

# INSTRUCTIONS & CHECKLIST

## PACKET “D” -- RESPONSE

### DISSOLUTION WITHOUT CHILDREN

**NOTE:** If an Order of Protection has been issued by the Justice Court or Municipal Court, see Pro Se Packet K for instructions on how to transfer the Order of Protection to District Court.

**NOTE: BEFORE YOU BEGIN: READ THESE INSTRUCTIONS AND FILL OUT A SENSITIVE DATA FORM**

The Montana Supreme Court has enacted Court Rules for Privacy and Public Access to Court Records in Montana. These rules apply to all court records. There is certain information that you cannot put in a court record which should be maintained as confidential.

Fill out the **SENSITIVE DATA FORM** in this packet to keep the following sensitive information confidential in a court record:

- 1) Complete Social Security Numbers
- 2) Complete Financial Account Numbers
- 3) Full birth dates of any person involved in this case

Use these formats when required to put sensitive information **in all other court documents** in this packet:

- For a social security number, use this format: **XXX-XX-1234**.
- For a date of birth, use this format: **age \_\_\_\_**.
- For financial account numbers, use this format: **ending in the last four digits of 1234**.
  
- File this form with your Petition. Keep a copy in a safe place.
- The Clerk will keep the Sensitive Information Form separately. The public will not have access to this document, unless the court orders it.

## **I. THE DIVORCE (“Dissolution”) PROCESS ---- RESPONDING:**

There are LOTS of forms that will need to be completed. Take it step-by-step-- in order -- and it should make it easier for you. On the top half of the first page of every court document there is a “**heading**” which identifies the party completing the form and a “**caption**” which sets out the case description. Fill out the heading and caption **the exact same way** on every form. If you provide your email address you must confirm with the Clerk of Court i that you would like orders either physically mailed or email to you.

You, the “**Respondent,**” have been served with divorce papers. You have a couple of options:

- Respond within 20 days** - by filling out the enclosed documents, sending copies to your spouse, and filing the original documents with the Clerk of Court. By responding, you will have the opportunity to present your proposals for property

division, child custody and support issues to the Court.

- Do nothing. If you agree with what your spouse has stated and requested in the Complaint and you do not wish to object or respond, the dissolution will be granted by default. **[IF YOU DO NOTHING, YOUR SPOUSE MAY BE AWARDED ALL THAT HE/SHE REQUESTED.]** After a default hearing is over, you will be served with a copy of the Final Decree.

### STEP 1. -- Accepting Service.

- Form #40a Included with the papers served upon you is Form 40a - Notice and Acknowledgment of Receipt of Summons and Petition. Fill out this form. Complete page 3 and sign **before a notary public** to verify that you received the documents. **If you fail to sign and return this form to your spouse, the Sheriff will need to deliver the same papers to you. You may be required to pay the Sheriff's cost for this service. Once you have signed and returned this form, you must file your response in 20 days or a default will be entered against you.**

### STEP 2. -- Filling Out The Forms

**Note: You may want to use a pen with blue ink so you know which are the originals.**

- Form #55 Each row corresponds with a paragraph in the Petition that was filed by your spouse. Fill in every row stating whether you agree or disagree. If you disagree, give your reason. Sign page 3 and 4 in front of a notary public.
- Form #56a Complete. Sign on page 6 in front of a notary public.
- Form #56b Complete and sign.

### STEP 3. -- Making Copies

- Make 2 copies of Forms 40a, 55, 56a and 56b. One copy will be for your own personal records. The others, except for #56a, will be needed for the following steps.

### STEP 4. -- Filing Response With Clerk of Court.

- Bring the originals and two copies of every form filled out in Step 2 (except #56a) to the Clerk of District Court's Office for filing.
- \$70.00 Fee -- cash/money order/personal check (subject to change). If you cannot afford the fee, fill out and submit Form 54 "Affidavit of Inability to Pay." If the Judge decides you cannot afford to pay the filing fee, your fees may be waived in whole or in part.
- The Clerk will file stamp all your documents (copies and originals). The Clerk will keep the originals and give you the copies. One set is to be retained by you. One copy is for service upon your spouse.

### STEP 5. -- Serving the Other Party.

You now need to serve the copies of documents you have prepared on your spouse. Mail or personally deliver the documents to your spouse. **NOTE: If there is a TOP or Order of Protection that prohibits you from contacting your spouse, service of these documents must only be done by mail. You must not personally deliver these documents to your spouse.**

## II. SETTLEMENT OF PROPERTY

### STEP 6. -- Can you agree??

- Form 57a If you and your spouse can agree on the division of property, work together completing this form. (Spouse also has the same form labeled 41a. Either form can be used) Both parties need to sign page 7 in front of a notary public. Make 2 copies and file original with the Court.
- If you have reached agreement with your spouse and filed either Form 41a or Form #57a (Settlement Agreement) you will be notified of the hearing date for the final decree of dissolution.
- Form #58a Complete and sign. Mail copy to spouse.
- Form #58b Complete and sign. Mail copy to spouse. **File #58b with the Clerk of Court. Do not file #58a.**

#### **STEP 7. -- If you don't agree . . .**

- Form 57a If you cannot agree on the division of property, complete this form stating how you want the property divided, and send a copy to your spouse stating this is your proposal for dividing the property. Do not file a copy with the Court unless your spouse agrees and signs
- Form 57b If you cannot thereafter come to an agreement, complete this form and request a hearing be set for the Court to decide the issues.
- If you have filed Form #57b or your spouse filed Form 41b (Request for Hearing) you will be notified of the hearing date to decide the issues.
- Form #58a Complete and sign. Mail copy to spouse.
- Form #58b Complete and sign. Mail copy to spouse. **File #58b with the Clerk of Court. Do not file #58a.**

### **III. HEARING ON CONTESTED ISSUES:**

If a hearing was requested and the Court has set a date for a hearing on the contested issues, please read the following:

You have chosen to represent yourself. Arrive at the courthouse early. While divorce can be very difficult and emotional, the Court expects the parties to be civil and remain focused on the legal issues.

#### **STEP 8. -- Court Hearing - on Contested Issues.**

Be prepared to present evidence to the Court and discuss your position.

### **IV. HEARING ON FINAL DECREE:**

#### **STEP 9. -- Court Hearing - Final Decree - Non-contested.**

You have reached an agreement with your spouse and he/she has signed the Marital and Property Settlement Agreement and he/she consented to the entry of the final decree (Document #41a or 57a, page 7). Both parties can attend the hearing on the final decree, but it is NOT NECESSARY. Only one party must attend. If you decide you will attend the hearing, you should be prepared to answer any questions asked of you by the Judge.

- Form #59 If you do not want to attend the hearing on the Final Decree, complete and sign Form 59 in front of a notary public. Make 2 copies. File original with the Clerk of Court. Mail or deliver one copy to your spouse. You will be sent a Notice of Entry of Final Decree once the hearing is held.

#### **STEP 10. -- Court Hearing - Final Decree - Contested.**

By this time, a hearing has been held on the contested issues, and the Court has made a decision. The last step remaining is a hearing on the final decree. Both parties can attend the hearing on the final decree, but it is NOT NECESSARY. If you decide you will attend the hearing, you should be prepared to answer any questions asked of you by the Judge.

(Revised 01/11)

- Form #59 If you do not want to attend the hearing on the Final Decree, complete and sign Form 59 in front of a notary public. Make 2 copies. File original with the Clerk of Court. Mail or deliver one copy to your spouse.