

Instructions: How to complete the forms for Decree for legal separation with minor children

Use these instructions only with the Decree of Legal Separation with Minor Children. If there are no minor children, by birth or adoption, common to you and the other party, use the forms for a decree without children.

What the Decree means to you. The Decree is the final Court Order that legally separates you and the other party. You are not divorced and cannot marry someone else (until you are divorced). The Decree, once the Judge or Commissioner has signed it, is important because it determines the rights and responsibilities of both you and the other party. If either party does not do what the Decree tells him or her to do, then the other party may ask the Court for help. Once it has been signed by the Judge or Commissioner, your rights and responsibilities are affected forever.

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

Getting a Legal Separation Decree. Before you and the other party become legally separated, a Judge or Commissioner must sign a Decree of Legal Separation. The Decree tells you who gets the property, who pays the debts, who gets parenting time and legal decision-making of the minor child(ren), who pays child support, spousal maintenance, if any, and so forth.

Legal Separation by Default. If you are seeking a Default Decree, you must repeat as closely as possible what you requested in your Petition for Legal Separation. You cannot mark something different in the Decree than what you asked for in the Petition. If you try to request something other than what is requested in the original Petition, the Judge or Commissioner will not sign the Decree. If you want to change your requests to the Court, you must file an amended Petition. It is a good idea to have your Petition handy as you follow the instructions to fill out your Decree.

The Decree. Fill out the Decree before you go to your hearing or before you give it to the Judge or Commissioner to sign. Do not fill in the Judge's or Commissioner's signature and date. If the Judge or Commissioner disagrees with anything you have written, he or she will change it before signing the Decree.

Instructions for filling out the Decree. (The section number in front of each paragraph below corresponds with the section number on the Decree. For example: Read Section 1-3d below. Turn to Sections 1-3d on the Decree. Each section below will help you fill out each section of the Decree.)

Type or print clearly in black ink only.

Section: Instruction:

(A) Write in your name, current address, city, state, zip code, and the telephone number. If you have an ATLAS number, write in the number. Then check the box to show whether you are representing yourself, or if you are an attorney representing Petitioner / Party A or Respondent / Party B.

(B) Write in the Name of the Petitioner / Party A, the Name of the Respondent / Party B, and your case number in the space provided.

(C) Court Findings Section:

1-3. This section tells you that before the judicial officer (judge or commissioner) signs the Decree, he/she will have determined that the Court has the legal power to make the orders in your case. It also says that either you or the other party lives in Arizona, and that the parties are unable to get back together and save their marriage. The judge or commissioner must also determine that both you and the other party want a legal separation. If one of you does not want a legal separation, the judicial officer can dismiss your case or turn it into a divorce case.

4. Write in the name(s) and birthdate(s) of the child(ren) effected by the Legal Separation Decree.

5.A-D. These statements recite facts based upon the information the parties provided in the Petition and Response.

5.E. Community and Separate Property and Debt. Mark the first box only if you and the other party did not get any property together while you were married and do not owe money to anyone for property or services you got while you were married. Otherwise, choose the box that tells the Court that the parties have or have not agreed to a division, but the property and debt is divided pursuant to the Court dividing the property and debt.

5.F. Pregnancy and Paternity. Mark the first box if Party A is not pregnant. Mark the second box if Party A is pregnant and then mark whether Party B is the Parent. Mark the third box if Party B is not pregnant. Mark the fourth box if Party B is pregnant and Party A is the

parent. Mark the last box if the parties had any minor children together that were born before the marriage. Then list the name and date of birth for those children.

- 5.G. Spousal Maintenance/Support (Alimony). Mark “Party A” or “Party B” box if you have requested spousal maintenance/support (alimony) for that Party in the Petition or Response for Legal Separation, or the parties have agreed, or if the Judge or Commissioner has ordered that one party will pay the other party spousal maintenance/ support.
- 5.H. Parent Information Program. Mark the boxes to show the Court whether you and the other party have attended the Parent Information Program Class. (If you have attended the class, make sure your “Certificate of Completion” was filed with the Court.)
- 5.I. Child Support Guidelines.
- 5.J. Primary Residence. Mark one box only. If primary residence of the child(ren) was contested (you and the other party did not agree about primary residence), or if you and the other party have agreed to joint legal decision-making and parenting time, or if the Judge/Commissioner will order a different arrangement. You must write the reasons in the space provided. See the “Planning for Parenting Time: Arizona’s Guide for Parents Living Apart” booklet for help. 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.
- 5.K. Legal Decision-Making. This involves the person(s) responsible for the legal parental duty of making decisions about health, education, religion and general welfare of the child(ren).
- If you and the other party agree about who should have the decision-making duty, mark the box you agree upon.
 - If you and the other party disagree on the decision-making arrangement, leave the boxes blank, and let the Judge/Commissioner fill in this part.
- 5.L. Parenting Time: Supervised or No Parenting Time. Mark the box only if you asked for supervised or no parenting time by the other party in your Petition or the parties have agreed to this. You must have a very good reason for such a request, and you must write the reasons in the space provided.
- Write in the name of a person you would like to supervise the child-parent visit.
 - If you would like the Judge/Commissioner to restrict parenting time as stated in the petition or response, write in your request on the lines provided.

- Also, mark the box that shows who you think should pay for the supervisor.
- Reasons: Write the reasons you checked the “No Parenting Time” box and explain why the choice is in the best interest of the child(ren).

5.M. Domestic Violence. If the parties requested joint legal decision-making, parenting time or primary residence of the minor child(ren), check the box to say whether there has been no domestic violence, or if domestic violence has occurred it has not been significant. Then explain why joint legal decision-making, parenting time and primary residence is in the best interest of the minor child(ren) even though domestic violence has occurred.

5.N. Drug/Alcohol Conviction: This information is needed by the Court to properly award legal decision-making, parenting time and primary residence. Mark the boxes that are true.

(D) Court Orders Section

1. Legally Separated. This section legally separates you and the other party.
2. Enforcement of Temporary Orders. If the Court ordered temporary payment of child support, spousal maintenance/support (alimony), debt division, or other temporary orders, fill in the dates of all the temporary orders. This section allows you to enforce nonpayment of those debts.
3. Pregnancy and Paternity. If a Party is pregnant and the other Party is the Parent, write in the expected date of birth for the unborn child.
 - a. Children: On the lines provided, write in the name(s) and birthdate(s) of the minor child(ren), either natural or adopted, common to the marriage, and
 - b. Paternity: Below that, write in the name and date of birth of any minor child born to the Party A and Party B before the marriage.
 - c. Birth Certificate:
 1. Mark the proper box for Party A or Party B, and then write that party’s Full name as it appears on his/her Social Security Card, or other government-issued official document.
 2. Write the current name(s) of any other minor children on the line provided. Then in the next column, write the new name as you prefer it be changed.

4. Primary Residence (physical custody), Parenting Time, and Legal Decision-Making. The selections you mark should be the same as what you asked for in your Petition for Legal Separation, unless you and the other party have signed a Parenting Plan and you are attaching it to the Decree or you and the other party have agreed to file a Consent Decree.
- a. Primary Residence: 1) Place a mark in the box to indicate whether Party A's, Party B's, or no home is designated as the Child's primary residence. Then write in the name of the child who will live in the primary residence.
 - b. Parenting Time. Place a mark in the box to indicate the type of Parenting Time decided by the Judge/Commissioner. If a party is not awarded any parenting time, place a mark in the box showing whether Party A or Party B is not awarded that Parenting Time. Finally, if Supervised Parenting Time is chosen, mark the box to show which party is assigned payment of the cost of Supervised Parenting Time, and the name of the supervisor, if known. If applicable, write in any Parenting Time restrictions assigned by the Judge/Commissioner.
 - c. Authority for Legal Decision-Making (Legal Custody). The legal decision-making authority box you mark should be the same as what you asked for in your Petition for Legal Separation, unless you and the other party have signed a Joint Agreement and you are attaching it to the Decree or you have had a trial and the Judge/Commissioner has ordered something different than what is in your Petition.
 - For sole Legal decision-making, mark who is to have it, Party A or Party B. If both parties agree to a Parenting Plan, both must complete the Plan and sign it. If only one party agrees to the Parenting Plan and you have a default hearing, you still must complete the Parenting Plan and tell the Court what you think should be the parenting time arrangement.
 - For joint Legal Decision-making, mark the second box - do not mark box 1 above. Remember, you must attach a copy of the Parenting Plan as Exhibit B signed by both parents, which the judicial officer must approve if you want Joint Legal Decision-making. The Agreement will be included as part of the Court Order ending your marriage.
5. Child Support, including insurance coverage:
- a. Mark the first box to indicate that child support Order will be attached to the final legal separation decree. Then, mark who is to pay the child support and how much to the other party based on the request in the Petition for Legal Separation, or on the party's agreement. Otherwise, leave the space blank and the judicial officer will fill in the amount.

6. Spousal Maintenance (Alimony).

- a. Mark the first box if neither party is requesting spousal maintenance.
- b. Mark this box if the Court ordered that one party would pay the other party spousal maintenance. Then mark the date of the last payment (if known).

7.a. Property, Debts and Tax Returns. Mark the first two boxes, if each party will pay the debts that are unknown to the other party. By marking the third box, you are telling the Court you do not want to pay for debts made by the other party after you separated. Write the approximate date you separated on the line provided.

7.b. Mark this box if there is property and debts to be divided, even if you have already divided the property. You can give the Court this information on Exhibit A: Community Property and Debts that you must attach to the Decree if you mark this box. Instructions for Exhibit A are included at the end of this instruction.

7.c. This states that you and the other party get to keep property that you owned from the marriage or that was a gift to you during the marriage. You also can keep any personal items, clothing, and any other property you own that is not considered community property.

7.d. This means either party can record the Decree if there is a transfer of title to certain property, like a house. This section also requires each party to sign documents to transfer other property, like titles to cars, and so forth. If you have a quit claim deed that transfers property from one party to the other party, attach a copy of the deed to the Decree, and check this box.

7.e. Mark this box and tell the Court whether the parties will file joint or separate tax returns for previous years if taxes have not been paid and how the parties will pay taxes for the present year and in future years. According to the IRS, State law governs whether you are married, divorced, or legally separated. See a lawyer or accountant for advice if you are not sure which box to check or call the IRS at 1-800-829-4477 or visit their internet site for help.

8. Financial Information Exchanges: This shows that the parties must share/exchange financial information every 24 months. This information is important in determining amounts of child support or other related issues.

9. Minor Children to whom the Decree does not apply: Mark this box only if minor child(ren) was/were born during the marriage but is not common to the marriage. Mark which party should have no legal rights or obligations to this minor child. If you mark this box, list the name(s) of any such child(ren) with the date of his or her birth in the space provided. Also, mark if the Party A or B is pregnant with a child not common to the marriage and include the expected due date of the child.

1. Other Orders. Do not write in this space. The Judicial Officer will complete if applicable.

11. Final Appealable Order: This decree/order/judgment is a final order and may be appealed.

(E) Signatures Section

- Do not sign or date the Decree for the Judge or Commissioner, they will do that themselves.
- If there is a Default Decree, you, the Party A, must also promise to mail a copy of the Decree to the last known address of Party B, after the Judge or Commissioner has signed it.

(F) Exhibit A: Property and Debts. If you have questions about whether your property is community property or separate property, or whether a debt is community or separate debt, you should see a lawyer for help.

1. Division of Community Property. If you have community property, check this box.

2. List of Community Property. Describe the property. Then mark the box showing which party the property is being given to. Mark the box stating "award each party the personal property in his or her possession."

If you had to use a separate sheet to list more property, mark the box that states "continued on reverse side or see attached list." Be as specific as possible in describing your property. You must describe the property that should go to you, and then check that box. You must describe the property that should go to the other party, and then check that box. Never list an item and then check both the Party A box and Party B box.

3. Retirement Benefits. Decide what you want to do about these assets. Generally, each party is entitled to a 1/2 interest in the pension or retirement or deferred compensation benefits of the other party for the time the parties were married. This is very complicated, and very important to both parties. If you are entitled to any interest in your spouse's retirement assets, you may be required to file a Qualified Domestic Relations Order. This is a very important document. The Court and the Law Library Resource Center do not have this document. See a lawyer for help before you

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

4. **Real Property.** Mark this box if you own a home or real estate together. It is very important that you write in the correct address and the legal description of each piece of property. Mark the box showing which party gets the property, or that the property is to be sold and the proceeds divided. If you used your own earnings to pay for property owned by the other party, see a lawyer for help.
5. **Community Debt.** Mark this box if the parties have community debt. Then describe the debt, including the creditor, the account number, and the amount owed. Then mark the box showing which party is going to pay for the debt. If you had to use a separate sheet to list more debt or if you continued to list debt on the reverse side of the page, check the box. Mark the next box if you agree want that each party to pay his or her separate debt. This is money that the party owed before the time the parties got married.
6. Mark this box if you want to divide the debts incurred by a party that are not listed to be paid by the party who incurred the debt. Remember, although the Decree orders either party to pay community debts, it does not mean that the creditor cannot pursue collection from the other party, even after the legal separation and/or divorce is completed.
7. **Separate Property.** If you check boxed 5(e) on the Decree and you and/or the other party have separate property, describe the separate property, its value, and who it belongs to.
8. **Separate Debt.** If you checked boxed 5(e) on the Decree and you and/or the other party have separate debt, identify the creditor, the amount owed, and who is responsible for paying the separate debt.

Other important papers in this packet

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.

Refer to “Planning for Parenting Time: Arizona’s Guide for Parents Living Apart” to help make your new parenting plan. The Guide is available for purchase at all Law Library Resource Center locations or may be viewed online and downloaded for free from the state courts’ web page.

Other important papers to be completed not in this packet

Child Support Worksheet, Child Support Order, and Current Employer Information Sheet:

You can use the free Online Child Support Calculator at the website listed below to complete a Child Support Worksheet, Child Support Order and Current Employer Information Sheet.

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

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

- Your case number.
- 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.

After completing the Child Support Worksheet, Child Support Order and Current Employer Information Sheet, print out the Child Support Worksheet and Current Employer Information Sheet and include them with your Decree.

Reminder:

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