The Family Court of the State of Delaware

In and For  New Castle  Kent  Sussex County

## *Petitioner v. Respondent* Court Use Only:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name |  | Name |  |  |
|  |  |  |  | File Number |
| Street Address (including Apt) |  | Street Address (including Apt) |  |  |
|  |  |  |  |  |
| P.O. Box Number |  | P.O. Box Number |  |  |
|  |  |  |  | Petition Number |
| City/State/ Zip Code |  | City/State/Zip Code |  |  |
|  |  |  |  |  |
| Attorney Name |  | A Attorney Name |  |  |
|  |  |  |  |  |
| Interpreter needed?  Yes  No |  | Interpreter needed?  Yes  No |  |  |
| Language |  | Language |  |  |

### SECTION I – PETITION FOR DIVORCE/ANNULMENT

### GENERAL INFORMATION

|  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1. | a. | I  have  have not lived in Delaware for at least six consecutive months before I filed this petition. | | | | | | | | | |
|  |  | If yes, from | |  | | to |  | | | . **OR** | |
|  | b. | I have been stationed in Delaware as a member of the military for at least 6 months before I filed | | | | | | | | | |
|  |  | this petition.  Yes  No | | | | | | | | | |
|  |  | If yes, from |  | | | to |  | | | . **OR** | |
|  | c. | Neither my spouse nor I currently reside in Delaware but we entered into a civil union in Delaware | | | | | | | | | |
|  |  | **AND** neither the jurisdiction where I currently reside, | | | | | |  | | | , nor where |
|  |  |  | | | | | | (Name of State) | | |  |
|  |  | my spouse currently resides, | | |  | | | | , permits affirmatively by law a | | |
|  |  |  | | | (Name of Spouses State) | | | |  | | |
|  |  | divorce/annulment proceeding to be brought there.  Yes  No | | | | | | | | | |

|  |  |  |  |
| --- | --- | --- | --- |
| 2. | My date of birth is |  | . |

(MM/DD/YYYY)

|  |  |  |  |
| --- | --- | --- | --- |
| 3. | My occupation is |  | . |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 4. | a. | My spouse has lived in Delaware for at least six consecutive months before I filed this petition  Yes  No | | | | | | | |
|  |  | If yes, from | |  | to |  | | . **OR** | |
|  | b. | My spouse has been stationed in Delaware as a member of the military for at least 6 months before | | | | | | | |
|  |  | I filed this petition.  Yes  No | | | | | | | |
|  |  | If yes, from |  | | to |  | | . | |
|  | c. | **(Must Answer if you have answered 1c.)** | | | | | | | |
|  |  | Neither my spouse nor I have ever lived in Delaware  Yes  No | | | | | | | |
|  |  | I (Petitioner) **AND/OR**  my spouse (Respondent) last lived in | | | | |  | | , Delaware. |
|  |  |  | | | | | County | |  |

|  |  |  |  |
| --- | --- | --- | --- |
| 5. | My spouse’s date of birth is |  | . |

(MM/DD/YYYY)

|  |  |  |  |
| --- | --- | --- | --- |
| 6. | My spouse’s occupation is |  | . |

7. My spouse is most likely to receive mail at the following location. (check one)

My spouse’s home address as described above.

The following address that is different from the address above:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |

(Street Address) (P.O. Box Number) (City) (State) (Zip CODE)

My spouse lives out of state. It is unlikely that my spouse can be personally served. My spouse should be served by mail and/or publication of notice **AT MY EXPENSE**, as provided by Title 13, section 1508 of the Delaware Code.

I do not know where my spouse receives mail. It is unlikely that my spouse can be personally served. My spouse should be served by publication of notice **AT MY EXPENSE**, as provided by Title 13, section 1508 of the Delaware Code.

8. My spouse’s citizenship is described below. (**CHECK ALL THAT APPLY**)

My spouse is a citizen of the United States of America.

My spouse is not a citizen of the United States of America; he/she is a citizen of

|  |  |
| --- | --- |
|  | (name of country). The embassy address of the country in which |

my spouse is a citizen of:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |

(NAME OF EMBASSY) (STREET ADDRESS) (CITY) (STATE) (ZIP CODE)

My spouse resided in a foreign country within two years prior to my filing the petition; he/she

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| resided in |  | | | (name of country).The embassy address of the country in which | | | |
| my spouse resided in: | |  | |  | | | |
|  | | | |  | |  |  |  |

(NAME OF EMBASSY) (STREET ADDRESS) (CITY) (STATE) (ZIP CODE)

|  |  |  |
| --- | --- | --- |
| 9a. | My spouse and I were married/entered into a civil union on the following date |  |

(MM/DD/YYYY)

|  |  |  |
| --- | --- | --- |
| 9b. | The place of my  marriage  civil union was |  |

|  |  |  |
| --- | --- | --- |
| 10. | My spouse and I separated on the following date |  |

(MM/DD/YYYY)

11. Check and complete **ALL** that apply for the following:

Neither party is currently pregnant.

|  |  |  |
| --- | --- | --- |
|  |  | is currently pregnant. |

We have living children of the marriage/civil union (born or adopted) up to the age of 17, so a parent education course must be completed. (*If you check this box, list the children below. Attach additional sheets if necessary.*)

|  |  |  |
| --- | --- | --- |
| NAME OF CHILD(REN) (First, Middle, Last) | DATE OF BIRTH (Month, Day, Year) | ADDRESS OF CHILD(REN)  (Street Address, City, State, Zip Code) |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

12. Check **ONE** and complete as directed concerning prior matrimonial proceedings.

I have not brought an action for divorce or annulment in any court against this spouse **AND** to the best of my knowledge, information and belief, my spouse has not brought an action for divorce or annulment against me in any court.

Either my spouse or I have filed for divorce or annulment against the other before the date of filing of this petition. *If you check this box, complete the table below. Attach additional sheets if necessary.*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **TYPE OF ACTION** | **PERSON** | **STATE** | **COUNTY** | **COURT** | **DATE** | **RESULT** |
| (divorce or annulment) | who filed the action  (myself or my spouse) | the action was filed | the action was filed | the action was filed in | the action was filed | of the action |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

### SECTION II - DIVORCE

1. I want to get a **DIVORCE** because the following statements are true. (*Check* ***BOTH*** *the following statements to acknowledge that they are true*.)

MY MARRIAGE IS IRRETRIEVABLY BROKEN. My spouse and I separated for the following

reason(s). (*Check* ***ALL*** *that apply*).

INCOMPATIBILITY BETWEEN THE PARTIES My spouse and I cannot get along and our relationship is destroyed.

MISCONDUCT OF MY SPOUSE Misconduct such as physical abuse, mental abuse, infidelity or abandonment has occurred. Describe the misconduct that occurred.

|  |
| --- |
|  |

MY SPOUSE’S MENTAL ILLNESS Describe your spouse’s mental illness including diagnosis and treating physician.

|  |
| --- |
|  |

VOLUNTARY SEPARATION My spouse and I have agreed to separate and end the marriage;

**AND**

1. RECONCILIATION (GETTING BACK TOGETHER) WITH MY SPOUSE IS NOT PROBABLE.

#### SECTION III - ANNULMENT

###### DO NOT COMPLETE THIS SECTION IF YOU WANT A DIVORCE

I want to get an **ANNULMENT** because the following statements are true. (*Check* ***ALL*** *that apply*).

It has been **less than 91 days** since one of the following occurred:

MY SPOUSE LACKED CAPACITY TO CONSENT TO THE MARRIAGE/CIVIL UNION. My spouse did not have the legal capacity to agree to the marriage/civil union at the time of the ceremony, because of mental incapacity or the influence of alcohol, drugs or other incapacitating substances. Describe the circumstances that made your spouse unable to agree to the marriage/civil union and **HOW** and **WHEN** you learned of these circumstances.

|  |
| --- |
|  |

I RELIED UPON A FRAUDULENT ACT OR MISREPRESENTATION. I married/entered into a civil union with my spouse because of a fraudulent act or misrepresentation by my spouse **AND** that act goes to the essence of the marriage/civil union. Describe the fraudulent act or misrepresentation and **HOW** and **WHEN** you learned of the act.

|  |
| --- |
|  |

DURESS. One of the parties married/entered into the civil union because a person exercised duress over him/her. Describe how the duress occurred and **HOW** and **WHEN** you learned of the duress.

|  |
| --- |
|  |

JEST OR DARE. One of the parties got married/entered into civil union because of a jest or dare. Describe the jest or dare and **HOW** and **WHEN** you learned of the jest or dare.

|  |
| --- |
|  |

AND/OR

It has been exactly one year (365 days) or less since the following occurred:

INABILITY TO CONSUMMATE MARRIAGE/CIVIL UNION I learned that my spouse lacked the physical ability to have sexual intercourse and I did not know this before we got married/entered into the civil union. Describe **HOW** and **WHEN** you learned that of the inability to consummate the marriage/civil union.

|  |
| --- |
|  |

WE DID NOT HAVE THE CONSENT OF PARENTS My spouse or I was underage when we married and we did not have the parents’ consent to get married.

### SECTION IV – RELIEF REQUESTED (WHAT YOU WANT THE COURT TO DO)

**(*YOU******MUST COMPLETE THIS SECTION WHETHER YOU WANT A DIVORCE OR AN ANNULMENT)***

I ask that the Family Court:

1. Issue Summons directed to my spouse requiring my spouse to answer the Petition for Divorce/Annulment.
2. Enter an Order (Decree) for Divorce/Annulment, thereby divorcing Petitioner (me) and Respondent (my spouse) from the bonds of matrimony/civil union or annulling the marriage/civil union.

I also ask the Family Court to decide all the matters checked below. (C*heck what you want the Family Court to decide or to order. Some of the matters require an additional filing fee)*:

Property Division  Court Costs

(divide our property and/or debts) (have my spouse pay me for my court costs for this action)

Temporary Alimony  Permanent Alimony

(have my spouse pay me alimony (have my spouse pay me alimony after the divorce is final)

until the divorce is final)

Counsel fees

(have my spouse pay me for my attorney

fees for this action)

|  |  |
| --- | --- |
| Change my name to |  |

(must be maiden or former name)

Incorporate our Separation Agreement

(enforce your separation agreement)

(If you want the Family Court to enforce your Separation Agreement, you **MUST** attach the original Separation Agreement signed by both parties and notarized ***AND*** the original Stipulation to Incorporate the Separation Agreement that also is signed by both parties and notarized).

|  |  |
| --- | --- |
| Sign here |  |

Petitioner (person who is filing this Petition) or Petitioner’s Attorney

TYPE OF DIVORCE PROCEEDING REQUESTED

If my petition is **uncontested** by my spouse, I would like to proceed with my case in the following manner. Please see the Divorce/Annulment Instruction Packet for a detailed explanation of your options.

I would like the Court to proceed without a hearing and decide my Petition for Divorce/Annulment based solely on the papers that I file.

I would like to attend a hearing and have my Petition for Divorce/ Annulment decided by a Commissioner at that hearing.

**VERIFICATION**

STATE OF DELAWARE )

) SS.

|  |  |  |
| --- | --- | --- |
|  | COUNTY | ) |

|  |  |  |
| --- | --- | --- |
| BE IT REMBERED, that on this date, |  | , personally appeared before me a |

(MM/DD/YYYY)

|  |  |  |
| --- | --- | --- |
| Notary Public for the State and County aforesaid, |  | who, being duly |

sworn by me did depose and say that he/she is the PETITIONER in the above captioned action and that all of the facts set forth in the Petition for Divorce/Annulment are true and correct to the best of his/her knowledge and belief.

|  |
| --- |
|  |

Petitioner (person who is filing the Petition form Divorce/Annulment)

SWORN TO AND SUBSCRIBED before me on aforesaid date,

|  |
| --- |
|  |

Clerk of Court or Notary Public