

SELF SERVICE CENTER

INSTRUCTIONS: HOW TO FILL OUT PAPERS FOR DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH MINOR CHILDREN

DOMESTIC VIOLENCE: Domestic violence can be part of any marriage. Domestic violence includes physical violence such as hitting, slapping, pushing, or kicking **or** threats of physical violence directed against you and/or your children **and/or** verbal abuse used to control you and/or your children.

Court documents request your address and phone number. If you are a victim of domestic violence, and you do **not** want your address to be known to protect yourself or your children from further violence, you **must file** a **“Request for Protected Address”** and ask that your address **not** be disclosed on court papers. With that Order, you do not need to put your address and phone number on your divorce papers. Just write "protected" in the space on the form where you are asked for this information. You must tell the Clerk of the Court your address and phone number as soon as possible so the court can get in touch with you. The court will keep your address protected.

ALL FORMS: Type or print in black ink.

FORM: FAMILY DEPARTMENT / SENSITIVE DATA COVER SHEET

- **Write in** the information requested about Petitioner, Respondent, and any children under the age of 18.
- **DO NOT INCLUDE MAILING ADDRESS ON THIS FORM IF REQUESTING ADDRESS PROTECTION.**
- **Case Type:** Mark only one box that matches the legal procedure for which you are filing the documents in this packet: **Dissolution (Divorce).**
- **Interpreter:** Check “yes” or “no” to indicate whether an interpreter is needed. If “yes”, write in what language(s).
- **No additional copies needed. Do NOT serve this document on the other party.**

FORM: SUMMONS AND PRELIMINARY INJUNCTION

Fill in the following information: Your name; street address (**if not protected**); city, state, and zip code; telephone number; ATLAS number; name of Petitioner; name of Respondent. You will have an ATLAS number **ONLY** if you receive or have received AFDC or other public benefits for your minor child(ren) that are common to you and your spouse. Tell the court whether you represent yourself or are represented by a lawyer. If you are represented by a lawyer, contact your attorney before filing any documents with the court. **DO NOT** fill out the rest of the form except on Page 2 of the Preliminary Injunction; fill out the description of other party. The Clerk of Court will complete the rest of the form later.

FORM: PETITION FOR DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH MINOR CHILDREN

- A.** Use this form **ONLY** if you are getting a divorce and there are children under the age of 18 years involved who are common to you and your spouse, and you have a non-covenant marriage. Arizona laws regarding “covenant” marriages went into effect August 21, 1998. See A.R.S §25-901. If you have a covenant marriage, you and your spouse were asked to sign an affidavit that included a statement similar to this:

“We solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for as long as they both live. We have chosen each other carefully. We understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling. We declare that our marriage will be bound by Arizona law regarding covenant marriages and we promise to love, honor and care for one another as husband and wife for the rest of our lives.”

(This paperwork will **not** work if you have a covenant marriage. If you have questions about whether you have a “covenant” marriage, look at your marriage license and/or see a lawyer for help.) Make sure your form is titled ***“Petition for Dissolution of Non-Covenant Marriage (Divorce) With Children.”***

- B.** 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. Tell the court whether you represent yourself or are represented by a lawyer. If you are represented by a lawyer, contact your attorney before filing any documents with the court.
- C.** If there is **no prior Court Order** for child support involving the same parties, fill in your name in the space that says "Petitioner." Remember, you will be “Petitioner” through the whole case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.) In the space that says "Respondent," fill in the name of your spouse. Your spouse will be “Respondent” for the rest of this case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.)

If there is a **prior Court Order** for child support involving the same parties, fill in the names of the parties as it is written on that Court Order.

- D.** If there is **no prior Court Order** for child support involving the same parties, leave the space for Case Number blank. When you file your papers, you will receive a case number.

If there is a **prior Court Order** for child support involving the same parties, you will file these papers under that case number. Write that case number in the blank space.

STATEMENTS MADE TO THE COURT, UNDER OATH OR BY AFFIRMATION:

- 1. INFORMATION ABOUT ME.** Fill in your name, address (**if not protected**), date of birth, job title, and length of time in years and months in Arizona.
- 2. INFORMATION ABOUT MY SPOUSE.** Fill in your spouse’s name, address (if you know it), date of birth, job title, and length of time in years and months in Arizona.
- 3. INFORMATION ABOUT OUR MARRIAGE.** Fill in the date you were married, and the city, and state or county where you were married. If you do not know this information, and you were married in Arizona, you may get a copy of your marriage license from the Clerk of the Superior Court at the county seat where you were married.

NEXT: Read the statements that follow the checkboxes. Check the box for each statement that is **TRUE**. If any statement is **NOT true** or *if you fail to check the box to indicate the statement is true*, your case may not proceed. If the fourth box (regarding legal decision-making) is not checked, the Court may not be able to enter orders regarding legal decision-making of the children.

Check the first box to indicate that you do not have a “covenant” marriage.*

Check the second box to indicate your marriage is irretrievably broken.*

Check the third box to indicate you have been to marital counseling – or that it would not help.*

Check the fourth box to indicate this court has the jurisdiction to determine legal decision-making and parenting time issues.*

* **To have a “Covenant Marriage”, both Petitioner and Respondent would have had to:**

1. **sign papers requesting** to have a covenant marriage or to convert to a covenant marriage,
2. **attend pre-marital counseling** (unless converting an existing marriage to a covenant marriage, *AND*
3. **Your marriage license would say “Covenant Marriage”.**

If you still have questions about whether you have a “covenant” marriage, contact a lawyer for help.

“Irretrievably broken” means that your marriage is broken beyond repair and there is no chance of getting back together with your spouse.

“Jurisdiction to determine legal decision-making and parenting time” Generally, the children must have lived in Arizona for the past six (6) months, or since birth if younger than 6 months.

4. **90-DAY RESIDENCY REQUIREMENT.** Before you file for Divorce, this statement **MUST** be true. **IF IT IS NOT TRUE, YOU CANNOT FILE FOR DIVORCE** in Arizona until it becomes true.
5. **CHILDREN OF THE PARTIES WHO ARE LESS THAN 18 YEARS OF AGE.** If there are no children under the age of 18 born to, or adopted by, you and your spouse, you should use the *“Petition for Dissolution of a Non-Covenant Marriage - Without Minor Children”* Packet. Write the names of any child(ren) under age 18 common to you and your spouse, whether born to you and your spouse during or before your marriage or adopted by you and your spouse during the marriage. Include the children’s birthdate(s), address(es), and length of time at the last address. Check to box to indicate if minor children were born before the marriage.
6. **PREGNANCY.** If Petitioner or Respondent is **NOT** pregnant at this time, check the correct box and go on. If Petitioner or Respondent **is** pregnant, check the correct box. Fill in the date the baby is due, and check the box indicating if the other spouse is the parent of the unborn child.
7. **INFORMATION ABOUT PROPERTY AND DEBTS:** The information you give in paragraphs 7a through d. tells the court about your property and debts, and how you think your property and debts should be divided.
 - **Community property** is generally any property you and your spouse purchased during your marriage or paid for during the marriage, no matter who uses the property or who paid the money.
 - **Unless property was a gift or inheritance**, all property gotten (acquired) during the marriage up

until the time when your spouse is served with the Petition for Dissolution is generally community property, and both you and your spouse are entitled to roughly an equal share of this property.

- **Community debts or bills** are generally any debt you and your spouse acquired during your marriage up until the time your spouse is served with the Petition for Dissolution, no matter who spent the money.
- If you have questions, or have a lot of community property or debt, you should speak with a lawyer **BEFORE** filing your Petition and other papers.

7.a PROPERTY ACQUIRED DURING THE MARRIAGE. (COMMUNITY PROPERTY). If you and your spouse do not have any property that you acquired during the marriage, check the first box. If you and your spouse acquired property together during the marriage, check the second box. If you checked the second box, you must tell the court what property should go to you and what property should go to your spouse. Generally, the court will divide the property 50-50, unless there are good reasons not to. It is unlikely that the court will give most or all of the property to either spouse, so put some thought into what you think would be a fair division before answering this question. Usually, if you and your spouse cannot decide which spouse should receive what property, the court will order that the property be sold, and any money received divided between you and your spouse.

First, list the property that you want the court to award to you, the Petitioner, and list the property that you want the court to award to your spouse, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes. Use the brand name, and model and serial numbers, where applicable. Then, estimate the monetary value of the item.

Types of property:

a) Real Property (land, or home). Check who you want to get the property. You can ask the court to give you the home, to give the home to your spouse, or to sell the home and divide the proceeds. You should write the complete address of the property under "Real estate located at" Most property has a legal description such as "LOT 77, PINE TREE ACRES, according to Book 111 of Maps," which appears on your deed papers. You should use this description.

A cemetery plot is considered real property.

- b) Household furniture.** This includes sofas, beds, tables, and so forth. Be specific.
- c) Household furnishings.** This includes things in the house other than furniture, for example: dishes, small appliances, rugs, and so forth. Be specific.
- d) Other.** List things that you want, or you want your spouse to have that have not already been listed.
- e) Pension/retirement fund/profit sharing/stock plans/401K.** You and your spouse each generally have an interest of up to 50% (one-half) of the other spouse's plan, for the number of years you were married. The longer the marriage, the greater your financial interest in your spouse's plan (up to 50 percent of the benefits/plan if you have been married the whole time the plan has existed.) Check this box if you want to divide your interest in a retirement or profit sharing/retirement/401K plan. If you check this box, you must see a lawyer about a **document** called a **Qualified Domestic Relations Order or QDRO**. **A QDRO is a very specialized legal document that requires professional assistance to prepare.** The Self-Service Center and the court **do not** have Qualified Domestic Relations Order forms.

f) **Motor vehicles.** List the vehicle identification number, the year and make of the car (Ford, Honda) and the model (Mustang, Lumina).

7.b. **PROPERTY ACQUIRED BEFORE MARRIAGE. (SEPARATE PROPERTY).** If you did not have or bring any property into the marriage, check the first box. If you brought property into the marriage or acquired property after your spouse was served with the Petition for Dissolution, check the second box. If your spouse did not have or bring any property into the marriage, check the third box. If your spouse brought property into the marriage or acquired property after your spouse was served with the Petition for Dissolution, check the fourth box. If you checked the second and/or fourth box, you must tell the court what property you brought into the marriage and what property your spouse brought into the marriage. List the property that you want the court to award to you and list the property that you want the court to award to your spouse. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes. You can use the brand name and model and serial numbers where applicable.

7.c. **DEBTS INCURRED DURING THE MARRIAGE. (COMMUNITY DEBT).** If you and your spouse do not owe money on any debts from the marriage, check the first box and go on. If you and your spouse owe money on any debts from the marriage, check the second box. If you checked the second box, tell the court which debts you should pay and which debts your spouse should pay. Generally, the court will attempt to make a fair division of the debts. If you get property that has debt on it, you will probably also be given the debt. Ordering one person to pay all the debt is unusual. Think about what a fair division of the debts is before answering this question. Put enough information to identify each debt.

If you and your spouse have been separated and have acquired new debts on your own since the separation and before filing for divorce, you may want the court to order that each of you pay for any new debt after the date you separated. You can make this request on the last page of your Petition under "Community Debts."

7.d. **SEPARATE DEBTS. DEBTS INCURRED PRIOR TO MARRIAGE.** If you and your spouse did not owe money on any debts before you were married, check the first box, and GO ON. If you owed money on debts before you were married, check the second box. If your spouse owed money on debts before you were married, check the third box. If either you or your spouse owe money on any debts you or your spouse brought into the marriage, describe the debts, and tell the court which debts you should pay and which debts your spouse should pay.

8. **TAX RETURNS.** Decide what you want to do about any income tax refund. Check the box that applies to you. If you have questions about which box you can check, you should see a lawyer, an accountant, and/or contact the Internal Revenue Service (IRS).

9. **SPOUSAL MAINTENANCE /SUPPORT** is the term used to describe money paid from one spouse to the other spouse as part of a divorce settlement. You may know the term as alimony. Spousal maintenance/support is designed as a safety net for a spouse who cannot provide for his or her needs or who meets other requirements listed on the Petition under paragraph 10. The idea behind spousal maintenance/support is that accomplishments during your marriage, including increases in earning potential and living standards, are shared, and earned by **BOTH** parties to a marriage. Look at paragraph 10 to see if spousal maintenance/support applies to you or your spouse. Check as many boxes as apply to your situation. Spousal maintenance/support is paid separately from child support and is **not** a substitute for, or a supplement to, child support.

10. **WRITTEN AGREEMENT.** Check this box **ONLY** if you and your spouse have a written agreement regarding maintenance of a spouse, division of property/debt, legal decision-making, parenting time and child support that **both** of you signed **BEFORE** you filed the "*Petition for Dissolution of Marriage*". If you have only discussed these issues and do **not** have a written agreement, do **NOT** check this box.
11. **PARENT INFORMATION/EDUCATION PROGRAM.** The Arizona Superior Court offers a Parent Information/Education Program to provide information to divorcing parents, or parents involved in other domestic relations actions, concerning what their children may be experiencing during this emotionally difficult period (Pursuant to Arizona law (ARS § 25-351: "Domestic Relations Education on Children's Issues").
- Completion of the Parent Information/Education Program is a **requirement for all parents** involved in a divorce, legal separation, or paternity case in which a party requests that the court determine legal decision-making, parenting time, or child support. Parties involved in other types of domestic relations actions, such as modification or enforcement of legal decision-making or parenting time, as well as child support matters, may also be ordered to attend the Parent Information/Education Program at the court's discretion.
 - Both the Petitioner and the Respondent must complete this class within 45 days from the date the Petition is served. (A.R.S. § 25-352).
 - Check the box that corresponds with whether you have completed the Parent Information/Education Program.
12. **DOMESTIC VIOLENCE.** Place a mark in the boxes that are true in your situation. If you marked the third box that states there was domestic violence, explain in writing why you think it is still in the child(ren)'s best interest for the court to grant sole or joint legal decision-making to a parent who has committed domestic violence.
13. **DRUG / ALCOHOL CONVICTIONS.** Place a mark in the box that best describes the Petitioner's and the Respondent's drug / alcohol convictions within the last 12 months.
- A conviction of any drug offense within 12 months of filing of the petition seeking to establish or modify legal decision-making, creates a rebuttable presumption that awarding either joint or sole legal decision-making to that parent is not in the child's best interest. This is because the court considers evidence of drug and alcohol convictions as being against the best interest of the child A.R.S. 25-403.04.
 - If the court finds evidence of a conviction of any drug/alcohol offense within 12 months of filing of a petition to establish or modify legal decision-making has occurred, the court shall make arrangements for parenting time that best protects the child.
14. **CHILD SUPPORT.** Place a check mark in the boxes about child support that are true in your situation. Arizona law declares that every person has the duty to provide all reasonable support for that person's natural and adopted minor, unemancipated children - regardless of the presence or residence of the child in this state A.R.S. 25-501.

15. **OTHER EXPENSES.** This item concerns uninsured or out-of-pocket health, medical, or dental expenses for the child(ren). If you want these expenses divided in proportional to the respective incomes of Petitioner and Respondent, place a check mark in the box.

REQUESTS TO THE COURT. This section requests that the court grant you and your spouse a divorce and tells the court other requests you are making:

- A. **DISSOLUTION.** A check mark in the box is your request to end your non-covenant marriage by a divorce.
- B. **RESTORE NAME.** Write in this section only if you want to use your maiden or former name. Write in your complete current name, and maiden name or former last name in the space provided. If you are **not** the person who is requesting to have your former name restored, the court must have a written request from the party who wants his or her name restored in order to change the name.
- C. **PATERNITY and MINOR CHILDREN'S NAMES.** Place a mark in the box to indicate the legal parent(s) of the child(ren) born before the marriage. If you intend to change the name(s) of the child(ren), write the current name(s) on the left, and the new name on the right.
- D. **PRIMARY RESIDENCE, PARENTING TIME, AND AUTHORITY FOR LEGAL DECISION-MAKING (Custody)**
1. **PRIMARY RESIDENCE:** The physical place where the child is cared for, supervised, and sleeps overnight. Tell the Court whether you want neither parents' home, your home or your spouse's home to be the primary residence for the minor child(ren).
 2. **PARENTING TIME:** means the schedule of time during which each parent has access to a child at specified times. Each parent during their scheduled parenting time is responsible for providing the child with food, clothing and shelter and may make routine decisions concerning the child's care.

NOTE: (If you want to know more about parenting time, refer to "Planning for Parenting Time: Arizona's Guide for Parents Living Apart". The Guide may be viewed online and downloaded for free from the state courts' web page.

- Check only one of the first three boxes. You can ask that the non-primary residential parent (the parent having parenting time with the minor child less than 50% of the time) have one of the following types of parenting time.
 - **Reasonable parenting time.** This suggests an amount of parenting time appropriate to the age of the child(ren). The court offers suggested amounts of parenting time, but the amount can vary by agreement of both parents.
 - **Supervised parenting time to the non-primary residential parent.** You may request supervised parenting time if the non-primary residential parent cannot adequately care for the minor child(ren) without another person present. You may request this if the parent whose home is not the primary residence has a problem with drugs or alcohol; is violent or abusive; or does not have the parenting skills to care for the minor child(ren) without another adult present. Remember, supervised parenting time is not intended to punish the parent, but to protect the minor child(ren). Write in the name of a person you would like to supervise the child-parent

visit. Also, mark the box that shows who you think should pay for the supervisor.

- **No parenting time to the non-primary residential parent.** You may mark this option only if the non-primary residential parent has seriously harmed, abused, or is a serious danger to the minor child(ren)'s physical and/or emotional health, or if there is a criminal court order stating no contact between the minor child and the parent whose home is not the primary residence of the children. You may use this as a last resort to protect the minor child.

3. **AUTHORITY FOR LEGAL DECISION-MAKING (CUSTODY):** "Legal decision-making" means the legal right and responsibility to make all nonemergency legal decisions for a child including those regarding education, health care, religious training, and personal care decisions. For the purposes of interpreting or applying any international treaty, federal law, a uniform code, or the statutes of other jurisdictions of the United States, legal decision-making means legal custody A.R.S. 25-401.

In the context of legal decision-making, "sole" means one parent, "joint" means both parents. First, place a mark in the box to show if you want sole or joint legal decision-making. Then, mark the parent (Petitioner, Respondent, or both) you want to be awarded the authority for legal decision-making.

(For the court to order joint legal decision-making, there must have been no "significant" domestic violence or find it in the best interests of the child(ren) despite any such violence according to Arizona law, A.R.S. § 25-403.03)

E. CHILD SUPPORT:

1. Tell the court who you think should pay child support. The income of the parties may determine the amount of the support according to the child support guidelines. Check only one box.
2. **Past Support** is child support after a couple has separated but before any paperwork is filed or court orders issued. Indicate the party who owes past child support, if any is owed.
3. Place a mark in the box to request the child support order be attached to the Decree of Dissolution.

F. MEDICAL, DENTAL, VISION INSURANCE AND HEALTH CARE EXPENSES FOR MINOR CHILDREN: Mark the box(es) to request the part(ies) who should be responsible for medical, dental and vision care for minor children

G. TAX EXEMPTION. Decide how you and your spouse will declare the tax dependency exemptions, for which child(ren), for which years. Federal Tax law also determines this for you. Mark the box that best describes your preference. If you are not sure, see a lawyer and/or an accountant for help.

H. SPOUSAL MAINTENANCE/SUPPORT. This tells the court that you or your spouse should pay money to the other spouse on a monthly basis to help with living expenses. Spousal maintenance is not a substitute for, or a supplement to, court ordered child support. You can check a box **only if** you checked the same box in the spousal maintenance/support section earlier in the document.

- If you believe **neither** you nor your spouse should pay spousal maintenance check the first box.
- **Check the second box if** you request the court to order spousal support. Then indicate whether the Petitioner will be paying spousal maintenance or whether the Respondent will be paying. If you request spousal maintenance, choose what you believe to be a reasonable monthly amount and tell the court how long the money should be paid. Base the amount of any request on the receiving party's need and the income of the party paying this money.

I. COMMUNITY PROPERTY. This requests that the court fairly divide your marital property.

J. COMMUNITY DEBT. This requests that the court follow your instructions in the Petition about how to divide your marital debt. If you have been separated from your spouse long enough that you or your spouse may have additional debts, write down the date of your separation on the line provided if you want each spouse to pay his/her debts incurred after you separated.

K. SEPARATE PROPERTY. This states that you will keep the property you owned before the marriage and that your spouse will keep the property he or she owned before the marriage.

L. SEPARATE DEBT. This says that you will pay your separate debts and your spouse will pay his or her separate debts.

M. OTHER ORDERS: Tell the court anything else you may want ordered that has not been covered in your Petition.

OATH OR AFFIRMATION AND VERIFICATION OF PETITIONER: Sign this form in front of a Clerk of the Superior Court or a notary public. By doing so, you are telling the Court that everything contained in the Petition is true, under penalty of perjury.

FORM: NOTICE OF RIGHT TO CONVERT HEALTH INSURANCE

This is an important document that explains what to do about health care coverage for yourself and your minor child(ren). Read it carefully and be sure a copy is served on your spouse, along with the other divorce papers.

FORM: AFFIDAVIT REGARDING MINOR CHILDREN

You must complete this document. Fill in the information completely and to the best of your knowledge.

FORM: ORDER and NOTICE REGARDING THE PARENT INFORMATION/EDUCATION PROGRAM

This is an important document. You and the other parent must attend and complete a class in the Parent Information/Education Program. This is a very exciting and wonderful class. It was designed to help you. The purpose of the Parent Information/Education Program is to give parents information about the impacts that divorce, the changes in the family unit, and court involvement have on minor children involved in a divorce, paternity, or legal decision-making case. This Notice applies to **all** parents who file an action for dissolution of marriage or legal separation, or any paternity proceeding, in which a party has requested that the court determine legal decision-making, parenting time, or child support, and to all other domestic relations cases if ordered by the court. **Make sure you read this order and notice and serve the other party with it.**

FORM: NOTICE REGARDING CREDITORS

This is an important document that tells you and your spouse that you are responsible for community debts to creditors even though the court order or decree says that only one of you (either you or your spouse) are responsible. This notice must be served on your spouse. In addition, read this notice to find out how to obtain information from your creditors about account balances.

OTHER IMPORTANT PAPERS

Before you get an order from the Judge you must complete the court papers on what you want the Judge to order about legal decision-making and parenting time, and for child support. The court papers you need, with guidelines and/or instructions, are available on the Arizona Court web site (azcourts.gov). These court forms, and those prepared by the other party, are what the Judge will use when it is time to sign the order about legal decision-making (custody), parenting time and support. You can complete the papers about legal decision-making, parenting time and support now, and serve or provide copies to the Respondent. Or, you can complete the papers before the final court hearing date. The online child support calculator is available at the Arizona Courts web site and will perform the child support calculations for you and produce a neat, legible Parents Worksheet for Child Support and Child Support Order as well.