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

Use these instructions **only** with the ***"Decree of Dissolution of a Non-Covenant Marriage (Divorce) With Minor Children."*** If there are no minor children, by birth or adoption, common to you and your spouse, use the form for a ***"Decree of Dissolution of a Non-Covenant Marriage without Minor Children."***

What the Decree Means to You. The Decree is the Court Order that legally ends your marriage. The Decree, once the judge or commissioner has signed it, is important because it determines the rights and responsibilities of both you and your ex-spouse. It tells the parties what they can and cannot do. If either party does not do what the Decree tells him/her to do, then the other party may ask the court for help. **This is a very important document.** Once it has been signed by the judge, 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 your ex-spouse can request a Contempt Order or an Order to Enforce parts of the Decree if you or your ex-spouse fail to do what the Decree tells you to do.

Getting Your Divorce Finalized. Before your divorce can become final, a judicial officer must sign what we call a Decree of Dissolution of Marriage. The Decree tells you who gets the property, who pays the debts, who gets custody, who pays support and so forth.

Divorce by Default. If you have a Default Hearing, you must repeat as closely as possible what you requested in your Petition. You cannot mark something different in the Decree from what you asked for in the Petition, unless your spouse has provided written consent. If you try to do this, the judicial officer 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 when 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 to sign. Do not fill in the judge's signature and date. If the judge 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 WRITE IN BLACK INK ONLY.**

SECTION: INSTRUCTION:

(A) Write in the name of the person filing the document or the lawyer's name, current address, city, state, zip code, and the telephone number. If you have an ATLAS number, write in the number. If you are represented by an attorney write in the lawyer's state bar number, then indicate whether you represent yourself or if you are the lawyer whether you represent Petitioner or Respondent.

(B) Write in the Name of the Petitioner and the Name of the Respondent and the case number in the space provided. This should appear the same way it does on the Petition.

(C) THE COURT FINDS:

1-3 a-d. This section tells you that before the 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 the Petitioner or the Respondent lived in Arizona at least 90 days before the Petition for divorce was filed, and that the parties are unable to get back together and save their marriage.

Also, if you served the other party *by publication*, the court cannot sign a Decree that divides community property and/or debt, or orders the other party to pay spousal maintenance (alimony) or

Do not copy or use this page

child support until you find and serve notice on your spouse. You will, however, be able to get a court order for custody of your minor children and a divorce decree.

3. e. **Community Property and Debt.** Mark the first box **only** if you and your spouse 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, mark the box that tells the court that the parties have not agreed to a division, but the community property is divided pursuant to the Decree.

3. f. **Pregnancy.** Mark the first box if the wife is not pregnant. Mark the second box if the wife is pregnant and then mark whether the husband is the father. Mark the third box if the parties had any children together that were born before the marriage. Then list the name and date of birth for those children.

3.g. **Spousal Maintenance/Support.** Mark this box if you have requested spousal maintenance/ support (alimony) in the Petitioner you have had a trial and the judge has ordered one party to pay spousal maintenance/support.

3.h. **Parent Information Program.** Mark this box only if the Petitioner has completed the Parent Information Program class and has filed the Certificate of Completion with the court. If the Petitioner has not attended the class, check the appropriate box. Follow the same instructions for the Respondent. Leave the box empty for the judicial officer to check as to whether the person will be denied any requested relief to enforce or modify the decree until the class has been completed.

3.i. **Deviation from Child Support.** Leave this section blank. The judicial officer will fill in this section if there is a deviation for child support.

3.j. **Physical Custody Adjustment.** Leave this section blank. The judicial officer will fill in this section if there is an adjustment.

3.k. **Ability to Pay Child Support.** Leave this section blank. The judicial officer will fill in this section.

3.l. **Custody of the Minor Child(ren).** Mark this box only if custody was contested (you and the other party did not agree about custody), or if you and the other party have agreed to joint custody. You must write the reasons in the space provided.

3.m. **Supervised or No Parenting Time.** Mark this box only if you asked for supervised or no parenting time by the non-custodial spouse in your Petition, or the parties have agreed to this, or the judge has ordered supervised or no parenting time after a trial. You must have a very good reason for such a request and you must write the reasons in the space provided.

3.n. **Domestic Violence.** If the parties are going to have joint custody of the 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 custody is in the best interest of the child(ren) even though domestic violence has occurred.

(D) THE COURT ORDERS:

1. **MARRIAGE IS DISSOLVED.** This section ends your marriage.

2. **NAMES.** Write in the former name of the wife/husband here **ONLY** if wife or husband wants to use and/or be called by the former/maiden name. (The law does not require you to use your former/maiden name.)

3. **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 of the temporary orders. This section allows you to enforce nonpayment of those debts.

Do not copy or file this page

4. **CHILD CUSTODY, PARENTING TIME, AND CHILD SUPPORT.** This section deals with child custody, parenting time and child support, pregnancy and paternity.

4.a. **PREGNANCY AND PATERNITY.** If the wife is pregnant, write in the expected date of birth for the unborn child. You must also write the names of the minor child(ren) common to the marriage, either natural or adopted, and the child(ren)'s date(s) of birth in the space provided.

4.b. **CHILD CUSTODY.** The custody box you mark should be the same as what you asked for in your Petition for Dissolution, unless you and the other party have signed a Joint Custody Agreement and you are attaching it to the Decree OR you have had a trial and the judge has ordered something different than what is in your Petition.

i. For sole custody of the child(ren), mark who is to have sole custody, Petitioner or Respondent. Then mark **only** one of the three types of parenting time: 1) parenting time to the parent not having custody; or 2) supervised; or 3) no parenting time. If both spouses agree to a Parenting Plan, both must complete the Plan and sign it. If only one spouse agrees to the Parenting Plan and you have a default divorce hearing, you still must complete the Parenting Plan and tell the Court what you think should be the parenting time arrangement. If parenting time is supervised and you have a default hearing or you agree, write in the name of person who will supervise the parenting time and any restrictions. Mark who will be paying for the costs of supervision. If no parenting time is to be given to the Petitioner or the Respondent, check this box.

ii. For Joint Custody you should not have marked box 1 above. Remember, you must attach a copy of the Joint Custody Agreement and Parenting Plan as Exhibit B signed by both parents, which the judicial officer must approve if you want Joint Custody. The Agreement will be included as part of the Court Order ending your marriage.

4.c. **CHILD SUPPORT:** Mark who is to pay the child support and how much to the other party based on the request in the Petition for Dissolution, or on the party's agreement. Otherwise, leave the space blank and the judicial officer will fill in the amount. Remember, if you are the person who filed for divorce, you are the Petitioner, and your spouse is the Respondent.

4.d. **MEDICAL, DENTAL, VISION CARE INSURANCE, PAYMENTS, AND EXPENSES:** Mark who will be responsible for medical, dental, and vision care insurance. Mark what percent each party will pay for uninsured expenses.

5. **SPOUSAL MAINTENANCE (ALIMONY).**

a. Mark this box if neither party is requesting spousal maintenance.

b. Mark this box if you requested spousal maintenance (alimony) in the Petition and you have a Default Hearing. (You cannot get spousal maintenance if the other party was served by publication.) **OR,** Mark this box if the parties agreed that one party would pay the other party spousal maintenance.

Then mark who is to pay the spousal maintenance and who will receive the spousal maintenance. If the parties agree, put in the amount and the date the spousal maintenance will end. Otherwise, you should leave the amount and number of months of spousal maintenance blank until the judge approves the request. Be prepared to tell the judge what amount you are asking for, for what period, and why.

6. **PROPERTY, DEBTS and TAX RETURNS.**

6.a. Mark the first two boxes, if each party will pay the debts that are unknown to the other party. By marking the third box under 6.a., you are telling the court you do **not** want to pay for bills your spouse got after you separated. Write the approximate date you separated on the line provided.

Do not copy or file this page

6.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.

6.c. This states that you and your spouse 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.

6.d. This means either spouse can record the Decree if there is a transfer of title to certain property, like a house. This section also requires each spouse 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 spouse to the other spouse, attach a copy of the deed to the Decree, and check this box. Write in the date that both parties shall transfer all real and personal property.

6.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. For this calendar year, and future calendar years neither you nor your spouse can file joint tax returns. According to the IRS, State law governs whether you are married, divorced, or legally separated. If you are divorced under a final decree by the last day of the year, you are considered unmarried for the whole year. 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 at www.irs.ustreas.gov for help.

7. **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.

8. **TAX EXEMPTIONS:** Decide which parent will claim the children on income tax forms, for which year. Federal and state laws apply here. If you are not sure what to do, ask a lawyer or an accountant for help.

9. **CHILD(REN) TO WHOM THE DECREE DOES NOT APPLY:** Mark this box **only** if a child(ren) was born during the marriage, but is not common to the marriage. Mark which party should have no legal rights to the minor child(ren). If you mark this box, list the name of any such minor child(ren) with the date(s) of his/her birth(s) in the space provided. Also, mark if the wife is pregnant with a child not common to the marriage, and include the expected due date of the child.

10. **FINAL APPEALABLE ORDER.** This decree/order/judgment is a final order and may be appealed.

11. **OTHER ORDERS.** List any other orders that are not described in the Decree.

(E) SIGNATURES SECTION:

- Do not sign or date the Decree for the judge or commissioner
- If there is a Default Hearing, you, the Petitioner, must mail a copy of the Decree to the Respondent, after the judge has signed it.

(F) "EXHIBIT A: COMMUNITY PROPERTY AND DEBT" SECTION

IF YOU MARKED the first box **of 3.e.** ON YOUR DECREE AND HAVE NO COMMUNITY PROPERTY OR DEBTS, **STOP HERE;** you have completed your Decree. If you have community property or community debt listed in your Petition, copy that information from your Petition to "**Exhibit A**". **REMEMBER:** If you are going by default, the division of property must be identical to the list in your petition. You cannot add new community property to the list, although you can give your spouse more property than is listed on your petition. Make sure it is **very clear** who gets what property.

Do not copy or file this page

Describe the property ***in detail*** and then designate whether Petitioner or Respondent gets that property.

1. **Division of Community Property**. Mark the first box about community property, if you have community property. Mark the box next to each type of community property you own, and describe the property. Then mark the box showing which party the property is being given to.

2. **Mark the box** "award each party the personal property in his or her possession," if you want the court to order this. Mark the box "continued on reverse side or see attached list" if this is true.

3. **Retirement, Pension, Deferred Compensation**. Decide what you want to do about these assets. Generally, each spouse is entitled up to a half interest in the pension or retirement or deferred compensation benefits of the other spouse based upon the length of time the parties were married. This is **very complicated, and very important** to both spouses. 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 does not have this document. See a lawyer for help. Check the box that describes what you asked for in the Petition or what the parties have agreed to.

4. **Division of Real Property:** Use this section if you own a home or real estate together. This information, including the address and legal description should also be the same as what you provided in the Petition.
   Decide which spouse gets the property, OR whether it should be sold and any proceeds divided.

5. **Division of Debts:** List all debts you listed on your Petition for Dissolution. You can update the amounts owed, only if the amounts are less than those amounts in the Petition or the parties agree to update the amounts. Then put which debts are to be the responsibilities of which party.

6. **Also,** decide if you want the order to divide debts incurred by a spouse that are not listed to be paid by the spouse who incurred the debt. Remember, just because the Decree orders either spouse to pay debts does not mean that the creditor cannot pursue collection from the other spouse, even after the divorce decree.

7. **Separate Property.** List your separate property and the other party's separate property. Then check the box to say who gets the property.

8. **Separate Debt.** List your separate debt and the other party's separate debt. Then check the box to say who pays the debt.

PARENTING PLAN AND JOINT CUSTODY AGREEMENT

Now you must complete the **Parenting Plan** to decide how custody, parenting time, and all the details will work after the court order. The best thing to do is for both parents to complete this plan together.

Refer to "**Planning for Parenting Time: Arizona's Guide for Parents Living Apart**" to help make your new parenting plan. The **Guide** may be viewed online and downloaded for **free** from the state courts' web page at: **http://goo.gl/46aAw**

If you want Joint Custody, **both** parents must complete and sign the Parenting Plan AND the Joint Custody Agreement.

Do not copy or file this page

REMINDER:

1. **Be sure to attach "EXHIBIT A" about property and debts to your decree.**
2. **Be sure to attach the Child Support Worksheet, and the Parenting Plan, if you have marked joint custody or if the parties have signed a Parenting Plan.**
3. **Be sure to include a quit claim deed, if a quit claim deed has been signed.**

Do not copy or file this page