the names listed on Line 2a of the Joint Petition. You may want to look at the instructions for Lines 1a and 2a again for further information. If either Petitioner A or Petitioner B wishes to change their name, they must indicate whether or not they have ever been convicted of a felony in this or any other state. If Petitioner A or Petitioner B has been convicted of a felony and wishes to change their name as part of this dissolution, they must follow special procedures.

### **Felon Name Change Procedures:**

An applicant with a felony conviction under Minnesota law or the law of another state or federal jurisdiction shall serve notice regarding their application for name change on the prosecuting authority that obtained the conviction. If the conviction is from another state or federal jurisdiction, notice must also be served on the Minnesota Attorney General at 102 State Capitol Building, St. Paul, MN 55155. A form for giving Notice to the prosecuting authority is available at the courthouse or at [www.mncourts.gov/forms](http://www.mncourts.gov/forms). The form is called “Felon Name Change Notice to Prosecutors.” The method of serving the Notice on the Prosecuting authority is complicated and to determine the proper method of service, consult an attorney. Requirements for service may differ from county to county. Proof of service shall be filed with the court as part of the name change request. The prosecuting authority has 30 days to object to the name change application. The dissolution cannot be granted until thirty days has elapsed from the date the prosecutor was served with Notice about the name change request.

## **Verifications**

After completing the Joint Petition for Summary Dissolution of a Marriage form, you are each asked to show that you understand the consequences of what you are doing. You should read each statement carefully. If there are any statements with which you disagree or do not understand, you should seek the advice of an attorney. If you agree with all the statements, you must enter your name at the top of the form and sign the form at the bottom under penalty of perjury.

## **EXAMPLE**

Spouses have been married for two years. They have no interest in land or buildings and they have no children. They both live in Ramsey County. Spouse One has a car that he/she paid for before the marriage. It is now worth \$2,000. Spouse One also has a color television set worth \$300 that he /she owned before the marriage. Spouse Two owned living room furniture before the marriage. It is now worth about \$1,000. Spouse Two also bought a stereo system for \$800 and has been paying for it in installments. Spouse Two had paid \$500 before the marriage and \$200 since the marriage, and still owes \$100 on the system.

Since they have been married they have bought another car for \$10,000. They still owe \$5,000 for the car and it is now worth \$8,000. When they got married, they opened a joint savings account. Spouse Two put in \$600 and Spouse One put in \$400. They have used the account for various purchases and the balance is now \$500. During the years they have been married, Spouse One has contributed \$1,500 to his/her retirement account and Spouse Two has contributed \$1,200. They owe \$500 on a VISA card that they had used largely for entertainment purposes. However, six months ago Spouse One charged a set of golf clubs for \$300 on the card. Both spouses estimate that about \$50 has been paid off on the clubs. They each own about \$1,000 worth of clothes.

### **Value of Non-Marital Property**

Spouse One adds together the value of his/her car and his/her color television on Worksheet A of the booklet.

WORKSHEET A—SPOUSE ONE'S NON-MARITAL PROPERTY

Non-Marital Property	Fair-Market Value (FMV)	Amount Owed	Present Value (FMV - Amount Owed)
Car	\$2,000	0	\$2,000
Color Television	\$300	0	\$300
TOTAL PRESENT VALUE (Add the total value of the items listed in the Present Value column and fill in the total here and on line 12 of the Joint Petition for Summary Dissolution.)			\$ <u>2,300</u>

Spouse One then enters that amount of line 12, page 4, of the Joint Petition.

12. Spouse One has non-marital property which has total value of \$ 2,300 .

Spouse Two adds together the value of his/her living room furniture and the amount he/she paid for the stereo prior to the marriage.

WORKSHEET B—SPOUSE TWO'S NON-MARITAL PROPERTY

Non-Marital Property	Fair-Market Value (FMV)	Amount Owed	Present Value (FMV - Amount Owed)
Furniture	\$1,000	0	\$1,000
Stereo			\$500
TOTAL PRESENT VALUE (Add the total value of the items listed in the Present Value column and fill in the total here and on line 13 of the Joint Petition for Summary Dissolution.)			\$1,500

Spouse Two then enters that amount on line 13, page 4, of the Joint Petition. Review the comments about combined non-marital and marital property found on page 13 of the booklet if you do not understand why he/she has done this.

13. Spouse Two has non-marital property which has a total value of \$ 1,500.

**Value and Division of Marital Property**

The spouses now complete Worksheet C on pages 14 and 15 of the booklet. As shown on page 25, they enter the fair market value of their marital property and subtract any amount they still owe to reach the "present value." The spouses then add the amounts in the "present value" columns from Worksheet C and enter that amount on line 14, page 4, of the Joint Petition.

14. Enter total present value of all marital property of Petitioner A and Petitioner B, including automobiles and pensions: \$ 8,450.  
(Include the TOTAL figure from the bottom of Worksheet C on page 15 of the Booklet.)

They now divide their marital property using the information from the Worksheets. They have decided that each of them will keep their retirement accounts, since the amounts are close. If they had decided otherwise, they could not use the Summary Dissolution Procedure. The "fair-market value" and the "present value" of a pension are the same.

It would be difficult to determine what amounts in the savings account might belong to each of them. Rather than argue, they have agreed that they will share the amount in the same proportion as when they opened it. Spouse Two receives 60% ( $\$600/\$1,000$  of the original account) or \$300 and Spouse One receives 40% ( $\$400/\$1,000$ ) or \$200.

They have also included the automobile they bought during the marriage.

The stereo that Spouse Two started to purchase before the marriage has a fair market value as marital property of \$300 (fair market value of \$800 minus the non-marital value of \$500) so it must be listed on Worksheet C under "Miscellaneous." The amount still owing is subtracted giving a present value of \$200 (fair market value of the marital property of \$300 minus the amount still owing of \$100).

The golf clubs that Spouse One purchased also have a fair market value of more than \$100. The present value is \$50 (fair market value of \$300 minus the amount still owing of \$250).

Deciding what to do about the automobile is more difficult for the spouses. They discuss selling it and splitting the profit from the sale. Spouse One would like to keep the car and is willing to continue the payments, but cannot give Spouse Two his/her interest (one-half of its present value, or \$1500). Spouse Two needs to have an automobile, but does not feel he/she can afford the payments they are currently making along with all the other expenses he/she will soon have. After further discussion, the spouses agree that Spouse One can give Spouse Two his/her old automobile, which is non-marital property with a value of \$2,000. Since it is Spouse One's non-marital property, he/she is free to dispose of it as he/she wants and this seems a better solution for both of them. Spouse Two gets an automobile and Spouse One gets to keep the newer car. Spouse One also agrees to continue the payments on the new car.

**WORKSHEET C--MARITAL PROPERTY**

<b>List all property below.</b>			<b>Place the present value of the item below.</b>	<b>Place that portion of the present value of the item again in the column below for the person who will <u>receive</u> the item.</b>	
<b>Item</b>	<b>Fair Market Value</b>	<b>Amount Owed</b>	<b>Present Value (FMV-Amount Owed)</b>	<b>Awarded to Spouse One</b>	<b>Awarded to Spouse Two</b>
1. Pensions—Spouse One	\$1,500	0	\$1,500	\$1,500	
1. Pensions—Spouse Two	\$1,200	0	\$1,200		\$1,200
2. Profit Sharing—Spouse One					
2. Profit Sharing—Spouse Two					
3. IRA's—Spouse One					
3. IRA's—Spouse Two					
4. Keogh Plans—Spouse One					
4. Keogh Plans—Spouse Two					
5. Deferred Income—Spouse One					
5. Deferred Income—Spouse Two					
6. Savings/Checking	\$500	0	\$500	\$200	\$300
7. Stocks and Bonds					
8. Life Insurance					
9. Business Interests					
10. Household Goods					
11. Cars, Trucks & Vans	\$8,000	\$5,000	\$3,000	\$3,000	
12. Other Vehicles					
13. Miscellaneous					
Stereo	\$300	\$100	\$200		\$200
Golf clubs	\$300	\$250	\$50	\$50	
Spouse One's clothes	\$1,000	0	\$1,000	\$1,000	
Spouse Two's clothes	\$1,000	0	\$1,000		\$1,000
TOTAL: (Add the values in the Present Value column. Fill in the amount here and on Line 14 of the Joint Petition Dissolution of a Marriage.)			\$8,450		

Next, using the values **from the present value columns on Worksheet C**, and the information on your division of property on that worksheet complete the division of property agreement on line 16, page 4 of the Joint Petition.

16. Each spouse agrees that the property is to be divided as follows:

List all property below.		Place the present value of the item below.	Place that portion of the present value of the item again in the column below for the person who will receive the item.
Item	Present Value (FMV-Amount Owed)	Awarded to Spouse One	Awarded to Spouse Two
1. Pensions—Spouse One	\$1,500	\$1,500	
1. Pensions—Spouse Two	\$1,200		\$1,200
2. Profit Sharing—Spouse One			
2. Profit Sharing—Spouse Two			
3. IRA's—Spouse One			
3. IRA's—Spouse Two			
4. Keogh Plans—Spouse One			
4. Keogh Plans—Spouse Two			
5. Deferred Income—Spouse One			
5. Deferred Income—Spouse Two			
6. Savings/Checking	\$500	\$200	\$300
7. Stocks and Bonds			
8. Life Insurance			
9. Business Interests			
10. Household Goods			
11. Cars, Trucks & Vans	\$3,000	\$3,000	
12. Other Vehicles	\$2,000		\$2,000
SUBTOTAL	\$8,200	\$4,700	\$3,500

List all property below.		Place the present value of the item below.	Place that portion of the present value of the item again in the column below for the person who will receive the item.
Item	Present Value	Awarded to Spouse One	Awarded to Spouse Two
13. Miscellaneous			
Stereo	\$200		\$200
Golf clubs	\$50	\$50	
Clothing	\$2,000	\$1,000	\$1,000
SUBTOTAL	\$2,250	\$1,050	\$1,200
TOTAL: (Add the SUBTOTAL amounts from Pages 5 and 6 and fill them in here.)	\$10,450	\$5,570	\$4,700

## **Amount and Division of Marital Debts**

The spouses must now complete Worksheet E to figure out how much they owe and who will pay. The amount that is still owing for their automobile, \$5,000, is **not** included in figuring the amount of debts that must be listed on line 15, page 4, of the Joint Petition. However, when it is time to divide the debts, it will be necessary to include the debt and who will pay it in the division of debts on the charts for questions 17 and 18, pages 7 and 8, of the Joint Petition. They have entered the amount on the reminder sheet found on Worksheet D, page 16, of this booklet.

WORKSHEET E--DIVISION OF DEBTS

Type of Debt	Creditor	Amount Owed	Spouse One Pays (Enter Amount)	Spouse Two Pays (Enter Amount)
1. Credit Cards	VISA	\$500	\$375	\$125
4. Medical Bills				
5. Other Debts	Stereo debt	\$100	0	\$100
TOTAL (Add the amount of debts here and on Line 15 of the Joint Petition for Summary Dissolution of a Marriage.)		\$600		

Having completed Worksheet E, now total the "Amount" column and enter that total on Line 15, page 4, of the Joint Petition.

15. Enter total amount of money Petitioner A and Petitioner B presently owe: \$600

Now they review Worksheet E. Spouse One agrees that he/she will pay the remaining \$250 of the credit card charge for the golf clubs and will keep the clubs. Since the remaining \$250 (\$500 owing minus the \$250 for the clubs) was spent jointly, the spouses divide the amount between them at \$125 each. Spouse One agrees to pay \$375 of the VISA card (\$250 for the clubs plus \$125 share of the joint debt) and Spouse Two pays \$125 (his/her share of the joint debt). Spouse Two will also finish paying for the stereo (\$100 still owing) and will keep it. Spouse One will be keeping the new car and will continue the payments as they agreed. They use the information from Worksheet E to complete the division of debts agreements found on the charts for questions 17 and 18, pages 7 and 8, of the Joint Petition as shown on page 29.

17. Petitioner A shall pay the following debts, and must pay Petitioner B if Petitioner B pays any of these debts:

Creditor	Amount Owed
VISA	\$375
Car loan	\$5,000
TOTAL	\$5,375

18. Petitioner B shall pay the following debts, and must pay Petitioner A if Petitioner A pays any of these debts:

Creditor	Amount Owed
VISA	\$125
Stereo debt	\$100
TOTAL	\$225

## **WHAT ELSE DO YOU HAVE TO DO TO GET A SUMMARY DISSOLUTION?**

1. Complete a “Confidential Information Form” by printing your name, your spouse’s name, your social security number, and your spouse’s social security number, and complete a “Confidential Financial Source Documents” form for any other identifying financial information that should be kept confidential. Print your name after the line “information supplied by.” Sign your name on the line immediately below.
2. When the Joint Petition is complete, you and your spouse must sign the verifications.
3. Make copies for both you and the spouse of all the completed worksheets in this booklet and make copies of the completed Joint Petition for Summary Dissolution of a Marriage. Keep these copies in a safe place as you may need them later. You do **not** file the worksheets with the court.
4. File the Joint Petition for Summary Dissolution of a Marriage, Confidential Information Form, and Confidential Financial Source Documents form with the Court Administrator. You will be required to pay a filing fee and any other court fees. You may call the Court Administrator to find out what the filing fee and court fees are in the county where you are filing the Joint Petition for Summary Dissolution of a Marriage.
5. Once the Petition has been filed, there is a waiting period of 30 days before the court administrator can “enter” your Decree of Dissolution. You are not divorced (and cannot remarry) until the court administrator “enters” your Decree of Dissolution. You will receive a written “Notice of Entry of a Decree of Dissolution” by mail, and then you will know you are divorced. If your address changes in that 30 day waiting period, you should inform the court administrator in writing of your new mailing address. If more than 30 days have passed and you have not received the “Notice of Entry of a Decree of Dissolution” you may wish to contact the Court Administrator to see if a Decree of Dissolution has been entered.

### **Denial of Divorce**

If you have not completed the Joint Petition for Summary Dissolution of a Marriage correctly, or if for some other reason you do not qualify for the Summary Dissolution procedure, the Court Administrator cannot give you your divorce. You will receive written Notice of Denial of the Petition. Your filing fee and law library fee will not be returned to you. If this happens, you will want to take copies of your Joint Petition to an attorney who will be able to advise you on how you may complete your divorce.

You may later be required to prove to someone, for example, a bank, that you are divorced. In order to do this, you will have to get a certified copy of the Decree of Dissolution. This is not the same as the Notice of Entry of a Decree of Dissolution that you receive in the mail. The Court Administrator will issue a certified copy of your Decree of Dissolution for a small fee.

## **SOME GENERAL ADVICE**

### **What about income taxes?**

If you have filed a joint tax return, you will still both be responsible for paying any unpaid taxes even after your divorce.

If you are receiving a refund, you should agree in the property settlement on how it should be divided.

Once you are single, your income tax withholding may be higher. Be prepared to pay more in taxes.

### **What about titles to cars and other vehicles?**

If you own cars or other vehicles in both your names and you agree that one of you is going to own the vehicle after the divorce, you will have to transfer the title to that person. You should go together to the Department of Public Safety representative in your county to do this.

### **What if your spouse doesn't pay his or her debts?**

As discussed in the booklet, you may be required to pay off a creditor even though your spouse agreed in the Division of Debts to be responsible for the debt. You may wish to talk to an attorney if this happens or you may sue to recover any amount less than \$10,000 in Conciliation Court. The Court Administrator can inform you about costs and procedures to use in Conciliation Court. Forms and information are also available on the Internet at [www.mncourts.gov](http://www.mncourts.gov).