SELF-SERVICE CENTER

INSTRUCTIONS:
HOW TO FILL OUT PAPERS FOR A LEGAL SEPARATION—
WITH MINOR CHILDREN

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IMPORTANT INFORMATION: If your spouse does **not** want a "Legal Separation", the Court will not order a legal separation. However, the Court can change the "Petition for Legal Separation" into a "Petition for Dissolution of Marriage" (divorce), if you and/or your spouse have lived in Arizona for the last 90 days prior to filing the "Petition for Legal Separation" and your spouse wants a divorce, **not** a legal separation.

DOMESTIC VIOLENCE: Domestic violence can be part of any marriage. Domestic violence against you and/or your minor children, includes physical acts such as hitting, slapping, pushing and kicking. Verbal abuse and threats of violence, directed at you and/or your minor children, with the intent to control you, is also Domestic violence.

Court documents request your address and phone number. If you are a victim of domestic violence, and you do **not** want your address to be known to protect yourself or your minor children from further violence, **you must file a "Petition for an Order of Protection" and ask that your address <u>not</u> be disclosed on court papers. With that Order, you do not need to put your address and phone number on your court papers**. When asked for that information on Court papers, write **"protected"** in that space. You must tell the Clerk of the Court your address and phone number as soon as possible, so the Court can contact you as needed.

FAMILY COURT / SENSITIVE DATA COVER SHEET
(All Forms: TYPE OR PRINT IN BLACK INK)

- **Write in the information requested about petitioner, respondent, and any children under the age of 18.**
- **DO <u>NOT</u> INCLUDE MAILING ADDRESS ON THIS FORM IF REQUESTING ADDRESS PROTECTION.**
- **Case Type: Mark only one box that matches the legal procedure for which you are filing the documents in this packet: [x] Legal Separation.**
- **Interpreter: Check "yes" or "no" to indicate whether an interpreter is needed. If "yes", write in what language(s).**
- **No additional copies needed. Do NOT serve this document on the other party.**

SUMMONS:

- ✓ Fill in the following information on the "Summons": Your name; street address (**if not protected**); city, state and zip code; telephone number; ATLAS number; name of Petitioner (your name); name of Respondent (your spouse's name). You will have an ATLAS number ONLY if you receive, or have received, AFDC or other public benefits for minor children that are common to you and your spouse. Then, write in the Name of the Respondent/Defendant in the space provided. **DO NOT** fill out the rest of the form. The Clerk of Court will complete it later.

PRELIMINARY INJUNCTION:

- ✓ Fill in the following information on the "Preliminary Injunction:" Your name; street address **(if not protected)**; city; state; zip code; telephone number; ATLAS number; name of Petitioner (your name);

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name of Respondent (your spouse's name). You will have an ATLAS number ONLY if you receive, or have received, AFDC or other public benefits for children that are common to you and your spouse. Then, fill in the description of the parties including name, gender, height, weight, driver's license number, and date of birth for both you and the other party. The Clerk of the Court will date and sign the Preliminary Injunction.

"PETITION FOR LEGAL SEPARATION -- WITH MINOR CHILDREN:"

STEP	INSTRUCTION
1	Use this form ONLY if you want a legal separation and there are minor children involved that are common to you and your spouse. Make sure your form is titled **"PETITION FOR LEGAL SEPARATION -- WITH MINOR CHILDREN".**
2	In the top left corner of the first page, fill out the following: your name (if you are the person filling out the petition); your address **(if not protected)**; your city, state and zip code; your telephone number; and your ATLAS number, if you are receiving, or have received, AFDC from the Arizona Department of Economic Security. (The space for the attorney bar number is required **only** if an attorney represents you. You must provide this information if you are represented.)
3	Fill in **your** name in the space that says "Name of Petitioner." Remember, you will be the **PETITIONER** for the entire case. (This includes any emergency petitions, temporary petitions, and divorce petitions.) In the space that says "Name of Respondent," fill in the name of your spouse. Your spouse will be the **RESPONDENT** for the entire case. (This includes any emergency petitions, temporary petitions, and divorce petitions.)
4	Leave the Case Number _____ blank. When you file your papers, you will receive a case number.

GENERAL INFORMATION:

1 **Information about you, the Petitioner.** Fill in the Petitioner's name, address **(if not protected)**, date of birth, occupation, and length of time in Arizona.

2 **Information about your spouse, the Respondent.** Fill in the Respondent's name, address, (if you know it) date of birth, occupation, and length of time in Arizona.

3 **Information about your marriage.** Fill in the date that you were married, and the city and state where you were married. If you do not know this information, and you were married in Maricopa County, you may get a copy of your marriage license from the Clerk of the Court Record Center located at 601 West Jackson Street, in Downtown Phoenix. If you were married in another county in Arizona, go to the Clerk of the Superior Court in the county seat where you were married.

4 **Children common to the parties who are less than 18 years of age.** If there are no children under the age of 18 born to, or adopted by, you and your spouse, you should use the ***"Petition for Legal Separation of a Non-Covenant Marriage - Without Children"*** Packet. Otherwise, check the second box and provide the name, birth date and current home address including city, state, and zip code for each child born to, or adopted by, you and your spouse.

5 **Residency requirements.** This verifies to the Court that you, OR your spouse, have lived in Arizona, or been stationed in Arizona while in the Armed Forces, prior to the day you filed the Petition for Legal Separation. Before you file for Legal Separation, this **MUST** be true. **IF IT IS NOT TRUE, YOU CANNOT FILE FOR LEGAL SEPARATION <u>WITH THIS COURT</u>.**

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6 **Desire to live separate and apart.** Your marriage must be irretrievably broken (over) or you and/or your spouse must desire to live separate and apart. If this is **not** a true statement, you **cannot** file for Legal Separation.

7 **Domestic violence.** This tells the Court that there was/is domestic violence in the marriage. Domestic violence affects a request for Joint Legal Decision Making (joint custody) (if you intend to ask for Joint Legal Decision Making). If you are not sure what "domestic violence" means, see the first page of these instructions "Domestic Violence." Check the box that applies to your situation.

8 **Pregnancy**. If the wife **is NOT** pregnant at this time, check the first box and go to paragraph 10. If the wife **is** pregnant, check the second box. Fill out the date the baby is due, and fill in any information regarding the parents of the unborn child.

9 **Spousal maintenance/support** is the term used to describe money paid by one spouse to the other spouse as part of a divorce, annulment, or legal separation. You may know the term as alimony. Spousal maintenance/support is designed as a safety net for a spouse who cannot provide for his/her needs **or** a spouse who meets other requirements listed on the Petition under paragraph 8. The idea behind spousal maintenance/support is that accomplishments during your marriage, including increases in earning potential and living standards, are shared, and earned, by **BOTH** parties to a marriage. Look at paragraph 8 to see if spousal maintenance/support applies to you or your spouse. If spousal maintenance/support applies, check the box that most applies to your situation. If none of the boxes apply, or if you do not want spousal maintenance/ support, check the first box that says neither party is entitled to spousal maintenance/support. Check as many boxes as apply to your situation. **Spousal maintenance/support is paid separately from child support and is not a substitute for, or a supplement to, child support.**

INFORMATION ABOUT PROPERTY AND DEBT: The information you give in paragraphs 10 and 11 tells the Court about your property and debts, and how you think your property and debts should be divided. Community property is any property you and your spouse purchased during your marriage, or paid for during the marriage, no matter who uses the property or who paid the money. Unless property was a gift or inheritance, all property acquired during the marriage is community property, and both you and your spouse are entitled to approximately an equal share of this property. Community debts or bills are any debts or bills you and your spouse acquired during your marriage, no matter who incurred the debt. If you have questions, or have a lot of community property or debt, you should speak with an attorney **BEFORE** filing your Petition and other papers.

You should also know that the Judge will order that the community property rights and liabilities acquired by marriage will end with regard to all property, income, debts and/or liabilities received or incurred after the entry of a "Decree of Legal Separation", **unless** both parties agree to the contrary.

10(a) **Property acquired during the marriage. Community property**. If you and your spouse do not have any property from the marriage, check the first box. If you and your spouse have property together, check the second box. If you checked the second box, you must tell the Court what property should go to you and what property should go to your spouse. Generally, the Court will divide the property 50-50, unless there are good reasons not to. It is unlikely that the Court will give most, or all, of the property to either spouse, so put some thought into what you think would be a fair division before filling out this section. If you and your spouse cannot decide which spouse should receive what property, the Court will order that the property be sold and any money received, divided between you and your spouse.

First, list the property that you want the Court to award to you, the Petitioner, and list the property that you want the Court to award to your spouse, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property in as specific detail as possible for identification purposes. You can use the brand name and model where applicable, and serial numbers.

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TYPES OF PROPERTY:

a) **Real Property (property, land or home).** Check who you want to get the property. You can ask the Court to give you the property, to give the property to your spouse, or to sell the property and divide the proceeds. You should write the complete address of the property under "Real estate located at." Most property has a legal description such as "LOT 77, PINE TREE ACRES, according to Book 111 of Maps," which appears on your deed papers. **USE THIS LEGAL DESCRIPTION.** A cemetery plot is considered real property.

b) **Household furniture.** This includes sofas, beds, tables, and so forth.

c) **Household furnishings**. This includes things in the house other than furniture, for example: dishes, small appliances, rugs, and so forth.

d) **Other.** List things that you want, or you want your spouse to have, that have not already been listed.

e) **Pension/retirement fund/profit sharing/stock plans/401K**. You and your spouse each generally have a right to about one-half interest in the other spouse's plan, based upon the number of years you were married. The longer your marriage, the greater your financial interest in your spouse's plan. (Your interest usually includes **up to** 50 percent of the benefits/plan, if you have been married the whole time the plan has existed.) **Check this box if you want to divide your interest in a retirement or profit sharing/retirement/401K plan. If you check this box, you must see an attorney about a document called a Qualified Domestic Relations Order or QDRO. A QDRO is a very specialized legal document that requires professional assistance to prepare.** The Self-Service Center, and the Court, **does not** have Qualified Domestic Relations Order forms.

f) **Motor vehicles.** List the vehicle identification number (VIN), the year and make of the car (Ford, Honda) and the model (Mustang, Lumina).

10(b) **Property acquired before marriage. Separate property.** If you did not have, or bring, any property into the marriage, check the first box. If your spouse did not have, or bring, any property into the marriage, check the next box. If you or your spouse brought property into the marriage, check the third and/or fourth box. If you checked the third and/or fourth box, you must tell the Court what property you brought into the marriage and what property your spouse brought into the marriage. List the property that you want the Court to award to you, the Petitioner, and list the property that you want the Court to award to your spouse, the Respondent. Put a check in the box that matches the property you want to go to which person. You should describe the property thoroughly for identification purposes. You can use the brand name and model where applicable, and serial numbers.

11(a) **Debts incurred during the marriage**. If you and your spouse do not owe money on any debts from the marriage, check the first box and go directly to paragraph 11(b). If you and your spouse owe money on any debts from the marriage, check the second box. If you check the second box, tell the Court which debts you should pay and which debts your spouse should pay. The Court will attempt to make a fair division of the debts. If you get property that has a debt on it, you will probably be given the debt as well. Ordering one person to pay all the debts is unusual. Think about what is a fair division of the debts before answering this question. Provide enough information so the Court can properly identify each debt. If you and your spouse have been separated, and have acquired new debts on your own before you filed for legal separation, you may want the Court to order that each of you must pay for any new debts incurred after the date you separated. You can make this request on the last page of your Petition under Letter D "Community Debts."

11(b) **Separate debts. Debts incurred prior to marriage.** If you and your spouse did not owe money or did not bring debts into the marriage, check the first box and GO ON to number 12. If **you** did owe money or if **you** did bring debts into the marriage, check the second box. If your **spouse** owed money or if your **spouse** brought debts into the marriage, check the third box. If either you, or your spouse, owe money on any debts that you or your spouse brought into the marriage, describe the debts, and tell the Court which

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debts you should pay and which debts your spouse should pay.

12 **Tax Returns:** Decide what you want to do about any income tax refund you may be entitled to, and how you want to pay your taxes in the future. If you have questions, you should see a lawyer, an accountant, and/or contact the Internal Revenue Service (IRS).

13 **Written Custody Agreement**. Check this box **ONLY** if you and your spouse have a written agreement regarding spousal support, division of property and/or /debts, custody, parenting time and child support that **both you and your spouse have actually signed BEFORE** you filed the Petition for Legal Separation. If you have only discussed these issues and do not have a written agreement, **do NOT** check this box.

OTHER STATEMENTS TO THE COURT. You are telling the Court that you believe the following statements are true:

14 **The conciliation requirements do not apply or have been met.** This means that you do not think marriage counseling through the Court will help you get back with your spouse.

15 **This Court has the power to decide legal decision making (child custody) issues.** This means one of the following things:

1. Arizona is the domicile, or home state, at the time you file the documents. Home state means the state where the minor child lived with his/her parents, a parent, or a person acting as parent for at least six months in a row, prior to filing a Petition for Legal Separation. If the child is less than six months old, the state where the child lived since birth, with any persons mentioned above.

2. It is in the best interest of the minor child(ren), that this Court hears this case, because the minor child(ren), and his or her parents, or the child(ren), and at least one parent, has a significant connection with this state, and there is substantial evidence available in this state concerning the minor child(ren)'s present or future care, protection, training and personal relationships.

3. The minor child is physically present in this state and the minor child and has been abandoned, or it is necessary in an emergency to protect the minor child because he/she has been subjected to, or threatened with, mistreatment or abuse or is otherwise neglected or dependent.

4. It appears that no other state would hear this case or another state has declined to hear this case on the basis that Arizona is the better place to decide the custody ("legal decision making" in Arizona) of the minor child.

If you have questions about what this means, you should see a lawyer for help.

REQUESTS TO THE COURT.

This section requests that the Court grant you, and your spouse, a legal separation and tells the Court other requests you are making:

A **Legal separation**. This is your request to legally separate the parties. If you have questions about the advantages and/or disadvantages of filing for legal separation as compared to divorce, you should see a lawyer for help.

B **Spousal Maintenance/Support.** This tells the Court that you, or your spouse, should pay money to the other spouse on a monthly basis to help with living expenses. Check the first box if neither you, nor your spouse, are going to pay spousal maintenance/support. Check the second box if either you, or your spouse, will be paying spousal maintenance/support. Then check the box to say who will be paying spousal maintenance/support. You can check a box only if you checked the same box in the spousal maintenance/support, Section, paragraph 8.) If you request spousal maintenance/support, choose what you believe to be a reasonable monthly amount, and tell the Court how long the money should be paid.

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Base the amount of any spousal maintenance/support request, on the receiving party's need, and the income of the spouse paying this money. Spousal maintenance/support is not a substitute for, or a supplement to, court ordered child support.

C **Community property.** This tells the Court that your division of the property is fair, and that the Court should divide the property as requested, by you, in your Petition.

D **Community debt.** This tells the Court that your division of the debt is fair, and that the Court should divide the debts as requested by you in your Petition. **If you have been separated from your spouse for enough time that you or your spouse may have additional debts, write the date of separation on the line provided, if you want each spouse to pay the debts incurred after you separated.**

E **Separate property.** This states that you will keep the property you owned before the marriage and that your spouse will keep the property he/she owned before the marriage.

F **LEGAL DECISION MAKING (CHILD CUSTODY) AND PARENTING TIME:**

F.1. **Sole Legal Decision Making (custody) of minor children and parenting time**. If you want sole legal decision making, check the box that applies, including the parenting time you are asking for. Tell the Court whether you want custody of the minor children to go to you (the Petitioner) or your spouse (the Respondent).

Parenting time: Check only one box. You can ask that the non-custodial parent (the parent having physical custody of the minor child less than 50% of the time) have one of the following types of parenting time.

PARENTING TIME: Check only one box. You can ask that the non-custodial parent (the parent having physical custody of the minor child less than 50% of the time) have one of the following types of parenting time. If you want to know more about legal decision making and parenting time, refer to "**Planning for Parenting Time: Arizona's Guide for Parents Living Apart**". The ***Guide*** is available for purchase at all Superior Court Self-Service Center locations, **or** may be viewed online and downloaded for **free** from the state courts' web page at: **http://azcourts.gov/Portals/31/ParentingTime/PPWguidelines.pdf**

Supervised parenting time to the non-custodial parent. You should request supervised parenting time if the non-custodial parent cannot adequately care for the minor children without another person present. You may request this if the person who does not have legal decision making abuses drugs or alcohol; is violent or abusive; or, does not have the parenting skills to care for a minor child without another adult present. Remember, supervised parenting time is not intended to punish the parent, but to protect the minor child.

No parenting time to the non-custodial parent. You should mark this option only if the non-custodial parent has seriously harmed, abused, or otherwise is a serious danger to the minor child's physical and emotional health, or if there is a criminal Court Order stating no contact between the minor child and the non-custodial parent. You may use this as a last resort to protect the minor child.

OR

F.2. **Joint Legal decision Making (Custody):** If you are asking for joint legal decision making, you must file a Parenting Plan that contains a Joint Legal Decision Making Agreement signed by both parents, which the Court must approve. Remember, there can be no significant domestic violence to request joint legal decision making (custody).

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G **Child support:** Tell the Court who you think should pay child support. The person who has custody of the minor child(ren), or who has physical care of the minor child(ren) more than 50% of the time, is the person who should receive the support. The other spouse, often called the "non-custodial" parent, must pay the support. The income of the parties generally determines the amount of the support according to court guidelines. You must check only one box.

H **Insurance and health care expenses for child(ren):** Check only one box. Tell the Court which parent should provide insurance for the minor child(ren). Whichever parent has the most affordable insurance plan available through work, generally should pay for insurance. Adjustments can be made to child support to reflect the costs of insurance for the minor child(ren).

I **Tax exemption:** Decide how you and your spouse will declare the tax dependency exemptions, for which minor children, for which years. Federal tax law also determines this for you. If you are not sure, see a lawyer or an accountant for help.

J **Other Orders:** Tell the Court anything else you may want ordered that has not been covered in your Petition.

OATH OR AFFIRMATION AND VERIFICATION OF PETITIONER: Sign this form in front of a notary public. By doing so, you are telling the Court that everything contained in the Petition is true.

AFFIDAVIT REGARDING MINOR CHILDREN: Fill out this form completely and accurately. Provide all information requested, including that about court cases involving the minor children and where the children have lived for the past five (5) years (or since birth if younger than five).

ORDER and NOTICE REGARDING THE PARENT INFORMATION PROGRAM: This is an important document. You and the other parent must attend and complete a class in the Parent Information Program. It was designed to help you. The purpose of the Parent Information Program is to give parents information about the impacts that legal separation, the changes in the family unit, and court involvement have on children involved in a legal separation, paternity, or custody case. This Order and Notice applies to all parents who file an action for dissolution of marriage or legal separation, or any paternity proceeding, in which a party has requested that the court determine legal decision making or parenting time on or after January 1, 1997, and to all other domestic relations cases if ordered by the Court. **Make sure you read this notice and serve this order and notice on the other party.**

NOTICE REGARDING CREDITORS: This is an important document that tells you and your spouse that you are responsible for community debts to creditors even though the Court order or decree says that only one of you (either you or your spouse) are responsible. This notice must be served on your spouse. In addition, read this notice to find out how to obtain information from your creditors about account balances.

OTHER IMPORTANT PAPERS IN THIS PACKET: Before you get an order from the judge you must complete the court papers on what you want the judge to order about legal decision making (custody) and access (parenting time), and for child support. The court papers you need, with guidelines and/or instructions, are included in packet 4. These court forms, and those prepared by the other party, are what the judge will use when it is time to sign the order about legal decision making, parenting time, and support. You can complete the papers about legal decision making, parenting time and support now, and serve or provide copies to the other party. Or, you can complete the papers before the final court hearing date. Family Court Clerk Services of the Clerk of the Court will help you with Child Support calculations for the Worksheet.

NEXT STEP: After you fill out all of the forms in this packet, read the form called Procedures: How to File Legal Separation with Children Papers with the Court.

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