

Dissolving Your Marriage (No Children)

Waiver: These instructions and forms are just information. They are not legal advice. Legal advice depends on the specific circumstances of each situation. The information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of an attorney licensed to practice law.

What forms will I need to dissolve my marriage?

You will need to fill out and file the following forms to dissolve your marriage:

- Summons
- Petition for Dissolution of Marriage (without children); and
- Praecipe or Notice and Acknowledgement of Service

In addition to these forms, you may also need the forms listed below:

- Affidavit of Service;
- Affidavit of Publication;
- Request for Hearing; and/or
- Request for Default Hearing and Entry of Default

The **Summons** tells your spouse that you have filed a Petition to dissolve your marriage. It also tells your spouse that he or she should file an answer within the time allowed if they do not agree with everything stated in your Petition.

The **Petition for Dissolution of Marriage** asks the Court to dissolve your marriage.

The **Praecipe** asks the Tribal Police to serve your spouse with your dissolution papers.

The **Notice and Acknowledgment of Service** can be used in place of the Praecipe. If your spouse agrees to fill out and sign the Notice and Acknowledgment, you will not need to have the Tribal Police serve your spouse with your dissolution papers.

What words do I need to know?

Petitioner- A Petitioner is someone who files an action in court. You are the Petitioner in this case.

Respondent- A Respondent is the person who is filed against in court. Your spouse is the Respondent in this case.

Dissolution- A Dissolution is the same thing as a divorce.

Praecipe- A Praecipe is a request to the Tribal Police that they serve your dissolution papers on your spouse.

What do I do with the forms?

- 1 Fill out the forms.
 - Fill out all the blanks on the Petition for Dissolution of Marriage and Praecipe. If your spouse is willing to fill out the Notice and Acknowledgment, you will not need the Praecipe.
 - Sign and date your Petition in front of a Notary Public. Be sure to have your form notarized after you sign it.
 - Fill out the top part of your Summons, but leave the signature line blank for the Clerk of Tribal Court to sign.
- 2 Make copies.
 - Make at least two copies of each of your forms once you have them filled out.
- 3 File forms at the Tribal Court.
 - Go to the Clerk of Tribal Court's office. File your original Summons and Petition for Dissolution of Marriage with the Clerk.
 - If you cannot afford the filing fees, ask the Clerk for a fee waiver application.
 - Give your copies to the Clerk and ask her to stamp them as "Filed." Keep the copies in a safe place.
- 4 Have your spouse served.
 - If your spouse will not agree to fill out the Notice and Acknowledgment and you know your spouse's address, you will need to have the Tribal Police or Sheriff of the county where your spouse lives serve copies of your completed forms on your spouse.

Note: Using the Tribal Police or the Sheriff's office is probably the best way to serve your spouse. A private process server may also serve the papers on your spouse. However, the Tribal Police, sheriffs, and private servers usually charge a fee for service. You may also choose to have a family member or friend over the age of 18 who is not involved in the dissolution serve your spouse for free.

If, after searching, you cannot locate your spouse for personal service and you have the spouse's current address, you may serve your spouse by registered or certified mail. You must ask the post office for a return receipt so you will have proof that your spouse received the papers. You must also complete, sign, and file with the Court an Affidavit of Service.

If, after searching, you still cannot locate your spouse for personal service or through registered or certified mail, the Court may let you serve your spouse by publication. You must first fill out, sign, and file an Affidavit with the Clerk of Court. The Clerk will then issue a Summons by Publication. The Summons must be published in two consecutive issues of the Tribal newspaper and in at least one other newspaper within the Flathead Reservation once a week for three weeks in a row. You must file a copy of each publication of service certified by the publisher with the Clerk of Tribal Court.

File your return of service with the Clerk of Tribal Court.

Give the Sheriff of the county where your spouse lives or the Tribal Police a self-addressed, stamped envelope so they can notify you when your spouse has been served.

5 Wait for your spouse to respond.

Your spouse has 15 working days from the date of service to respond to your Petition. Your spouse should mail you a copy of the response, but you should also check with the Clerk of Tribal Court after 15 working days have passed to see if a response has been filed.

(Saturdays, Sundays and Tribal holidays do not count as working days.)

- If your spouse files a response, you must fill out and file the Request for Hearing. If your spouse does not file a response, you should fill out and file the Request for Default Hearing and Entry of Default.
- The Court will send you an Order Setting Hearing after you have filed your Request for Hearing or Request for Entry of Default. Be sure to write down and remember the date and time for your hearing.

6 Go to your hearing.

- Bring your stamped copies of the papers you filed with the Court.
- Arrive at Court at least 15 minutes before your scheduled hearing and check in with the Clerk. Dress like you were going to an important job interview.
- Be prepared to answer any questions the judge might have about your Petition for Dissolution of Marriage.
- If your spouse does not show up to the hearing and your spouse was properly served with the papers, ask the Court to enter a Default Judgment.

Where can I get more information?

The Laws of the Confederated Salish and Kootenai Tribes contain the law on dissolving your marriage. The laws related to dissolution can be found in Title III, Chapter I. CSKT Laws Codified can be found online at www.cskt.org/gov/court-triballawcode.htm

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, PABLO, MONTANA**

IN RE THE MARRIAGE OF)
) Cause No. _____
_____,)
Petitioner,)
)
and) **SUMMONS**
_____,)
Respondent.)
)
)

**THE CONFEDERATED SALISH AND KOOTENAI TRIBES SEND GREETINGS TO
THE ABOVE NAMED RESPONDENT:**

YOU ARE HEREBY SUMMONED to respond to the Petition in this action which is filed in the office of the Clerk of Tribal Court, a copy of which is now served upon you, and to file your response in the office of the Clerk of Tribal Court and serve a copy thereof upon Petitioner or Petitioner’s attorney within 15 working days after the service of this Summons, exclusive of the day of service, Saturdays, Sundays, and Tribal legal holidays. In case of your failure to answer or appear, judgment will be taken against you by default for the relief sought in the petition.

WITNESS my hand and the seal of said Court this _____ day of _____, 20_____.

CLERK OF THE TRIBAL COURT

By: _____
DEPUTY CLERK OF COURT

RESPONDENT (*Your spouse is the Respondent*):

1. Spouse's Name: _____
2. Date of Birth: _____
3. Address: _____

4. Occupation: _____
5. Tribal Affiliation: _____
6. Enrollment Number: _____
7. Length of Residence on Flathead Indian Reservation: _____ years
_____ months.

2. Jurisdiction

This Court has jurisdiction over the marriage and the parties because (*Check all that apply*):

- Petitioner and Respondent are both enrolled members of a federally recognized Tribe, and both parties reside on the Flathead Indian Reservation;
- Petitioner and Respondent lived on the Flathead Indian Reservation during their marriage, and Petitioner continues to reside here;
- Respondent is an enrolled member of a federally recognized Tribe, and Respondent resides on the Flathead Indian Reservation;
- One or both of the parties are enrolled in a federally recognized Tribe and the parties own property, or have an interest therein, situated within the Flathead Indian Reservation;

3. Date and Place of Marriage (*Check only one*)

The parties were married on (*Date mm/dd/yyyy*) _____ in
(*City, State*) _____.

The marriage was registered in (*City, State*) _____.

The parties were married at common law. The parties both consented to a marital relationship, lived together as husband and wife, and held themselves out to others as husband and wife.

4. Grounds

The marriage of the parties is irretrievably broken in that there is serious marital discord which adversely affects the attitude of one or both of the parties towards the marriage and there is no reasonable prospect of reconciliation.

5. Pregnancy (*Check only one*)

The wife is not now pregnant;

The wife is currently pregnant with the other party's child.

The wife is pregnant, but the other party is not the biological father.

6. Real Property (*Check only one*)

The parties do not own any real property.

The parties own real property which is located at (*address*): _____
_____.

The property should be distributed as follows: _____

_____.

The parties own a home which is situated on a Tribal home site leased lot located at (address): _____

The property should be distributed as follows: _____

7. Vehicles (Including trailers, boats, snowmobiles) (Check only one)

The parties do not own any vehicles.

The parties own the following vehicles, which should be distributed as follows (list the year, make and model for each vehicle):

To Petitioner:

Vehicle: _____

Vehicle: _____

Vehicle: _____

To Respondent:

Vehicle: _____

Vehicle: _____

Vehicle: _____

8. Personal Property (Check only one)

The parties have already divided their personal property, and it is fair and equitable that each party retain the personal property currently in his or her possession.

The parties have not divided their personal property. A fair and equitable division of all the property is set forth below:

The **Petitioner** should be awarded the parties' interest in the following property:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Other: _____

The **Respondent** should be awarded the parties' interest in the following property:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Other: _____

9. Debts and Liabilities (*Check only one*)

- There are no debts of the marriage.
- The parties have accumulated debts during the course of the marriage, and a fair and equitable division of those debts is for each party to retain responsibility for the debts currently in his or her name.
- The parties have accumulated debts during the course of the marriage. A fair and equitable division of all debts is set forth below:

To Petitioner:

Creditor's Name	Balance Due

Creditor's Name	Balance Due

T	
o	
R	
e	
s	
p	

ondent:

Each party should pay their debts incurred since separation and prior to the marriage.

The Respondent should be responsible for all debts unknown to Petitioner.

Other: _____

10. Spousal Maintenance *(Check only one)*

Petitioner *is not* requesting spousal maintenance.

Petitioner *is* requesting spousal maintenance as follows: _____
_____.

11. Restore Maiden Name (*Check only one*)

Petitioner is requesting that the maiden name of the Wife be restored to: _____.

Petitioner is not requesting restoration of the Wife's maiden name.

The husband does not know whether the Wife would like to be restored to her maiden name.

I respectfully ask this Court to enter a Decree for Dissolution of Marriage granting the following relief:

1. That the marriage of the parties is dissolved;
2. That the marital assets and property be divided as described above;
3. That the marital debts and liabilities be divided as described above;
4. That spousal maintenance be awarded, if requested above;
5. That the wife be restored to her maiden name, if requested above; and
6. For such other relief as the Court may deem just and proper.

DATED this _____ day of _____, 20____.

Petitioner

STATE OF MONTANA)
 : ss
County of _____)

_____, being first duly sworn on oath, says that he/she is the Petitioner in the above-entitled proceeding, that he/she has read the foregoing Petition and knows the contents thereof, and that the facts stated therein are true to the best of his/her knowledge and belief.

Petitioner

SUBSCRIBED AND SWORN to before me this _____ day of _____,
20_____.

(NOTARY SEAL)

Notary Public for the State of Montana
Printed name: _____
Residing at: _____
My Commission Expires: _____

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
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IN RE THE MARRIAGE OF)
)
_____,)
)
) Petitioner,)
)
)
)
) and)
)
)
_____,)
)
) Respondent.)
)

Cause No. _____

PRAECIPE

To: Civil Process Division, Tribal Police Department, Confederated Salish and Kootenai Tribes

Please serve the attached Summons and Petition for Dissolution of Marriage on the following Respondent:

Respondent's Full Name: _____

Respondent's Home Address: _____

Times Respondent is at Home: _____

Respondent's Work Address: _____

Times Respondent is at Work: _____

Describe Respondent's Physical Appearance: _____

Please serve the papers on Respondent as soon as possible. Please return proof of service to me at the address listed above.

Date: _____

Petitioner Pro Se

Print Your Name

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

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IN RE THE MARRIAGE OF)

_____,)
Petitioner,)

and)

_____,)
Respondent.)

Cause No. _____

**NOTICE AND ACKNOWLEDGMENT
OF SERVICE**

NOTICE

To (*Respondent's Name*): _____

(*Respondent's Address*): _____

Enclosed are a copy of a Summons and Petition for Dissolution of Marriage, which have been filed in the Tribal Court of the Confederated Salish & Kootenai Tribes.

If you want to avoid having law enforcement serve you with the documents enclosed, you may complete the acknowledgment part of this form and return one copy of the completed form to the Petitioner in the enclosed self-addressed stamped envelope, within 30 days after the date it was mailed or given to you as shown below.

If you decide to complete and return this form, you must fill in the address where you received it, then sign and date it and return it to the Petitioner.

If you complete and return this form, you must answer the Petition within fifteen (15) working days (exclusive of holidays and weekends) after the date of your signature if you wish to respond to any relief requested by Petitioner. If you fail to answer the Petition within fifteen (15) working days after the date of your signature, judgment by default will be entered for the relief requested in the Petition.

I declare, under penalty of perjury, that the original and one copy of this Notice and Acknowledgment of Receipt of Summons and Petition, along with a stamped return envelope, were mailed on this _____ day of _____, 20_____.

By: _____
Petitioner

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND PETITION

I declare under penalty of perjury that I received a copy of the Summons and Petition for Dissolution of Marriage in the above-entitled action at (*Address*): _____
_____ on (*Date*): _____.

Respondent

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

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IN RE THE MARRIAGE OF)
)
_____,)
)
Petitioner,)
)
and)
_____,)
)
Respondent.)
)

Cause No. _____

REQUEST FOR HEARING

I would like the Court to set a hearing on my Petition for Dissolution of Marriage for the purpose of resolving any issues raised by the Respondent in the Response and obtaining a Final Decree of Dissolution.

Date: _____

Petitioner Pro Se

Your Name

Your Mailing Address

City State Zip

Your Telephone Number

Petitioner Pro Se

**IN THE TRIBAL COURT OF THE CONFEDERATED SALISH & KOOTENAI TRIBES
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IN RE THE MARRIAGE OF)

_____,)
Petitioner,)

and)

_____,)
Respondent.)

Cause No. _____

**REQUEST FOR DEFAULT HEARING
AND ENTRY OF DEFAULT JUDGMENT**

I am asking the Court for an Order Granting Default Judgment against the Respondent in this action granting the relief requested in my Petition for Dissolution of Marriage. The Respondent has been properly served with the Summons and Petition and has failed to respond within the time allowed by law. The Respondent was served on (*date*): _____

as shown by the Certificate of Service on the Summons filed with the Court.

I ask that the Court set a date for a default hearing, enter the Respondent's default, and grant judgment by default against the Respondent for the relief requested in the Petition.

Date: _____

Petitioner Pro Se