

## Instructions: How to fill out papers for 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 Superior 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

Most court forms can be filed electronically (eFile), and some forms in this packet may be auto generated by the eFiling system. If you will be eFiling your forms, you will not need to complete all forms in this packet. For more information about eFiling and which forms will be auto generated by the eFiling system, read the eFiling instructions first: <https://superiorcourt.maricopa.gov/media/7446/dref13i.pdf>.

Form: Family Department/Sensitive Data Cover Sheet

- Write in the information requested about Petitioner/Party A, Respondent/Party B, 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: [x] 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.

Forms: 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. If you are represented by an attorney, write in the attorney's bar number. Tell the court whether you represent yourself or are represented by an attorney. 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 Superior Court will complete it later.

Form: Petition for Dissolution of a Non-Covenant Marriage (Divorce) with Minor Children

- 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.
- 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 and the attorney bar number if you are represented by an attorney. Then check the box to say whether you are represented or not. If an attorney represents you, write in your name in the space after "Attorney for."
- If there is no prior Court Order for child support involving the same parties, fill in your name in the space that says "Petitioner/Party A." Remember, you will be "Petitioner/Party A" through the whole case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.) In the space that says "Respondent/Party B," fill in the name of your spouse. Your spouse will be "Respondent/Party B" 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 the Court Order.
- Leave the space for Case No. blank. When you file your papers, you will receive a case number. If there is already a Court Order for child support involving the same parties, you will file these papers under the same 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, occupation, and length of time in Arizona.
2. Information about my spouse. Fill in your spouse's name, address, (if you know it) date of birth, occupation, and length of time in Arizona.
3. Information about your marriage. Fill in the date you were married, and the city and state where you were married. If you do not know this information, and you were married in Maricopa County, you may get a copy of your marriage license from the Clerk of Superior Court at 601 West Jackson Street in downtown Phoenix. If you were married in another county in Arizona, go to the Clerk of 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.

To have a "Covenant Marriage," both Party A and Party B 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.

Check the second box to indicate your marriage is irretrievably broken. "Irretrievably broken" means that your marriage is broken beyond repair and there is no chance of getting back together with your spouse.

Check the third box to indicate you and your spouse have attended a free conference with trained staff through the Court – or that it would not help.

"Power to decide 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.

Check the fourth box to indicate this Court has the power to decide legal decision-making and parenting time issues.

4. Venue. You, your spouse or the minor children must live in Maricopa County to use these forms. This must be true, and you must check this box.
5. 90-day 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.
6. Domestic violence. This tells the court if domestic violence was in the marriage, which affects a request for joint legal decision-making (custody), (if you intend to ask for joint custody). If you are not sure what domestic violence means, see the “Domestic Violence” section on the first page of these instructions. Check the box that applies to your situation.
7. Children common to 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 their birthdate(s), address(es), and length of time at the last address.
8. Pregnancy. If Party A or Party B is not pregnant at this time, check the correct box and go on. If Party A or Party B is pregnant, check the second box. Fill out the date the baby is due and fill in any information regarding the parents of the unborn child. If there are any minor children that were born before the marriage, check the third box. Check the box stating Party A and/or Party B is the parent of the minor child and fill out the name(s) of the minor child(ren) born before the marriage on the lines below.

Information about property and debt: The information you give in paragraphs 8a 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 an attorney before filing your Petition and other papers.
- 9.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 Party A, and list the property that you want the court to award to Party B. 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, 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 an attorney 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 Law Library Resource 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).
- 9.b. Property acquired before marriage. (Separate property). If Party A did not have or bring any property into the marriage, check the first box. If Party B did not have or bring any property into the marriage, check the next box. If you or your spouse brought property into the marriage or acquired property after your spouse was served with the Petition for Dissolution, check the third and/or fourth box. If you checked the third 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.

- 9.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 check 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 is a fair division of the debts 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 Letter I, "Community Debts."

- 9.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.

10. 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).

11. 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/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

12. Written legal decision-making (custody) agreement. Check this box only if you and your spouse have a written agreement regarding 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.

13. Parent Information Program. The Superior Court in Maricopa County offers a Parent Information 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 (A.R.S. § 25-351: “Domestic Relations Education on Children’s Issues”).

- Completion of the Parent Information 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 Program at the Court’s discretion.
- Both Party A and Party B must complete this class within 45 days from the date is the Petition is served. (A.R.S. § 25-352).
- Check the box that corresponds with whether you have completed the Parent Information Program.

14. 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.

15. Drug/alcohol convictions. Place a mark in the box that best describes Party A and Party B’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 protect the child.

16. 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.

- Title IV-D program or Temporary Assistance for Needy Families (TANF) recipients  
Note: Mark the box if you or the other party are involved in the TANF or Title IV-D programs. In Part 4, you must obtain the written approval and signature of the Attorney General or county attorney assisting you on your TANF or IV-D case. You must include or attach the signature to the Final Decree BEFORE filing it. (Rule 45 (c) (3))

17. 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 Party A and Party B, place a check mark in the box after number 16.

Requests to the court. This section requests that the court grant you and your spouse your 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.

Names. Write in this section only if you want to use your maiden or former name. Write in your 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.

B. 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 of the child(ren), write the current name(s) on the left, and the new name on the right.

C. Primary residence, parenting time, and legal decision-making (legal custody)

1. Primary residence: The physical place where the child is cared for, supervised, and sleeps overnight. Tell the Court whether you want 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 physical custody and parenting time, refer to "Planning for Parenting Time: Arizona's Guide for Parents Living Apart." The Guide is available for purchase at all Superior Court Law Library Resource Center locations or 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 should 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).

- No parenting time to the non-primary residential parent. You should mark this option only if the non-primary residential parent has seriously harmed, abused, or otherwise 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.
- 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.

3. Legal decision-making: "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 Party (A or B 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)

#### D. 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.

E. 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

F. 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.

G. Spousal maintenance/support (alimony). 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 on page 6, paragraph 10.

- 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 (Party A) will be paying spousal maintenance or whether (Party B) 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.

H. Community property. This requests that the court fairly divide your marital property.

I. 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.

J. Separate property. This states that you will keep the property you owned before the marriage and that your spouse will keep the property he/she owned before the marriage.

K. Separate debt. This says that you will pay your separate debts and your spouse will pay his/her separate debts.

L. 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 Party A: Sign this form in front of a Clerk of 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.

Other important papers in this packet:

Notice of Rights about Health Insurance Coverage: 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.

Affidavit Regarding Minor Children: You must complete this document. Fill in the information completely and to the best of your knowledge.

Order and Notice Regarding the Parent Information Program: This is an important document. You and the other parent must attend and complete a class in the Parent Information Program. The purpose of the Parent Information 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 proceeding in which a party has requested that the court determine legal decision-making, parenting time or support, and to all other domestic relations cases if ordered by the court. Make sure you read this order and notice and serve it on the other party.

**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.

**Parenting Plan:** Fill out the Parenting Plan to let the Court know details about what you want for legal decision-making authority and parenting time. It is important to be specific when filling out the Parenting Plan. You may refer to the “Planning for Parenting Time: Arizona’s Guide for Parents Living Apart” to help make your parenting plan. The Guide is available for purchase at all Superior Court Law Library Resource Center locations, or may be viewed online and downloaded for free from the State Courts’ webpage. After completing the Parenting Plan, file it with your Petition

Other important papers to be completed not in this packet:

#### Child Support Worksheet

You may use the free online child support calculator at the website listed below to complete a child support worksheet.

ezCourtForms <http://www.superiorcourt.maricopa.gov/ezcourtforms2/>

To complete the Child Support Worksheet, you will need to know:

- Your monthly gross income and that of the other parent.
- The monthly cost of medical insurance for the minor children who are the subject of this action.
- Monthly childcare amounts paid to others.
- The number of days the minor child(ren) spend with the non-primary residential (custodial) parent.
- Monthly obligations of yourself and the other parent for child support or court-ordered spousal maintenance/ support.

After completing the child support worksheet, print out the child support worksheet and file it with your Petition.

**Next step:** After you fill out all of the forms in this packet, read the form called Procedures: How to file forms for divorce with minor children.