

## **Completing Form D 1-6: Petition for Divorce [Without Minor Children] in Ada County**

### **Talk to an attorney, if possible.**

WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. We always recommend you talk to a lawyer about your problem before filing your paperwork. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for a lesser cost. Contact the Idaho State Bar Lawyer Referral Service (208-334-4500) for the name of an attorney in your area who will provide an initial half-hour consultation for \$35. Contact the Court Assistance Office for information about resources for low-income people or visit the Idaho Supreme Court's Self Help Center at <http://www.courtselfhelp.idaho.gov>.

**You will be signing a sworn statement that you have read the Petition, know what it says, and believe it's true. To guarantee the truthfulness of that statement, be sure to read the entire completed form.**

### **Instructions**

Use this form only if you do not have minor children of this marriage. There is another form available through the Court Assistance Office if you have minor children.

Fill in the forms by typing or by printing neatly and legibly in black ink. If you are working on a computer, you may delete the optional sections you don't need and renumber the remaining sections, or type in "none" if a section doesn't apply. The documents have a boldface "or" at the start of optional sections. If the section does not contain a boldface "or" it is necessary and you should type in the appropriate information (which might be the word "none"). Always keep a copy of the completed form for your records.

**At the top left-hand corner of page 1**, fill in your full legal name, mailing address, telephone number, and e-mail address (if any).

**The Court Heading.** Fill in the county and judicial district in capital letters (for example, "IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT, IN AND FOR THE COUNTY OF ADA").

**The Caption.** Fill in Your Full Legal Name on the line above Petitioner and Your Spouse's Full Legal Name on the line above Respondent.

**The Case No.** The case number will be assigned by court personnel when you file the Petition. You should write in the case number on all other documents.

The **Court Heading**, **Caption** and **Case Number** will be the same on all other documents you prepare for this case.

#### **1. Residence of the Parties.**

You must have lived in Idaho for at least six weeks. Fill in the state where your spouse lives.

#### **2. Marriage of Parties.**

Fill in the city and state (or country if you were married outside the USA) and the month, day,

and year of your marriage.

### **3. Grounds for Divorce.**

This paragraph states the reason for the divorce is irreconcilable differences. If you want to state other grounds for the divorce, you should talk to an attorney.

### **4. Minor Child/ren of the Parties.**

This form is to be used *only* if you and your spouse do not have any minor children in common.

- Check the first box if Wife is NOT now pregnant **or**
- Check the second box if Wife IS now pregnant with Husband's child **and**
  - Fill in the expected date of birth for the child. (*A separate case may need to be filed after the birth of the child to establish custody and child support.*)

### **5. Wife's Child/ren of Another Relationship.**

- Check the box to indicate "None" **or**
- Complete this paragraph if any child/ren born or conceived during the marriage was/were not fathered by the Husband

### **Paragraphs 6, 7, and 8**

**WARNING:** The rules of separate property (owned by only one of you) and community property (owned by both of you) can be extremely complex and technical. The following general principles may not apply to your situation. For example, some separate property may have been improved with community funds (or vice versa). Also, interest or other income from separate property is considered to be community property. If you have a lot of property or have any questions about whether it is separate or community property, please talk to an attorney.

**Separate property** is property either of you owned before the marriage or received during the marriage by gift or inheritance or in exchange for other separate property.

**Community property** is property acquired by one or both of you during the marriage unless the property was given to either of you separately as a gift, inheritance or in exchange for other separate property.

**Real property** or real estate is land with or without buildings. If the property you list is real estate, include legal descriptions from the deeds to the property. It is important that your description be exactly the same as that in the deed. If the legal description is lengthy, you may want to photocopy the deed, cut out the legal description and paste it on a separate sheet of paper to use as an exhibit. Attach (staple) the exhibit to the Petition and refer to the exhibit in the Petition.

**Personal property** is all property that is not real estate. Personal property includes furniture, clothing, vehicles, cash, bank accounts, securities and debts owed to you. It also includes retirement accounts; but, if either of you have retirement accounts you definitely should talk to an attorney before proceeding.

## **6. Separate Property.**

- If you do not want any order about ownership of separate property, check the first box.
- If you want the court to order that specific separate property belongs to the Petitioner and/or an order that Petitioner's separate property, now in the possession of the Respondent, be returned to the Petitioner, check the second box and describe the property in the first section of **Property and Debt Schedule**.
- If you want the court to order that specific separate property belongs to the Respondent and/or an order that Respondent's separate property, now in the possession of Petitioner, be returned to the Respondent, check the third box and describe the property in the first section of **Property and Debt Schedule**.
- If you are listing financial accounts, list only the last four digits of the account number. If you must list the entire account number you must either attach a reference list or file a redacted and unredacted version of the Petition.

## **7. Community Real Property.**

- If you have not acquired community real property during the marriage, check the first box.
- If you have acquired community real property during the marriage, check the second box **and in the Property and Debt Schedule**:
  - Fill in the residential address of the property (house number and street name),
  - The name of the city and county, and
  - The legal description for the property (use the legal description in the deed).
  - Check the second or third box to indicate what will be done with the community real property and any equity, and fill in the blanks **or**
  - Check the last box and write in your own words what will be done with the property and any equity in the property.
  - Note: If the amount of the equity payment is large and will be spread out into periodic payments, you should talk to an attorney about the right way to ensure the payments are made.

**Disposition of Real Property.** A "*lien*" is a legal right or interest that a creditor has in another's property (for example the mortgage loan). The mortgage loan and any other lien against the property should be listed in the Debt Section of the Petition. We recommend you discuss your mortgage loan or any other lien on your property with your lending institution or lien holder and talk to an attorney before proceeding. As long as both of your names are on the loan, you will both continue to be responsible for payment until the loan is paid in full. If the payment isn't paid by the one assigned to make it, the creditor may collect from either of you. Also, if the property is foreclosed, both of you could be held responsible for any deficiency in paying off the loan after foreclosure sale. "**Equity**" is the difference between the value of the property and all encumbrances (liens) upon the property.

## **8. Community Personal Property.**

- If you have not acquired any community personal property, check the first box; **or**
- If you have already divided your community personal property and each of you has the property in your possession, check the second box **and/or**

- If you want the court to order that specific property be awarded to the parties as their sole and separate property, check the third box and list the property in the **Property and Debt Schedule**.
- If you are listing financial accounts, list only the last four digits of the account number. If you must list the entire account number you must either attach a reference list or file a redacted and unredacted version of the Petition.

**Note:** The Decree of Divorce can be used to transfer titles or deeds; but only if the description of the property is first listed in the Petition and is complete and accurate (example: for vehicles, include all identifying information on the title; for real property, include a legal description of the property from the deed and not just the residential address of the property).

### **Paragraphs 6, 7, and 8 Reminder:**

If you have listed any property on **Property and Debt Schedule**, the Schedules must be attached (stapled) to every copy of the Petition.

Make an extra copy of the Schedules to attach (staple) to the Decree of Divorce.

### **9. Debts.**

Generally, separate debts are debts incurred by either of you prior to marriage, or during marriage if incurred to improve or maintain separate property (see the description of community and separate property above). Community debts are all other debts incurred during marriage.

- If you do not know of any unpaid debts, check the first box **or**
- If there are debts the Petitioner should be ordered to pay, check the second box and list each creditor in the **Property and Debt Schedule**
- If there are debts the Respondent should be ordered to pay, check the third box and list each creditor in the **Property and Debt Schedule**.
- If you are listing financial accounts, list only the last four digits of the account number. If you must list the entire account number you must either attach a reference list or file a redacted and unredacted version of the Petition.

**Note:** If both of you are going to pay a part of the same debt, also put in the amount each of you should be ordered to pay.

**Note:** A divorce is between you and your spouse. Your debts are between you and your creditors and, if a bill doesn't get paid, the creditor may be able to collect from either of you, especially if both of your names are on a loan contract. However, if the debt is listed in the divorce papers and either of you is assigned and ordered to pay a debt and does not make payment, the other party may have some remedy before the court; however, if the bill doesn't get paid, the creditor may be able to collect from either of you.

### **10. Debts Incurred Since Separation.**

- If you want the judge to order that each party will pay any debt incurred by them after the separation date, check the box and fill in the date you stopped living together.

- If you are listing financial accounts, list only the last four digits of the account number. If you must list the entire account number you must either attach a reference list or file a redacted and unredacted version of the Petition.

**11. Name Change.**

Check the box if either party wants to stop using the last name of their spouse and go back to using their former last name (any name legally used). Fill in the current name of the person wanting the name change and fill in the former last name. (Accurate spelling is very important.)

**Signature:** Sign and date the Petition.

**-Make two more copies** of the Petition with Schedules attached (stapled).

**-Continue referring to CAO D Instruction 1, “Divorce,” for complete instructions to file your Petition**