

How to Get an Agreed Divorce WITH CHILDREN in Tennessee

If you have children who are under 18, disabled, or in high school and you do NOT own buildings, land or a business with your spouse or have retirement benefits.

This packet has the Court forms you will need to get an agreed divorce. It also explains:

- What an agreed divorce is.
- Who can get an agreed divorce.
- Steps to get an agreed divorce.
- How to get ready for your Court hearing.
- Answers to common questions about divorce.
- What goes in a *Divorce Agreement*.

What is an agreed divorce?

Agreed means that you and your spouse agree on all points of your divorce **AND** you both must meet all the rules below. An agreed divorce is easier and faster. It costs less than a regular divorce because:

- There are fewer Court papers to fill out.
- You don't **have to** hire a lawyer – but it's best to talk to a lawyer before starting any divorce.
- Costs for the divorce should be paid at the time of filing the divorce (refer to the [Filing Fee Schedule](#)). If you qualify, based on the [Legal Aid Guidelines](#), costs can be paid at the end of the case by completing the *Request to Postpone Filing Fees and Order* [FORM 3].

Can anyone get an agreed divorce with this packet?

No! It is **only** for couples if **ALL** of the following statements are true:

- You and your spouse have children together that are under 18, in high school, or are disabled. Children together means children you had together that were born before your marriage **AND** all children born or adopted during your marriage.
- One or both of you lived in Tennessee for at least the past 6 months **OR** you both lived in Tennessee when you decided to divorce and the children have lived here for at least 6 months;
- Neither spouse is pregnant;
- You both want to end your marriage;
- You don't own buildings, land, or a business together, or have retirement benefits;
- You can agree on alimony and how to divide your property, and will **both** sign a *Divorce Agreement* (FORM 5); **AND**
- You can agree on the child support amount and the Parenting Plan. Child support must comply with Tennessee's Child Support Guidelines.

If any of the above are **not** true for you, you **cannot** use this packet! Talk to a lawyer.

Important! You cannot use these forms if:

- One of the children born while you were married to each other has a different biological father and has not been adopted by you and your spouse; **OR**
- Somebody else (not either parent) has a Court Order giving them custody or visitation.

Do I need a lawyer?

It is always good to talk with a lawyer – if possible. You need a lawyer if:

- You find the Court papers hard to understand;
- You or your spouse have an IRS-qualified pension or retirement plan;
- You or your spouse own buildings or land (this is called **real property**);
- You or your spouse own a business;
- Your spouse won't sign the *Divorce Agreement*;
- Your spouse has a lawyer;
- You have questions about your divorce (the Court cannot give you legal advice);
- You don't know how to locate your spouse;
- Your spouse over controls you or makes you afraid to disagree; **OR**
- There is domestic violence (see page 2 of these instructions for free legal help).

Important! Only want a lawyer for part of the case? It is always best to talk to a lawyer – if possible. Having a lawyer look at your *Divorce Agreement* may protect you.

Where can I find a lawyer?

- **Your County's Bar Association.** This is a group that lawyers join. They may have programs that can give you free advice. Or they can refer you to a lawyer.
- Look under "lawyer" in the yellow pages.
- Search for "lawyer" on the internet.
- Ask divorced friends which lawyer they used.
- Check the Administrative Office of the Courts' website at: www.tsc.state.tn.us and the Court's Access to Justice website, www.justiceforalltn.com.

Where can I get legal help and information?

- Legal information and advice hotline 1-844-Help4TN (1-844-435-7486).
- www.Help4TN.org.
 - See if you can get free legal help online.
 - Find legal information.
 - Find a list of free legal advice clinics across the State.

Free Legal Help for Domestic Violence Victims

Does your spouse hurt or threaten you? There are special programs that can help you get free legal advice. They can also help if your spouse won't agree to a divorce. Call these **FREE** hotlines to find help near you:

- Tennessee Coalition for Domestic and Sexual Violence @ **1-800-356-6767** / www.tcadsv.org.
- Domestic Violence hotline @ **1-800-799-7233**.

Mediation Can Help You and Your Spouse Agree

You cannot use these forms or this packet if you and your spouse cannot agree on everything in the *Divorce Agreement*. However, a mediator is someone who helps people agree. The mediator meets with you and your spouse to try to help you and your spouse find an agreement that is ok for both of you. Many Court Clerks have lists of mediators that you may contact.

NOTE: Are you a victim of domestic violence? Then you don't have to meet the mediator with your spouse. You and your spouse can have separate meetings. Sometimes, a Judge can waive mediation.

What if the mediator cannot help us agree?

Then you **cannot** use this packet. Talk to a lawyer about filing a regular divorce.



Before you fill out the forms, you need to know that it is against the law to commit perjury. Perjury is when you lie to the Court on purpose.

Do not lie when you fill out the forms! Do not lie when you are in Court!

This packet contains the Court forms you will need for an agreed divorce. It also explains:

- What an agreed divorce is.
- Who can get an agreed divorce.
- Steps to get an agreed divorce.
- How to get ready for your Court hearing.
- Answers to common questions about divorce.
- What goes in a *Divorce Agreement*.

Steps to an Agreed Divorce in Davidson County, Tennessee

TIP! Make extra copies of the blank forms in this packet in case you make a mistake. Also, make copies of all papers you file with the Circuit Court Clerk and ask the Clerk to date-stamp your copy. Keep all your date-stamped divorce papers in a folder or envelope and bring with you when you go to Court.

The top 5 rows of all the forms looks the same (see below example) and this information is **very important**.

IN THE _____ CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE	
Plaintiff [NAME (First, Middle, Last) OF SPOUSE FILING THE DIVORCE]	
vs.	Docket No: _____
Defendant [NAME (First, Middle, Last) OF THE OTHER SPOUSE]	
<u>Complaint For Divorce</u>	

The 1st row shows the **division** and **type of Court** where you are filing for divorce – and that you are filing in **Davidson County, Tennessee**.

IMPORTANT! We have **two** Court Divisions who hear divorces. **Do not** fill in the Division blank – the Clerk will fill it in when you file the paperwork.

The 2nd and 4th rows are where you list your name and your spouse’s name. The spouse who is filing the divorce is the **Plaintiff**. The other spouse is the **Defendant**.

The 3rd row has a line for the **Docket No.**

The 5th row tells the **name of the form** (the FORM # is shown in the footer on each form).

IMPORTANT! The Circuit Court Clerk will tell you the Docket Number when you file the paperwork. **Do not** write in a Docket Number until you get this information from the Clerk.

The information you fill out on these rows **must be the same on each form**.

Step 1	<p>You and your spouse MUST fill out these papers. The Court Clerk cannot do it for you. When they are filled out, go to the Circuit Court Clerk’s Office and file these papers:</p> <ul style="list-style-type: none"> <input type="checkbox"/> <i>Complaint for Divorce</i> (FORM 1). Must be signed and notarized. <input type="checkbox"/> <i>Spouses’ Personal Information</i> (FORM 2). Fill this form out and put it in a letter-size envelope. On the outside, write both spouses’ names and your case/docket number. The Court Clerk will give you your case number. <input type="checkbox"/> You should be prepared to pay the filing fee when you file your paperwork with the Clerk’s Office. Please refer to the Filing Fee Schedule for the amount due.
Step 2	<p>If you cannot afford to pay the filing fee based on the Legal Aid Society Financial Eligibility Guidelines, please fill out FORM 3 and file with the Court Clerk:</p> <ul style="list-style-type: none"> <input type="checkbox"/> <i>Request to Postpone Filing Fees and Order</i> (FORM 3). The Court may let you pay the filing fees at the end of your case. You and your spouse must decide how you will split the cost of the filing fees.
If needed	



Step 3	Complete the <i>Health Insurance Notice</i> for Divorcing Spouses (FORM 4):
	<input type="checkbox"/> <i>Health Insurance Notice</i> (FORM 4). Fill out, file with Clerk, and mail a copy to your spouse by certified mail. Keep a copy for your records. Not on each other's health insurance <u>or</u> don't have health insurance? Then write that on the form.
Step 4	Fill out these papers and file them with the Court Clerk:
	<input type="checkbox"/> <i>Divorce Agreement</i> (FORM 5). Must be signed [and notarized] by both you and your spouse. <input type="checkbox"/> <i>Parenting Plan</i> form and <i>Child Support Worksheet</i> . Download the <i>Parenting Plan</i> from the Circuit Clerk's website at http://circuitclerk.nashville.gov/circuit/circuitforms.asp Must be signed and notarized by both you and your spouse. <input type="checkbox"/> <i>Restraining Order for Divorcing Spouses [Statutory Injunction]</i> (FORM 7) which is required by law. Must be signed by both you and your spouse. Both spouses must obey this Order! <input type="checkbox"/> <i>Certificate of Divorce or Annulment</i> . Ask the Clerk for this document. Do not use a copy. Fill out Sections 1-13 and Sections 15-18 and bring to final divorce hearing. The Court will complete Section 14 .
Step 5	Wait at least 90 days after filing your <i>Complaint for Divorce</i> (FORM 1) and then:
	<input type="checkbox"/> Has it been more than 180 days since the last person signed the <i>Divorce Agreement</i> ? If yes , then you must fill out a new <i>Divorce Agreement</i> . <input type="checkbox"/> If no , prepare the <i>Motion to Set Agreed Divorce for Hearing on Uncontested Docket</i> (FORM 8) and take it to the Clerk's Office. Ask the Clerk for the next available motion hearing date and write that date on the bottom of the <i>Motion</i> and file the original <i>Motion</i> with the Clerk.
Step 6	Go to the Courthouse on the date of your <i>Motion to Set</i> hearing:
	<input type="checkbox"/> Prepare the <i>Order Setting Final Hearing</i> (FORM 8A) and take it to the <i>Motion</i> hearing with you. <input type="checkbox"/> At the <i>Motion</i> hearing, the Judge will look over your documents and give you a final divorce hearing date <u>if</u> your papers have been filed correctly. <input type="checkbox"/> Fill in the final divorce hearing date on your <i>Order Setting Final Hearing</i> (FORM 8A) and file the original <i>Order</i> with the Clerk's Office <u>immediately</u> after your hearing. Mail a copy of the <i>Order Setting Final Hearing</i> to your spouse.
Step 7	Go to the Courthouse on the date of your final divorce hearing.
	<input type="checkbox"/> It's best if both spouses go, but if you are the spouse who filed the divorce, you must go to the hearing. IT'S BEST IF BOTH SPOUSES GO TO THE HEARING. Even though you and your spouse agree on the divorce, the Judge still must approve the forms. The Judge may have questions on the forms. It's in your best interests to be in Court so you can answer the Judge's questions. What if only one spouse goes and the Judge changes something? You will then have to go back to Court later. Bring copies of <u>all</u> your date-stamped divorce papers to the final hearing with you, along with the <i>Final Decree of Divorce</i> (FORM 6).
Step 8	After the hearing, go to the Clerk's Office and ask for a signed copy of the <i>Final Decree of Divorce</i>. Copies will cost 50¢ per page – plus an additional \$5.00 charge if you want a certified copy.
	<input type="checkbox"/> If you asked that your name be changed in the divorce papers, get a certified copy of the <i>Final Decree</i> . <input type="checkbox"/> If your spouse did not go to the hearing, you must mail him/her a copy of the <i>Final Decree</i> .

Important Information About Child Support and the Parenting Plan

All divorcing spouses with minor children **must** complete the *Child Support Worksheet*. The *Child Support Worksheet* will tell you the child support amount. You can download the Child Support Worksheet at <http://www.state.tn.us/humanserv/is/isdocuments.html>.

The *Child Support Worksheet* is completed at the same time you complete the *Parenting Plan*. All divorcing spouses with minor children must complete the *Parenting Plan*. You can find the *Parenting Plan* form at <http://www.tncourts.gov/programs/parenting-plan/forms>. You have to know the child support amount to complete the *Parenting Plan*.

IMPORTANT! You must attach the completed *Parenting Plan* form to the *Divorce Agreement* (FORM 5). File the *Divorce Agreement* (FORM 5) and the *Parenting Plan* together.

There are a few ways that the spouse who owes child support can pay the other spouse. You make your choice on the *Parenting Plan* form.

You can agree that the child support will be paid using one of the ways below.

- The spouse who owes child support will pay the other spouse directly, OR
- The spouse who owes child support will pay the child support to the State's **Central Child Support Receipting Unit** and then the Central Child Support Receipting Unit will send the support to the other parent, OR
- The child support will be paid by *Wage Assignment Order* (a *Wage Assignment Order* is where the child support is automatically taken out of the paycheck of the spouse who owes child support), OR
- The spouse who owes child support will set up a direct deposit to the other parent, OR
- Other arrangements that the Court can approve.

If you agree to use a *Wage Assignment Order*, you can use **FORM 9 (Order of Wage Assignment for Child Support)** in this packet.

IMPORTANT! If one or both of the parents receives **SNAP Food Stamps, Families First (AFDC), and/or TennCare** from the State of Tennessee, you may have to use a *Wage Assignment Order*. Contact the Department of Human Services to see if you must use wage assignment or can use another way.

IMPORTANT! All divorcing spouses with minor children are required to attend a parent education class unless the Court says you don't have to. You can find information on the parent education class at <http://www.tncourts.gov/node/254532>.

You can find more information about child support from the **Tennessee Child Support Handbook** located at http://www.state.tn.us/humanserv/cs/cs_handbook.pdf.

Please talk to a lawyer if you have questions about child support.



Get Ready for Your Court Hearing

Before the hearing:

- Dress neatly. Wear clothes that look like a business person. Wear clothes that show respect for the Court. This means:
 - ⊙ No shorts.
 - ⊙ No tank tops or low cut tops.
 - ⊙ No crop tops that show your belly.
 - ⊙ No T-shirts with words or pictures.
 - ⊙ Turn off your cell phone or pager.
- Take all of your Court papers.
- It's best if both spouses go to the hearing – but the spouse who filed the *Complaint for Divorce* **must** go to the hearing. You **do not** need witnesses.
- Get to Court **early** on the day of your hearing. You may need to find parking and go through security.
- Go to the Clerk's Office to make sure your case is on the calendar/docket.
- Sit down in the courtroom. Wait for your name to be called. (There may be other cases ahead of you.)

At the hearing:

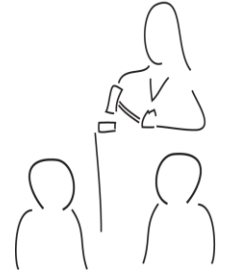
- Step forward when your name is called.
- You will be asked to raise your right hand and take an oath to tell the truth.
- After you swear to tell the truth, say this:
"My name is _____. I am the Plaintiff in this case and am here to get a *Final Divorce Decree*."
- Do not sit down until your case is over.
- When you speak to the Judge, say: "Your Honor" and be polite.
- The Judge will look at your Court papers and may ask questions. Listen carefully. Never interrupt and **do not** talk until the Judge asks you a question. Answer all questions fully and tell the truth. What if you don't understand a question? Then ask the Judge to explain or repeat it.



The Judge may ask:

- Your name and your spouse's name.
- How long you have lived in Tennessee.
- If either spouse wants their old name back.

- If a spouse is pregnant.
- If your *Divorce Agreement* divides the property fairly.
- If the *Parenting Plan* provides for the care and support of the child(ren) and if it is in their best interest.
- If you want the Court to grant the divorce.
- If you and your spouse have irreconcilable differences (cannot get along).



You may answer like this:

- I have lived in Tennessee for at least 6 months.
- We are **not** expecting a child now.
- My spouse and I have child(ren) together. We have agreed on a *Parenting Plan* and child support. We think our agreement is in the best interest of the child(ren). We have told the Court about any other cases involving custody of the children.
- My spouse and I have made a *Divorce Agreement* that is fair. We have divided all property and debt.
- I want a divorce.
- My spouse and I can't get along anymore. We have no hope of working our marriage out.

What if there are mistakes on the divorce papers? The Judge may ask both spouses to make the changes and initial them. **If both spouses are not there, you will have to come back another day.**

At the hearing:

Once approved, the Judge will sign the *Final Decree of Divorce*. Your divorce is **not** final until the Judge signs the *Final Decree of Divorce* and it is filed with the Clerk.

IMPORTANT TIP! After the Court signs the *Final Decree of Divorce*, each spouse has 30 days to appeal. During this 30-day period, **do not** get married again or buy any property.

After the hearing, ask the Court Clerk for certified copies of the *Final Decree of Divorce* and *Divorce Agreement*. You may need these later.

Common Questions About An Agreed Divorce

To get an agreed divorce, do I have to prove that my spouse did something wrong?

No. You just have to say that you and your spouse can no longer get along – that you have no hope of working out your marital problems. The Court calls this “irreconcilable differences”.

Do I have to live in Tennessee to file for divorce here?

One or both spouses must have lived in Tennessee for at least the last 6 months **OR** lived in Tennessee when you decided to divorce.

Where do I file my divorce papers?

- In the county where your spouse lives now,
- **OR** in the county where you and your spouse lived when you separated.

What if your spouse is in jail or doesn't live in Tennessee? Then file in county where you live.

The Courts in each county are different. The divorce Court in your county may be a Circuit, Chancery, or General Sessions Court. Ask the Court Clerk which Court hears divorces cases. **DO NOT** file the papers in more than one Court.

Will my divorce papers be public?

Yes! The papers you and your spouse file at Court are public record. That means anyone can look at your file and get copies of any papers in your file **except** for the document titled *Spouses' Personal Information* (FORM 2). The information in this form **is not** made public and will be kept secret. The other papers in this packet that you and your spouse file at Court are public record. That means anyone can look at your file. Anyone can get copies of any papers in your file.

Do I have to pay a fee to file my divorce papers?

Yes. Each county has its own fee **plus** state fees. Ask the Court Clerk's office how much you will have to pay and bring cash with you. You must pay the Court Clerk when you file your *Complaint for Divorce*. Many Court Clerks **do not** take checks or credit cards.

What if I can't pay the Court fee?

The Court may let you pay the fee at the end of your case. This is when the Judge decides which spouse has to pay the Court costs.

Need to pay the fee later? Fill out the *Request to Postpone Filing Fees and Order* (FORM 3).

How soon can the divorce be granted?

Because you have minor child(ren) together, the earliest is 90 days after you file your *Complaint for Divorce*. It will usually take longer.

IMPORTANT TIP! After the Court signs the *Final Decree of Divorce*, each spouse has 30 days to appeal. During this 30-day period, **do not** get married again or buy any property.

Important! Until the divorce is final, you and your spouse **cannot** do these things:

- Disobey the *Restraining Order for Divorcing Spouses [Statutory Injunction]* (FORM 7), **OR**
- Spend, give away, destroy, waste or use up property from the marriage, **OR**
- Harass each other, **OR**
- Stop or change insurance policies, **OR**
- Hide, change, or destroy electronic evidence kept on a computer or memory storage device.

What if I am a victim of domestic violence?

Did your spouse hurt or threaten you? To get an agreed divorce, you must talk to your spouse. What if it is not safe to contact your spouse? Then an agreed divorce may not work for you. These **free** resources can help you. They can also help if your spouse doesn't want the divorce:

- Coalition for Domestic and Sexual Violence at **1-800-356-6767** or www.tcadsv.org.
- National Domestic Violence hotline at **1-800-799-7233**.
- Legal Aid or Legal Services.
To find a legal aid program near you, go to www.tennlegalaid.com.
- Tennessee Alliance for Legal Services at **(615) 627-0956** / 50 Vantage Way, Suite 250, Nashville, TN 37228.

What if there is an Order of Protection in place?

- If the Order of Protection was issued in a different Court, you must contact the Court Clerk in that Court to change or dismiss the Order of Protection. Bring a copy of the Order of Protection with you to Court.
- If the Order of Protection was issued in this Court, you should notify the Judge if you want to change or dismiss it. Bring a copy of the Order of Protection with you to Court.



What is a *Divorce Agreement*?

The *Divorce Agreement* (FORM 5) is one of the papers you must file to get an agreed divorce. It tells the Court what you and your spouse agreed to about alimony. It says how you will divide your money, personal property and debts. What happens with your child(ren) is covered in another document called a *Parenting Plan*. You **cannot** use these forms if you or your spouse own building or land (real property).

Doesn't the Court divide our property?

No. In an agreed divorce, the spouses decide these things together **but** the Court has to approve. The Court wants to see that you divide **all** your property and debts fairly. You have to list how **all** the property is divided. Even if you think the property belongs to only one of you, it **must** still be on this list. The property division **does not** have to be equal. The Court may change things if the *Agreement* is not fair or if one spouse will not have enough to live on.

Do you and your spouse agree how to divide the property fairly? Then most of the time, the Court will approve your *Agreement*.

Important! The Court may not approve your *Agreement* if it is unfair.

Important! If a debt is in both spouses' names, creditors may try to collect after the divorce from either spouse – even if the *Divorce Agreement* says that one spouse or another will pay for it. If you or your spouse have a mortgage together, you **cannot** use these forms or this packet.

Important! If either spouse is thinking of filing bankruptcy, talk to a lawyer. It may cause problems for the other spouse.

Will the Court decide on alimony?

Alimony is money that one spouse pays the other for spousal support. In an agreed divorce, the spouses decide whether there should be alimony, how much it should be, and for how long it should be paid. This goes in your *Divorce Agreement* (FORM 5). The Judge will review the proposed alimony to make sure it is fair and **must** approve.

For example, some couples may decide that alimony will be paid until:

- The supported spouse remarries or lives with another person; or
- The supported spouse finishes school; or
- One of the spouses dies.

Alimony can make a significant difference in your taxes. Talk to a tax expert before you sign the *Divorce Agreement*.

What if we can't agree on alimony?

Then you can't get an agreed divorce. **Do not** use this packet. Is alimony important? Is there a big difference in salaries? Then talk to a lawyer. You and your spouse may:

- Talk to a mediator who may be able to help; or
- Talk to a lawyer; or
- File a regular divorce.

How do we divide retirement funds?

If either spouse has retirement funds, then you need to talk to a lawyer. **You cannot use these forms or this packet!**

Should I talk to a lawyer about the *Divorce Agreement*?

Yes! Talk to a lawyer about your child(ren), property, debt, and alimony. Some lawyers will help with just the *Divorce Agreement* and then you handle the rest of the case on your own.