

INSTRUCTIONS FOR FILING A PETITION FOR DISSOLUTION OF MARRIAGE
(WITHOUT CHILDREN)

Filing Fee: \$137.00 (cash or money order)

Order for Free Process Available: YES (Please ask Clerk for this form)

The following forms are in the Dissolution of Marriage with without children Packet:

- 1. Petition for Dissolution of Marriage**
- 2. Summons**
- 3. Motion for Temporary Domestic Order**
- 4. Temporary Domestic Order**

Each of these forms must be entirely completed before they are presented to the Clerk for filing. Please bring with you an original and two (2) copies of any paperwork you will be filing. The person filing the Petition is the “Petitioner” and the other party is the “Respondent.”

You will be required to pay the \$137.00 filing fee or obtain an Order for Free Process which tells the clerk the fee has been waived by the Judge. These forms are not included in your packet and you will need to ask the Clerk for the Motion and Order for Free Process. A case number will be placed on your documents after they are presented to the clerk to be filed.

Further instruction sheets will be given to you at different stages of your case.

If you have any questions, please contact the District Court Clerk’s office at 863-6816.

INSTRUCTIONS FOR PROCESSING A DISSOLUTION OF MARRIAGE WITH CHILDREN

1. Petition for Dissolution of Marriage is filed. An Information Sheet is completed and submitted. A Summons is issued by the clerk. A Motion for Temporary Domestic Order is filed. A Temporary Domestic Order is signed by the Judge assigned to the case. There is a \$137.00 filing fee required by cash or money order payable to “District Court Clerk.” You will be given a receipt for your payment. If you cannot afford the \$137.00 filing fee, you may qualify for free process. Please bring proof of income or proof you are receiving government benefits to show the clerk. A Motion for Free Process may be completed and after screening an Order for Free Process may be issued and the filing fee and service of process fee will be waived.
2. Documents are sent off to the McKinley County Sheriff by the District Court Clerk if free process is granted. If the other party lives in another town or State or you were **not** granted free process, **you** will be required to arrange to get that person served.
3. After service is made, a *Return of Service* is filed with the District Court Clerk. If you have made arrangements with someone other than the McKinley County Sheriff it must be notarized, and the Return should be mailed to you at your mailing address. It is **your** responsibility to bring it to the District Court Clerk’s office for filing. The Respondent will have 30 days in which to file a written response to your Petition with the District Court Clerk’s office.
4. If the Respondent files an *Answer or Response to Petition for Dissolution of Marriage*, you will be provided with a copy of the Answer or
5. When you are ready to proceed to your final hearing you must file a *Request for Hearing* (forms available in the Court Clerk’s office or online at www.11thjdc.com)
6. You will receive a Scheduling Order and Notice of Hearing telling you what documents you are required for your final hearing and the date and time you are to appear for your hearing. You will also receive *Instructions for Final Hearing*. **Read the instructions completely so you will know what is required of you.**

DOMESTIC RELATIONS INFORMATION SHEET
(for self-represented litigants)

THIS SECTION FOR OFFICIAL USE ONLY

Case number D-1113-DM-

Assigned Judge: _____

The following information is required by New Mexico law and federal law for child support enforcement. The information also is needed to identify and keep up with your case. If child support is not paid, this information will help the court get the money for your child(ren).

1. Information regarding petitioner and respondent. (Look at the paperwork you are giving to the court to see who is listed at the top as petitioner and respondent. Use a separate sheet if necessary.)

Petitioner
Name: _____
(Last name, first, middle)
Other names (e.g. maiden name)

Respondent
Name : _____
(Last name, first, middle)
Other names (e.g. maiden name)

Address: _____

Address: _____

City: _____

City: _____

Zip code: _____

Zip code: _____

Date of birth: _____

Date of birth: _____

Social Security number (2) _____

Social Security number (2) _____

2. Parties' minor children. (Provide the date of birth and social security number for each minor child, if any. (Use a separate sheet if necessary.)

Name _____
(Last name, first, middle)

Name: _____
(Last name, first, middle)

Date of birth: _____

Date of birth: _____

Social Security number _____

Social Security number _____

Name _____

Name: _____

(Last name, first, middle)

(Last name, first, middle)

Date of birth: _____

Date of birth: _____

Social Security number _____

Social Security number _____

Name _____

Name: _____

(Last name, first, middle)

(Last name, first, middle)

Date of birth: _____

Date of birth: _____

Social Security number _____

Social Security number _____

Has any court made an order for child support? _____ Yes _____ No

Has any court changed the amount of child support you requested? _____ Yes _____ No

If your answer is "Yes" to either question, what state and what court are they located in?

_____ State

_____ Court

3. **Request to limit access to information.**

(Optional- complete if applicable)

I have reason to fear domestic violence or child abuse. For this reason, please limit access to information about me in the Child Support and Paternity Case Registry (4) to the extent possible. I realize that this request may make it more difficult to assist me in collecting child support. I also understand that the other party and the public might still view information about my case under some circumstances. Under penalty of perjury, I affirm that this request is legitimately made and not designed to harass or intimidate the other party or mislead the court.

NOTE TO COURT CLERK: DO NOT PLACE THIS INFORMATION IN THE COURT FILE (3.)

DOMESTIC RELATIONS INFORMATION SHEET

INSTRUCTIONS

If you need more space to write, you can attach a separate sheet with the information.

To Petitioner:

If you and your spouse or the other person who owes child support have agreed on everything before this case is filed, you must give the Information Sheet to the court clerk with your petition.

If you do not agree it means the case is contested. If the case is contested, you **MUST** do two things:

1. Give the information sheet to the court clerk; and
2. Have a sheriff or process server give a blank copy of the Information Sheet to your spouse or other person who owes child support.

To Respondent:

You must submit the information sheet when you file your first paper with the court. You must write the name of the judge and case number on the Information Sheet. You can find that information on the papers the petitioner gave you.

After you fill out this form, you will need to submit the other paperwork required by law.

If you choose to represent yourself in a claim, you may still wish to talk with an attorney to discuss your rights. The people who work in the court cannot give you legal advice.

Purpose:

You must give the information requested on the sheet for the State Case Registry. This information is required by federal and state law. The information is needed to identify and keep up with your case. If your child(ren) do not receive the child support ordered, this information will help the court get the money for your child(ren). If you have more than one social security number, include all social security numbers. Social Security numbers will be given to state and federal agencies which are required by law to collect the information. Social Security numbers will not be given to the public. Your addresses are used by the court to obtain feedback from both of you.

USE NOTES

1. The information contained in the "official use only" section of the Domestic Relations Information sheet, include the case number and assigned judge, will be filled in by the Court Clerk.
2. If the party has more than one social security number, please include it.
3. Unless there are more than four children, the information sheet is to be submitted on a single page. The clerk will key enter the information on the information sheet. The information sheet will not be filed in the court file. The Domestic Relations Information Sheet Instructions are not submitted to the Court clerk
4. The Child Support & Paternity Case Registry is a required, nationwide database of child support and paternity orders. Access to registry information is strictly limited to court and child support administrative personnel. Requesting that your registry information be "nondisclosed" does not prevent authorized parties from reviewing the information. Rather, it alerts courts and child support administrative personnel to act with caution when viewing your information. However, be aware that requesting "nondisclosure" of registry information does not limit access to your official district court case file which is a public record. If you are concerned about such access, ask your lawyer, or the court clerk if you do not have a lawyer, about ways in which the court may restrict access to your court file.

[Provisionally approved as 4-212 NMRA, effective November 1, 1999 to November 1, 2000; approved, as amended, effective November 1, 2000; recompiled as 4-A-102 NMRA.]

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
ELEVENTH JUDICIAL DISTRICT

_____,
Petitioner,

-vs-

No. D-1113-DM

_____,
Respondent.

PETITION FOR DISSOLUTION OF MARRIAGE
(Without Children)

The Petitioner states:

1. The Petitioner has resided in New Mexico for at least six (6) months prior to the filing of this Petition and Petitioner is a resident of McKinley County.

2. Petitioner and Respondent were married on _____ (date)
in _____ (city), _____ (state).

They have been husband wife since that date.

3. Due to differences in temperament and outlook the Petitioner and Respondent have been unable to live together harmoniously. There is discord and conflict of personalities that have destroyed the marital relationship. A state of incompatibility exists between the parties, and there is no reasonable expectation of reconciliation.

4. There is/are no minor child(ren) of this marriage.

COMMUNITY PROPERTY

5. Petitioner and Respondent have no community property.
5. Petitioner and Respondent have accumulated community which has already been divided to the parties satisfaction.
5. Petitioner and Respondent have accumulated the following community property during their marriage which should be divided between them as follows:
Petitioner will take this property:

Respondent will take this property.

COMMUNITY DEBTS

6. Petitioner and Respondent have no community debts.
6. Petitioner and Respondent have incurred community debt during their marriage and they have already divided the debt.
6. Petitioner and Respondent have incurred the following community debt during their marriage which should be divided between them as follows:

Petitioner will take these debts:

Respondent will take these debts:

SEPARATE PROPERTY

7. Petitioner has no separate property.

7. Petitioner has the following separate property:

8. Respondent has no separate property.

8. Respondent has the following separate property:

SEPARATE DEBTS

9. Petitioner has no separate debt.

9. Petitioner has the following separate debts to be confirmed:

10. Respondent has no separate debt.

10. Respondent has the following separate debts to be confirmed:

SPOUSAL SUPPORT

11. Each party is self-supporting or is able to be self-supporting, and neither party should receive spousal support.

11. _____ is unable to earn sufficient income to be self-supporting and is need of temporary/permanent support and maintenance.

_____ is capable of paying reasonable support to the other party.

NAME CHANGE

12. NOT APPLICABLE.

12. Petitioner/Respondent desires to change her name to: _____
_____.

RETIREMENT BENEFITS

13. NOT APPLICABLE

14. That Petitioner shall (check one) _____ waive _____ pay over in favor of Respondent _____ % of all present and future claims to any and all accrued retirement benefits due from:

Name of employer (or payor) _____

Address: _____

City/State/Zip Code: _____

15. That Respondent shall (check one) _____ waive _____ pay over in favor of Petitioner _____ % of all present and future claims to any and all accrued retirement benefits due from:

Name of employer (or payor) _____

Address: _____

City/State/Zip Code: _____

WHEREFORE, Petitioner asks the Court to:

1. Dissolve the marriage of the parties on the ground of incompatibility.
2. Enter a Final Decree of Dissolution of Marriage granting relief consistent with the

terms of this Petition.

3. That the community property and debts were equally divided.

4. That the Petitioner's / Respondent's (*circle one*) former name of _____
_____ be restored.

5. That the Petitioner shall _____ waive _____ pay over in

favor of Respondent (*circle one*) _____% of the accrued retirement benefits as described in paragraph 22 above.

6. That the Respondent shall _____ waive _____ pay over in favor of Petitioner _____ % of the accrued retirement benefits as described in paragraph 22 above.

7. Grant such other and further relief as the Court deems equitable.

RESPECTFULLY SUBMITTED,

_____ *Signature*

_____ *Print Name*

_____ *Address*

Mailing address if different:

_____ *Address*

_____ *Telephone*

STATE OF NEW MEXICO)

)

COUNTY OF MCKINLEY)

I, _____, being first duly sworn upon my oath, depose and state that I am the Petitioner in the above entitled cause. I have read the attached Petition for Dissolution of Marriage and state that the contents thereof are true and correct, except to matters on information and belief, and those matters I believe to be true.

_____ *Signature*

_____ *Print Name*

SUBSCRIBED AND SWORN TO before me this _____ day of _____,

20 _____, by _____.

NOTARY PUBLIC OR OFFICIAL
AUTHORIZED TO ADMINISTER
OATHS

My Commission Expires:

Instructions after filing a Motion for Temporary Domestic Order

Attached is a Motion for Temporary Domestic Order and Temporary Domestic Order required to be filed in all domestic relations cases.

When you first file your Petition for Dissolution of Marriage with Children, you must complete this Motion. You may ask for 1) a standard Temporary Domestic Order; 2) temporary division of community property; 3) temporary division of income and debts. The Court will grant a standard Temporary Domestic Order, but will not decide the issues of temporary custody, support, property distribution, debt distribution, etc. until the other part is served with the Summons, Petition, Motion and Temporary Domestic Order.

After the Respondent has served with the above documents you will be notified by the Court Clerk's office. If you have requested any of the following: 1) temporary division of community property; and/or 2) temporary division of income and debts; **You must submit a "proposed" property and debt distribution to the Judge assigned to your case before the hearing date will be set to decide these issues. At the time you submit your "proposed" documents, you will also need to submit a Request for Hearing. (All forms can be obtained from the Court Clerk's office.)** You must also send a copy of the "Proposed" documents to the other party. Once the Judge receives the proposed documents from the Petitioner and the Request for Hearing, a hearing will be scheduled. You will be notified by mail with the date and time you need to appear for your hearing.

At the hearing both parties will tell the Judge why he should decide in his/her favor. After the hearing, the Judge will explain to the parties what he has ordered and complete an Amended Temporary Domestic Order.

4A-111. Motion for temporary order (domestic relations actions).

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
ELEVENTH JUDICIAL DISTRICT

_____, Petitioner,

v.

No. D-1113-DM - _____

_____, Respondent.

MOTION FOR TEMPORARY ORDER
*(domestic relations actions)*¹

I, _____ (*name of petitioner or respondent*) request the court to enter temporary orders for the purpose of:
(*check all applicable alternatives*)

- (1) temporary domestic order;
- (2) temporary custody of minor children;
- (3) temporary parenting time;
- (4) temporary child support;
- (5) temporary division of community property;
- (6) temporary division of income and debts;
- (7) temporary order withholding child support from (respondent's) (petitioner's) wages and having the child support paid directly to _____
_____ (*petitioner*) (*respondent*);
- (8) _____ (*other*).

Signature of party or attorney

Name (*print*)

Address (*print*)

City, state and zip code (*print*)

Telephone number

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, _____ this motion was

[mailed by United States mail, postage prepaid, and addressed to:

Name: _____

Address: _____

City, state

and zip code: _____]

[faxed by _____ (*name of person who faxed*) to

_____ (*defendant or defendant's attorney*). The transmission was

reported as complete and without error. The time and date of the transmission was _____

(a.m) (p.m) on _____ (*date*).]

3

[e-mailed by _____ (*name of person who transmitted*) to

_____ at _____ (*electronic address of*

recipient) who agreed to service in this manner. The transmission was successful. The time

and date of the transmission was _____ (a.m) (p.m) on _____

(*date*).]

Signature of attorney

Date of signature

If this notice was served by a person other than an attorney, the following must also be completed and filed with the court:

AFFIDAVIT OF SERVICE

I declare under penalty of perjury that a copy of this motion for temporary order was served by [mail] [fax] [electronic transmission] as described above on this ____ day of

_____, _____.

Signature of person who made service
Subscribed and sworn to before me
this ___ day of _____, ____.

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTES

1. *See* Committee Commentary to Rule 1-120 NMRA for what constitutes a domestic relations action.
2. *See* Rule 1-121 NMRA and Domestic Relations Form 4A-112 NMRA for the Supreme Court approved Temporary Domestic Order.
[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001.]

4A-112. Temporary domestic order.

[For use with Rule 1-121 NMRA in the District Court]

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
ELEVENTH JUDICIAL DISTRICT

_____, Petitioner,

v.
_____, Respondent.

No. D-1113-DM-_____

TEMPORARY DOMESTIC ORDER

This order is issued pursuant to Rule 1-121 NMRA. This is not an order of protection under federal or state law. It is otherwise fully enforceable. It applies to both parties. This order will continue in effect until modified. The procedure for modification of this order is described below.

THE COURT ORDERS THE PARTIES AS FOLLOWS:

(1) **Do not** injure or physically or mentally abuse, molest, intimidate, threaten or harass the other party or any child of either party.

(2) **Do not** interfere with the relationship of your spouse with any child of either party. If you are living apart, you shall each continue to have frequent contact and communication with any minor child of both parties, personally and by telephone. A party shall notify the other party of any change of address or telephone number within twenty-four (24) hours of the change.

(3) **Do not** change a child's school, religion, child care, doctor, dentist, physical or mental treatment or recreational activities in which the child has been participating.

(4) **Do not** remove, cause or permit the removal of any minor child of both parties from the State of New Mexico without court order or written consent of the other party.

(5) **Do not** make the other party leave the family home, whether it be community or

separate property, without court order. You should attempt to resolve the question of who leaves the home in a fair manner. If you cannot agree, you must ask the court to decide.

(a) Whoever moves from the family home may return to pick up personal belongings at a reasonable time as you may agree. Personal belongings do not include furniture unless you agree or the court permits. If an order prohibiting domestic violence has been entered, you must arrange to have a law enforcement officer present to monitor the removal of personal belongings. The party moving out of the residence is not prejudiced by reason of the move in any way with respect to custody of any minor child, with respect to a claim of any interest in the family residence or the personal property in or on the premises.

(b) Whoever leaves the family residence shall notify the other party, within twenty-four (24) hours of an address where the vacating party can receive mail.

(c) At a reasonable time, you are entitled to examine the contents of the marital residence and to have access to all properties owned by either of you, for inspection, valuation or appraisal. If you ask, the other party must provide access to the home within fifteen (15) days after the date of the request.

(6) **Do not** incur unreasonable or unnecessary debts. Any debt that does not contribute to the benefit of both spouses or the minor children of the parties which is incurred after you have separated, may be the separate debt of the party who incurs the debt.

(7) **Do not** sell, remove, transfer, dispose of, hide, encumber or damage any property, real or personal, community or separate, except in the usual course of business or for the necessities of life. Keep an accounting of any transactions to show to the court.

(8) **Do not** drop or cancel any insurance policy, including automobile or other vehicle insurance, household insurance, medical or dental insurance or life insurance.

(9) **Do not** terminate or change the beneficiaries of any existing life insurance policy.

(10) **Do not** close any financial institution account² or cancel any credit cards nor remove the other party from any credit card account during pendency of this case, unless the parties otherwise agree in writing.

MODIFICATION BY COURT³

This order may be modified by the court upon request of either party. To request the Court to modify this order, a motion must be filed with the clerk of the court. The motion must include reference to each paragraph number the party is requesting to be modified or terminated. The party making the request must provide the other party with a copy of the motion requesting the change. If the other party agrees with the request, an order approving the request, which has been initialed by both parties as "approved", shall be filed with the motion.

WAIVER BY PARTIES

The parties may modify a specific provision of this order by entering into a written agreement and filing it with the court. The parties may also waive a provision of this order on a specific occasion if both parties sign an agreement to waive the provision. A waiver must include the paragraph number of each paragraph waived by the parties.

OTHER ORDERS

If an order of protection from a domestic violence case has been served on either party or if there is any other order in effect governing the relationship of the parties, and there is a conflict between this order and the other order, the other order controls unless the court specifically orders otherwise.

VIOLATIONS

Violation of this court order may result in the imposition of a fine or imprisonment. This

order is binding on the petitioner at the time the petition is filed. This order is effective on the respondent two (2) days after it is served on the respondent. The parties are cautioned that actions taken by either party that are contrary to the terms of this order are subject to redress by the court, including costs and attorney fees.

Date

District Judge

USE NOTES

1. A scheduling order may be issued at the time a domestic relations case is docketed and served with the petition, however, the scheduling order must be issued as a separate order.
2. *See* Section 58-1-7 NMSA 1978 for notice to any bank of an adverse claim to a bank account.
3. Within two (2) days after service of this order, a party may file a motion requesting a hearing to dissolve this order. If the court finds the motion was frivolous or was not filed in good faith it may assess the party filing the motion with costs and attorney fees.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2002.]

Committee commentary. -- This form deviates from the forms used by some judicial districts, however, the changes are necessary to comply with due process requirements. *See* Rules 1-121 and 1-066(B) NMRA.

4-206 Summons.

[For use with Rule 1-004 NMRA in the District Court]

STATE OF NEW MEXICO
COUNTY OF MCKINLEY
11TH JUDICIAL DISTRICT

_____ Plaintiff/Petitioner,

-vs-

No. D-1113-DM _____

_____ Defendant/Respondent.

SUMMONS

THE STATE OF NEW MEXICO

TO: _____, Defendant/Respondent

ADDRESS: _____

You are required to serve upon _____ (*name of Plaintiff or Plaintiff's attorney*) an answer or motion in response to the complaint which is attached to this summons within thirty (30) days after service of this summons upon you, exclusive of the day of service, and file your answer or motion with the court as provided in Rule 1-005 NMRA.

If you fail to file a timely answer or motion, default judgment may be entered against you for the relief demanded in the complaint.

Attorney (s) for Plaintiff (or Plaintiff if no attorney): _____
(Street or P.O. box) _____
(City, State, Zip code) _____
(Telephone): _____

WITNESS the Honorable _____, district judge of the eleventh judicial district court of the State of New Mexico, and the seal of the district court of McKinley County, this ____ day of _____, _____.

FRANCISCA P. PALOCHAK
Clerk of Court

By _____
Deputy

