LEGAL SEPARATION WITHOUT MINOR CHILDREN

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The Court Order

Part 4: To get the Legal Separation Order

(Instruction Packet)

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COURT ORDER FOR LEGAL SEPARATION

Part 4: To get an Order for Legal Separation – Without Minor Children

(Instructions Only)

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This packet contains court instructions to file a court order for legal separation. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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INSTRUCTIONS: HOW TO FILL OUT THE LEGAL SEPARATION WITHOUT MINOR CHILDREN DECREE and OTHER FORMS

Use these instructions only with the Decree of Legal Separation -- Without Minor Children. If you have minor children, by birth or adoption, common to you and your spouse, use the form for a decree of legal separation -- with children.

What the Decree Means to You. The Decree is the Court Order that legally separates you and your spouse. You are not divorced and cannot marry someone else until you have a Decree of Dissolution of 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 spouse. 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. **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 spouse can request a Contempt Order or an Order to Enforce parts of the Decree if you or your spouse fail to do what the Decree tells you to do.

Getting a Legal Separation Decree. Before you and your spouse become legally separated, a judge or Commissioner must sign what we call the Decree of Legal Separation. The Decree tells you who gets the property, who pays the debts, who pays support, and so forth.

Legal Separation by Default. If you have a Default Hearing, you must repeat as closely as possible what you requested in your Petition for Legal Separation. You cannot mark something different in the Decree from what you asked for in the Petition. If you try to do this, 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 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 into the decree, he or she may change it before signing the decree or ask the parties to come to a hearing.

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.) **When filling out any court forms, type or print with black ink only.**

SECTION: **Type or write in black ink only.**

(A) Write in the Name of the person filing the Decree, his or her current address, city, state, zip code, telephone number. If the case has an ATLAS number, write in the number. If a lawyer represents the person who is filing the Decree, write in the lawyer's bar number for that person. Then write in whether you are representing yourself or if a lawyer represents you, write in your name.

(B) Write in the Name of the Petitioner, the Name of the Respondent and the court case number in the space provided..

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COURT FINDINGS SECTION: (C)

1-3e. This section tells you that before the judge or commissioner signs the Decree, the judge or commissioner will have determined that the court has the legal power to make the orders in your case. It also clarifies that at least one party lived in Arizona before the Petition was filed, and that the parties desire to live separate. The judge or commissioner must also determine that both you and your spouse want a legal separation. (If one of you do not want a legal separation, the judge or commissioner can dismiss your case or turn it in to a divorce case.) Also, if you served the other party by publication, the court cannot sign a Decree that divides community property and/or debt, or order the other party to pay spousal maintenance/ support (alimony).

3f. 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 all community property is divided pursuant to the Decree.

3g. Mark the first box if the wife is not pregnant. Mark the second box if the wife is pregnant with another man's child. If wife is pregnant and the wife's husband is the father, you cannot use the forms ***"LEGAL SEPARATION--WITHOUT MINOR CHILDREN."*** YOU MUST USE THE FORMS ***"LEGAL SEPARATION—WITH MINOR CHILDREN."***

3h. Mark this box if you have requested spousal maintenance/support (alimony) in the Petition for Legal Separation or the parties have agreed that one party will pay the other party spousal maintenance/support.

COURT ORDERS SECTION:(D)

1. **This section legally separates the parties.**

2. **ENFORCEMENT OF TEMPORARY ORDERS.** If the court ordered temporary payment of spousal maintenance/support, debt division, or other temporary relief, fill in the dates of ALL of the temporary orders. This section allows you to enforce nonpayment of those debts.

3a. **SPOUSAL MAINTENANCE/SUPPORT (ALIMONY).** Mark this box if neither party is requesting spousal maintenance/ support.

3b. Mark this box if you are the Petitioner and you requested spousal maintenance/support in your Petition and you have a default hearing. You cannot get spousal maintenance/support if the other party was served by publication. Mark who will pay the spousal maintenance/support and who will receive the spousal maintenance/support. Put in the amount and the date the spousal maintenance/support will end. Generally, spousal maintenance/support is taxable income to the person receiving it and tax deductible to the person paying it.

4a-b. **PROPERTY AND DEBT.** Mark these boxes to have each party pay the debts that are unknown to the other party.

4c. By marking this box, you are telling the court that you do not have to pay for bills your spouse got after you separated. Write the approximate date you separated on the line provided.

4d. Mark this box if you want to divide the community property and debt, even if you have already divided most of your property. You can give the court this information on **EXHIBIT A: 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.

4e. This states that you and your spouse get to keep property, your separate property or property that was a gift or inheritance to you. You also can keep any personal items, clothing, and any other property you own that is not considered community property. You can give the court this information on ***"Exhibit A: 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.

4f. This means either spouse can record the Decree if there is a transfer of title to property, like a house. This section also requires each spouse to sign documents to transfer other property, like titles to cars, and so forth.

4g. 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. 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 at http://www.irs.ustreas.gov for help.

5. **OTHER ORDERS.** DO NOT WRITE HERE. Judicial Officer will complete if applicable.

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

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SIGNATURES SECTION:(E)

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

EXHIBIT A: PROPERTY AND DEBTS: (F) **If you have questions about whether your property is community property or separate property, or whether your property is separate property 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 Petitioner box and the Respondent box.

3. **Retirement Benefits**. Decide what you want to do about these assets. Generally, each spouse is entitled to a 1/2 interest in the pension or retirement or deferred compensation benefits of the other spouse for the 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 and the Self-Service 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 spouse 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 your spouse, see a lawyer for help.

5. **Community Debt.** Mark this box if the parties have community debt. Then describe the debt, including the creditor 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 want each spouse 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 spouse that are not listed to be paid by the spouse who incurred the debt. Remember, although the Decree orders either spouse to pay community debts does not mean that the creditor cannot pursue collection from the other spouse, 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 your spouse 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 your spouse have separate debt, identify the creditor, the amount owed, and who is responsible for paying the separate debt.

OTHER FORMS: **If you or the other party are receiving spousal maintenance/support (alimony), you will need to complete the following forms:**

1. ***"Current Employer Information Form"***

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