

**LEGAL SEPARATION
WITHOUT MINOR
CHILDREN**

4

The Court Order

Part 4: To get the Legal Separation Order

(Forms Packet)

SELF-SERVICE CENTER

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..

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.

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"***

SELF-SERVICE CENTER

LEGAL SEPARATION WITHOUT MINOR CHILDREN

CHECKLIST

Use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You or your spouse filed a Petition for Legal Separation Without Minor Children, AND
- ✓ You and your spouse have no minor children with each other AND the wife is not pregnant by the husband, AND
- ✓ You are ready to complete the court papers to get a legal separation decree, AND
- ✓ You are going to a default hearing, or you have filed the papers to get a default legal separation without a hearing, or you are going to a legal separation trial.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Self-Service Center website.

Person Filing: (A) _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
ATLAS Number: _____
Lawyer's Bar Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN GRAHAM COUNTY

Case Number: _____

Petitioner (B)

DECREE OF LEGAL SEPARATION (Without Minor Children)

Respondent

THE COURT FINDS: (C)

1. This case has come before this court for a final Decree of Legal Separation. The court has taken all testimony needed to enter a final Decree, or has determined testimony is not needed to enter the final Decree.
2. This court has jurisdiction over the parties under the law, and the provisions of the Decree are fair and reasonable under the circumstances.
3. The court finds:
 - (a) At the time this action was filed, one of the parties lived in Arizona, or had lived in Arizona while a member of the United States Armed Forces.
 - (b) The provisions of A.R.S. § 25-381.09 relating to Conciliation Court either do not apply or have been met.
 - (c) The marriage is irretrievably broken or one or both parties desire to live separate and apart
 - (d) The other party does not object to the decree of legal separation.
 - (e) Where it has the legal power to do so and where it is applicable to the facts of this case, this court has considered, approved, and made orders relating to the issue of spousal maintenance, and the division of property and/or debts.
 - (f) The parties did not acquire any community property or debts during the marriage; **OR**
 There **IS** an agreement as to division of community property and debt; all community property and debt is divided pursuant to this Decree.
 There is **NO** agreement as to division of property and/or debt, but all community property and/or debt is divided pursuant to this Decree.
 - (g) Wife is not pregnant; **OR**
 Wife is pregnant, and the other party (husband) IS NOT the father of the child.

(h) The Petitioner, **OR** The Respondent

Lacks enough property, including property given to him or her as part of this legal separation, to provide for his or her reasonable needs, and is unable to support himself or herself through an appropriate job, or he or she is providing the primary care to a child(ren) of young age or is of a condition that he or she should not be required to look for work outside of the home, or lacks earning ability necessary to support himself or herself, or contributed significantly to the educational opportunities of the other spouse, or had a marriage that lasted a long time and is of an age which may severely limit the possibility of getting a job in order to support himself or herself.

THE COURT ORDERS: (D)

1. **THE PARTIES ARE LEGALLY SEPARATED.**

2. **ENFORCEMENT OF TEMPORARY ORDERS:** All obligations ordered to be paid by the parties in Temporary Orders dated (fill in dates of ALL temporary orders here)

shall be satisfied in full or judgment is awarded against the party with the obligation up to the amount due and owing as of the date of this Decree, together with the highest legal interest allowed by law.

3. **SPOUSAL MAINTENANCE/SUPPORT (ALIMONY):**

(a) Neither party shall pay spousal maintenance/(alimony) to the other party; **OR**

(b) Petitioner, **OR**

Respondent

Is ordered to pay Respondent, **OR** Petitioner the sum of \$_____ per month spousal maintenance **BEGINNING THE FIRST DAY OF THE MONTH** after this Decree is signed. Each payment shall be made by the first day of each month thereafter and shall continue until the receiving party is deceased or until _____. (date). All payments shall be made through the Support Payment Clearinghouse by automatic Income Withholding Order, until all required payments have been made under this Decree. Payments made shall be included in the receiving spouse's taxable income and are tax deductible from the paying spouse's income as required by law.

4. **PROPERTY AND DEBTS:**

(a) Petitioner is ordered to pay all debts unknown to Respondent.

(b) Respondent is ordered to pay all debts unknown to Petitioner.

(c) Each party is ordered to pay his or her debts which he or she incurred since the date of the parties' separation, _____ (date).

(d) Other orders and relief relating to community property or debts are contained in Exhibit A relating to the division of community property and debts, which is attached and incorporated into and made a part of this Decree.

(e) Each party is assigned his or her separate property as contained in Exhibit A relating to the separate property and debts, which is attached and incorporated and made a part of this Decree.

(f) This Decree can be used as a transfer of title and can be recorded. Parties shall sign all documents necessary to complete all transfer of titles ordered in this Decree, such as motor vehicles, houses, and bank accounts. The parties shall transfer all real and personal property as described in Exhibit A to the other party on or before _____ by 5:00 p.m.

If the party required to transfer the property has not transferred the property to the other party entitled to receive the property on or before the date and time listed above, the party entitled to receive the property is entitled upon application to a Writ of Assistance or Writ of Execution to be issued by the Clerk of the Court commanding the sheriff to put him or her in possession of the property.

- (g) For previous calendar years, the parties shall file
 - joint federal and state income tax returns and hold the other harmless from additional income taxes, if any, and other costs, and each shall share equally in any refunds, **OR**
 - separate federal and state income tax returns.

AND

- This calendar year and continuing thereafter,
 - joint federal and state income tax returns and hold the other harmless from half of all additional income taxes and other costs, if any, and each shall share equally in any refunds, if any, **OR**
 - separate federal and state income tax returns.

AND

Each party shall give the other party all necessary documentation to file all tax returns.

5. **LIMITATION ON JURISDICTION:** This court cannot make a legal order, without personal service on the Respondent, with respect to issues of community property and debt or spousal maintenance.

6. **OTHER ORDERS:** (Leave blank for Judicial Officer) _____

7. **FINAL APPEALABLE ORDER.** Pursuant to Arizona Rules of Family Law Procedure, Rule 81, this final judgment/decree is settled, approved and signed by the court and shall be entered by the clerk.

DONE IN OPEN COURT this ____ day of _____, _____. (E)

JUDGE OR COURT COMMISSIONER

If this Decree was issued as a "Default," *and* the Petitioner served the papers to begin this case by any means *other than* by publication, a copy of this Decree must be mailed or delivered to the Respondent. You must tell the court you will do this.

By signing below, the Petitioner states to the Court that I have sent or will send or deliver of copy of this Decree to the Respondent at:

Respondent's Name: _____

Mailing Address: _____

City, State Zip Code: _____

By: (Petitioner's Name) _____

Date: _____

EXHIBIT A: PROPERTY AND DEBTS (F)

1. DIVISION OF COMMUNITY PROPERTY:

- Award each party the personal property in his or her possession, or
- The following community property is awarded to each party as follows:

2. LIST OF COMMUNITY PROPERTY. Be specific

AWARD TO:
Petitioner Respondent

<input type="checkbox"/>	Household furniture/furnishings				
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	Appliances				
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	DVD/DVR/VCR (be specific)				
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	TV				
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
	_____	<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/>	Personal Computer				
<input type="checkbox"/>	Stereo				
<input type="checkbox"/>	State Income Tax Refund				
<input type="checkbox"/>	Federal Income Tax Refund				
<input type="checkbox"/>	Motor vehicle _____				
<input type="checkbox"/>	Motor vehicle _____				
<input type="checkbox"/>	Motor vehicle _____				
<input type="checkbox"/>	Cash, bonds of \$ _____				
<input type="checkbox"/>	Other: _____				
<input type="checkbox"/>	Other: _____				
<input type="checkbox"/>	Other: _____				
<input type="checkbox"/>	Other: _____				
<input type="checkbox"/>	Continued on attached list.				

3. DIVISION OF RETIREMENT, PENSION, DEFERRED COMPENSATION

(WARNING. You should see a lawyer about your retirement, pension, deferred compensation, 401k plans and/or benefits. If you do not see a lawyer regarding these assets, you risk losing any interest you have in these plans and/or benefits. There are certain documents the plan administrator must have. Only a lawyer can help you prepare these documents.)

- Award each party his or her interest in any retirement benefits, pension plans, or other deferred compensation described as:
 Petitioner's: _____
 Respondent's: _____

OR

- The Plan Administrator and the parties have approved the Qualified Domestic Relations Order (QDRO) attached as Exhibit(s) _____. Do not check this box without first seeking the help of a lawyer.

OR

Each party **WAIVES AND GIVES UP** his or her interest in any retirement benefits, pension plan, or other deferred compensation of the other party:

OR

Neither party has a retirement, pension, deferred compensation, 401K Plan and/or benefits.

4. DIVISION OF REAL PROPERTY. Section A is for one piece of property. Section B is for another piece of property. If you own more than two pieces of property, check the box below and attach another sheet of paper with the information requested in A and B.

More than 2 pieces of property are involved. See attached sheet listing the same information as in A and B.

A. Real property located at (address) _____ which is legally described as: (You must provide the legal description. The legal description can be found on the deed to the property. If you do not provide the legal description, you may have to come back to court to amend the Decree to include the legal description.)

LEGAL DESCRIPTION: _____

The real property as described above is:

Awarded to Petitioner OR Respondent as his or her sole and separate property.

OR

Shall be sold and the proceeds divided as follows:

_____ % or \$ _____ to Petitioner.

_____ % or \$ _____ to Respondent.

This Decree can be used as a transfer of title and can be recorded. Parties shall sign all documents necessary to complete all transfer of titles ordered in this Decree, such as motor vehicles, houses, and bank accounts.

_____ is appointed real estate commissioner to sell this real property.

B. Real property at (address) _____ which is legally described as: (You must provide the legal description. The legal description can be found on the deed to the property. If you do not provide the legal description, you may have to come back to court to amend the Decree to include the legal description.)

LEGAL DESCRIPTION: _____

The real property as described above is:

Awarded to Petitioner OR Respondent as his or her sole and separate property.

OR

Shall be sold and the proceeds divided as follows:

_____ % or \$ _____ to Petitioner.

_____ % or \$ _____ to Respondent.

This Decree can be used as a transfer of title and can be recorded. Parties shall sign all documents necessary to complete all transfer of titles ordered in this Decree, such as motor vehicles, houses, and bank accounts.

_____ is appointed real estate commissioner to sell this real property.

5. DIVISION OF COMMUNITY DEBTS. (You should see a lawyer about how to divide secured and unsecured debts.) The following community debts shall be divided as follows:

Creditor(s)	Amount owed	Petitioner	Respondent
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

Continued attached list.

6. Any debts or obligations incurred by either party before the Respondent was served with the Petition for Dissolution that are not identified in the list above or attached shall be paid by the party who incurred the debt or obligation and that party shall indemnify and hold the other party harmless from such debts.

7. SEPARATE PROPERTY. The following separate property is awarded as follows: (Be specific)

Description of Property. Be specific.	Petitioner	Respondent
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

8. SEPARATE DEBT. The parties are each ordered to pay his or her separate debt as follows:

Creditor(s)	Amount owed	Petitioner	Respondent
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

CURRENT EMPLOYER* INFORMATION

You may also fill out this form online at the Family Support Center Website.

For Clerk's Use Only

THIS FORM MUST BE COMPLETED FOR:

- AN INCOME WITHHOLDING ORDER**
- ORDER TO STOP AN INCOME WITHHOLDING ORDER**
- NOTIFICATION OF A CHANGE OF EMPLOYER (or OTHER PAYOR)**

CASE NUMBER: _____ **ATLAS NUMBER:** _____

NAME OF PERSON ORDERED TO MAKE PAYMENTS:

LIST THE NAME OF THE EMPLOYER* AND THE ADDRESS OF THE PAYROLL OR FINANCIAL DEPARTMENT (for the person named above) WHERE THE INCOME WITHHOLDING ORDER OR STOP ORDER SHOULD BE MAILED.

EMPLOYER* NAME: _____

PAYROLL ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

EMPLOYER* TELEPHONE: _____

EMPLOYER* FAX: _____

**or other payor or source of funds*

FOR COURT USE ONLY. DO NOT WRITE BELOW THIS LINE.

WA/FSC

WA/LOG ID: _____
TYPE OF W/A _____
DATE _____
AMOUNT OF ORDER _____
EMPLOYER STATUS _____
ENTERED BY _____
NEW W/A _____ SUB _____
AG _____ DCSE _____