

# LEGAL SEPARATION

A legal separation is when the parties are legally married and one spouse is asking the Court to enter orders about each spouses' rights and responsibilities during a period when they are still married but decide to live apart. When you get legally separated the marriage has not ended.

Legal separation is a good idea if you are contemplating divorce in states that use community property in determining division of assets. In most states, once your paperwork for legal separation is filed it terminates the "community."

Legal separation normally needs to be agreed to by the parties and is treated as an uncontested motion. The court must make findings that the marriage is "broken" or that the parties wish to live apart. If one party objects to the action the court can hear the case as it would for a contested divorce.

Often legal separations lead to a divorce. Once the Legal Separation is filed with the court most states allow for it to be converted to a divorce at any time.

The paperwork for a legal separation is almost identical for the paper work for a divorce expect the words "legal separation" replace the words for divorce. Just like in a divorce petition, the Petition for Legal Separation can and should ask the court to make orders for spousal maintenance, child custody, child support, and division of debts.

The main legal difference is in the language used to either ask for a legal separation or a divorce in the petition itself.

In a legal separation petition you are pleading to the court that your marriage is irretrievably broken (insert the state specific "catch phrase") or you and/or your spouse desire to live separate and apart. If this is not a true statement, you cannot file for Legal Separation

In a divorce petition you are pleading to the court that the marriage is broken beyond repair irretrievably broken (insert the state specific "catch phrase") and there is no hope of reconciliation.

For instructions on how to fill out the form for Legal Separation please see the instructions for Petition for Marriage Dissolution. The instructions are the same with the exceptions discussed above that I have highlighted below in red.

A completed form might look something like:

Person Filing: John Doe  
Address (if not protected): 1234 Main Street  
City, State, Zip Code: Phoenix, Arizona 12345  
Telephone: 602-555-1234  
Email Address: Getitdone@learning.com

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Case No.: \_\_\_\_\_

In re the Marriage of:

JOHN DOE,

Petitioner,

and

JANE DOE,

Respondent.

**PETITION FOR LEGAL SEPARATION**

**(With Minor Children)**

**STATEMENTS THE COURT, UNDER OATH OR AFFIRMATION:**

**1. INFORMATION ABOUT ME, THE PETITIONER:**

Petitioner is JOHN DOE, hereinafter "HUSBAND," whose mailing address is, 1234 Main Street, Phoenix Arizona. HUSBAND's date of birth is September 1, 1980. HUSBAND's social security number is xxx-xx-1234. HUSBAND is employed as a circus clown. HUSBAND has resided in Arizona for 10 years consecutively.

**2. INFORMATION ABOUT, MY SPOUSE, THE RESPONDENT:**

Respondent is JANE DOE, hereinafter "WIFE," whose address is 1234 Freedom Road, Scottsdale, Arizona. WIFE's date of birth is January 1, 1980. WIFE's social security number is xxx-xx-5678. Wife is employed as an aerospace engineer. WIFE has resided in Arizona for 10 years consecutively.

**3. INFORMATION ABOUT MY MARRIAGE:**

Date of Marriage: 1/1/2000

City and state, or country where we were married: Phoenix, Arizona

X In a legal separation petition you are pleading to the court that your marriage is irretrievably broken (insert the state specific "catch phrase") or you and/or your spouse desire to live separate and apart. If this is not a true statement, you cannot file for Legal Separation

X This court has jurisdiction to determine physical custody and authority for legal decision-making (legal custody) over our minor child(ren) common to the parties because the minor child(ren) has/have lived with Petitioner or Respondent in Arizona for at least the past 6 months.

**4. 90 DAY REQUIREMENT:**

I OR my spouse have lived in for at least 90 days before I filed this action.

**5. DOMESTIC VIOLENCE:** (If you intend to ask for joint legal decision-making authority (joint custody), there must have been no significant domestic violence in your marriage. Check the box to make a true statement:

Significant domestic violence has  or has not  occurred during this marriage.

**6. CHILDREN OF THE PARTIES WHO ARE LESS THAN 18 YEARS**

**OLD:** Listed below are children still under the age of 18 born to or adopted by my spouse and me during our marriage, or where indicated, born before. Husband is the father of children listed.

Child's Name: Little Man Doe  
Birthdate: November 1, 2010  
Born prior to marriage: No  
Address: 1234 Main Street, Phoenix, Arizona  
Length of Time at Address: 5 years

**7. PROPERTY:**

My spouse and I did not acquire any property during the marriage, OR

X My spouse and I acquired property during our marriage, and we should divide it as follows:

X Real estate located at: 1234 Main Street, Phoenix, Arizona awarded to Petitioner X  
 or Respondent

Value \$200,000, Legal Description: Southwest quarter (SW ¼ of SW ¼) and West Half of Southeast quarter of Southwest quarter (W½ SE¼ SW¼) of Section Eleven (11), Township Four (4) North of Range Eight (8) West, containing sixty (60) acres of land, more or less, together with the residence, garage, barns and garden.

Household furnishings: awarded to Petitioner  or Respondent

Value \_\_\_\_\_, Description: \_\_\_\_\_

Pension/retirement fund/profit sharing/stock plan/401K: awarded to Petitioner  or Respondent

Value \_\_\_\_\_, Description: \_\_\_\_\_

## 8. SEPARATE PROPERTY:

X I do not have any property that I brought into the marriage or separate property.

My spouse, the Respondent, does not have any property that he or she brought into the marriage or separate property.

I have property that I brought into the marriage or I have separate property. I want this property awarded to me as described below.

My spouse, the Respondent, has property that he or she brought into the marriage or has separate property. I want this property awarded to my spouse as described below

## 9. DEBTS:

My spouse and I did not incur any debts during the marriage, OR

X We should divide the responsibility for the debts incurred during the marriage as follows:

DESCRIPTION OF DEBT: Wells Fargo Credit Card #123456789, awarded to

Petitioner  or Respondent X

Amount Owed: \$5000

## 10. TAX RETURNS:

After the judge or commissioner signs the **Legal Separation**, we will, subject to IRS Rules and Regulations, pay federal and state taxes as follows: For previous years (the years we were married, not including the year the Decree was signed), the parties will file joint federal and state income tax returns. In addition, for previous calendar years, both parties will pay, and hold the other harmless from, 1/2 of all additional income taxes if any and other costs and each will share equally in any refunds. For the calendar year (the year that the Decree is signed) and all future calendar years, each party will, subject to IRS Rules and Regulations, file separate federal and state income tax returns. Each party will give the other party all necessary documentation to do so.

## 11. SPOUSAL MAINTENANCE/SUPPORT (ALIMONY)

Neither party is entitled to spousal maintenance/support (alimony), OR

X Petitioner OR  Respondent is entitled to spousal maintenance/support because: (Check one or more of the box(es) on the next page that apply. At least one reason must apply to get spousal maintenance / support.)

- X Person lacks sufficient property to provide for his/her reasonable needs;
- X Person is unable to support himself/herself through appropriate employment;
- Person is the custodian of a child(ren) whose age or condition is such that the person should not be required to seek employment outside the home;
- Person lacks earning ability in the labor market adequate to support himself/herself; and
- Person contributed to the educational opportunities of the other spouse or had a marriage of long duration and is now of an age that precludes the possibility of gaining employment adequate to support himself/herself.

## 12. WRITTEN AGREEMENT: (if true.)

- X My spouse and I have a written agreement signed by both of us about the maintenance of a spouse, division of property/debt, where the children will live, authority for legal decision-making concerning the children (legal custody), parenting time, and child support, and
- X I have attached a copy of the written agreement.

**REQUESTS TO THE COURT WHEREFORE, HUSBAND respectfully requests this Honorable Court:**

### A. Legal Separation:

- X Enter a Legal Separation of the marital relationship;

### ~~RESTORE NAME:~~

- ~~X I took the name of my spouse at the time of marriage and I want to restore my last name to the name I used before this marriage or to my maiden name.  
My complete married name is: John Doe  
I want my name restored to: John Dwarf~~

### B. PATERNITY and MINOR CHILD(REN)'S NAMES:

- X Declare the husband to be the father of the following named minor child(ren):  
Little Man Doe

### C. PRIMARY RESIDENTIAL PARENT, PARENTING TIME, AND AUTHORITY FOR LEGAL DECISION MAKING (CUSTODY):

Declare which parent shall be "Primary Residential Parent" for each minor child as follows:

- Declare Mother as primary residential parent for the following named children:
- X Declare Father as primary residential parent for the following named children:

subject to parenting time, as follows:

**C.1. PARENTING TIME:** Award parenting time as follows:

- Reasonable parenting time rights to the non-primary residential parent, OR
- Supervised parenting time between the children and Mother OR Father, OR
- No parenting time rights to the Mother OR Father.

**C.2. AUTHORITY FOR LEGAL DECISION MAKING (CUSTODY):** Award legal authority to make decisions concerning the child(ren) as follows:

- AWARD SOLE AUTHORITY FOR LEGAL DECISION-MAKING to:
  - Mother  Father OR
  - X AWARD JOINT LEGAL DECISION MAKING AUTHORITY to BOTH PARENTS. Mother and Father will agree to act as joint legal decision makers concerning the minor child(ren) and will submit a Parenting Plan and Joint Legal Decision Making Agreement signed by the both parties.

**D. CHILD SUPPORT:**

Order that child support will be paid by:  Petitioner, OR  X Respondent in a reasonable amount as determined by the court under the Arizona Child Support Guidelines.

**E. MEDICAL, DENTAL, VISION CARE FOR MINOR CHILDREN:**

Order that:

- X Mother is responsible for providing: medical dental vision care insurance.
- Father is responsible for providing: medical dental vision care insurance. Petitioner and Respondent will pay for all reasonable unreimbursed medical, dental, and health-related expenses incurred for the child(ren) in proportion to their respective incomes.

**F. TAX EXEMPTION:** The parties will claim the children as income tax dependency exemptions on federal and state income tax returns as follows:

Parent entitled to claim Name of minor child in Tax Year \_\_\_\_\_

- Mother
- Father

Pattern shall repeat for subsequent years.

**G. SPOUSAL MAINTENANCE (ALIMONY):**

- X Order spousal support to be paid by  X Wife, or  Husband in the amount of \$5000 per month beginning with the first day of the month after the Judicial Officer signs the Decree and continuing until the person receiving spousal maintenance remarries or

either party is deceased, or for a period of months. These payments, and a fee for handling, will be paid through the Support Payment Clearinghouse.

**H. COMMUNITY PROPERTY:** Make a fair division of all community property.

**I. COMMUNITY DEBTS:**

Order each party to pay community debts as requested in the Petition, and to pay any other community debts unknown to the other party. Order each party to pay and hold the other party harmless from debts incurred by him/her since the parties' separation on \_\_\_\_\_ or the date the Respondent was served with the Petition for Dissolution.

**J. SEPARATE PROPERTY and DEBT:**

Award each party his/her separate property as listed in the Petition and make each party pay his/her own separate debt.

**K. OTHER ORDERS I AM REQUESTING (Explain request here):**

\_\_\_\_\_

**OATH OR AFFIRMATION AND VERIFICATION**

I swear or affirm that the information on this document is true and correct under penalty of perjury.

**RESPECTFULLY SUBMITTED,** this \_\_\_day of \_\_\_\_\_ 2017.

\_\_\_\_\_  
John Doe

STATE OF ARIZONA     )  
  ) ss.  
County of Maricopa     )

**OATH OR AFFIRMATION AND VERIFICATION**

Subscribed and sworn to or affirmed before me his \_\_\_\_\_ , 2016 by:  
Notary Public

