

## DIVORCE DECREE WITH CHILDREN

### (CHECKLIST)

Use the forms and instructions in this packet **ONLY** if the following factors apply to your situation:

- You or your spouse filed a petition for divorce with children, AND
- You and your spouse have children with each other OR the wife is pregnant by the husband, AND
- You (and your spouse if you are proceeding by stipulated consent) have attended the Parent Information Program class and have verified with the Clerk of the Court that the mediator has filed your certificate, AND
- You are ready to complete the divorce decree, AND
- You are prepared to resolve the case by:
  - **Default** – The other party has not responded and you have filed an ***“Application for and Affidavit of Default”*** and have scheduled a hearing, **OR**
  - **Consent** – You and your spouse agree on the divorce terms, are willing to sign and notarize the ***“Decree”*** and have paid the appropriate filing fees, **OR**
  - **Trial** – Writing in the decisions made by the judge at trial.

**If you are not sure that these forms and instructions apply to your situation, see a lawyer for help.**

# DIVORCE DECREE WITH MINOR CHILDREN

## TABLE OF FORMS

This packet contains court forms and instructions to file a ***“Decree of Dissolution of Marriage (Divorce) With Children.”*** Items listed in **BOLD** are forms that will be filed with the court. Non-bold items are instructions or procedure pages. **Do NOT copy or file non-bold pages.** The documents should appear in the following order:

<b>ORDER:</b>	<b>TITLE:</b>
1	Divorce Decree With Minor Children – Checklist
2	Divorce Decree With Children – Table of Forms
3	Instructions – Filling Out Your Divorce Decree With Children
4	Instructions – Completing The Child Support Order
5	<b><i>“Decree Of Dissolution Of Marriage (Divorce) With Children”</i></b>
6	<b><i>“Parenting Plan”</i></b>
8	<b><i>“Income Withholding Data Form”</i></b>

# INSTRUCTIONS: HOW TO FILL OUT YOUR DECREE OF DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH CHILDREN

Use these instructions **only** with the *“Decree of Dissolution of a Non-Covenant Marriage (Divorce) With Children.”* If there are no minor children, by birth or adoption, common to you and your spouse, use the form for a *“Decree of Dissolution of a Non-Covenant Marriage without Children.”*

## IMPORTANT INFORMATION:

**What the Decree Means to You.** The Decree is the Court Order that legally ends your marriage. The Decree, once the judge or commissioner has signed it, is important because it determines the rights and responsibilities of both you and your ex-spouse. It tells the parties what they can and cannot do. If either party does not do what the Decree tells him/her to do, then the other party may ask the court for help. **This is a very important document.** Once it has been signed by the judge, your rights and responsibilities are affected forever.

**Failure to do what the Decree tells you to do could get you into trouble with the court.** This does not mean that the court will police whether you are following the Decree. It does mean you or your ex-spouse can request a **“Contempt Order”** or an **“Order to Enforce”** parts of the Decree if you or your ex-spouse fail to do what the Decree tells you to do.

**Getting Your Divorce Finalized.** Before your divorce can become final, a judicial officer must sign what we call a **“Decree of Dissolution of Marriage.”** The Decree states how the property (if any) is divided, how the debts and assets (if any) are divided, the amount of spousal maintenance/support (alimony) (if any), and in cases involving children, legal decision making (custody), parenting time (visitation) and the amount of child support, etc.

**Divorce by Default:** When the other party was served and did not respond, you are asking the court to interpret that the other party’s lack of response indicates agreement with what you have requested in the petition. **If you have a Default Hearing, you must repeat as closely as possible what you requested in your Petition.** You cannot request something different in the Decree from what you requested in the Petition, unless your spouse has provided written consent. If you try to do this, the judicial officer will **not** sign the Decree. If you want to change your requests to the court, you must file an **“Amended Petition.”** It is a good idea to have your Petition handy when you follow the instructions to fill out your Decree.

**Divorce by Consent:** You and the other party have reached complete agreement and the other party has filed a Response or is willing to pay a filing fee at the time the Consent Decree is submitted. Both parties are willing to sign the Consent Decree on Page 13 in front of a Clerk or Notary.

**The Decree.** Fill out the Decree **before** you go to your hearing or **before** you give it to the judge to sign. Do **not** fill in the judge's signature and date. If the judge disagrees with anything you have written he or she will change it before signing the Decree.

# INSTRUCTIONS: FILLING OUT YOUR DECREE OF DISSOLUTION OF A NON-COVENANT MARRIAGE (DIVORCE) WITH CHILDREN

## Page 1 of the “Decree of Dissolution of Marriage (Divorce) With Children”

- A.** Fill in the requested information related to the **person filing** the document. If the case has an ATLAS number, write it in the space provided. If you do not have an attorney check the box next by “**Self**,” indicating that you are representing yourself. If you are represented by an attorney, provide the attorney’s information as the person filing the Decree, including the attorney’s State Bar Number, and whether the attorney represents the Petitioner or Respondent.
- B.** Fill in the “**Name of Petitioner**.” Remember, the Petitioner is the person who filed the original petition. The Petitioner remains the same throughout the duration of the case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.)
- Fill in the “**Name of Respondent**,” Remember, the Respondent is the person listed as the Respondent on the original petition. The Respondent remains the same throughout the duration of the case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.)
- C.** Write in your court “**Case Number**.” This will be the same as the case number on the original Petition. The case number remains the same throughout the duration of the case. (This includes any emergency petitions, temporary petitions, and post-divorce decree petitions.)

## THE COURT FINDS:

### 1 – 3. a-d.

This section tells you that before the judicial officer signs the Decree, the Judicial Officer will have determined that the court has the legal power to make the orders in your case. It also confirms that at least one of the parties lived in Arizona for at least 90 days before the Petition for Divorce was filed, and that the parties are not able to get back together and save their marriage. (If you have a trial, you must bring a copy of your marriage license to the trial to show the judge that you do not have a covenant marriage.)

Also, if you served the other party by publication, the court cannot sign a Decree that divides community property and/or debt, or order the other party to pay spousal maintenance/support (alimony).

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### 3. e. Community Property and Debt.

Mark the first box **only** if, while you were married, you and your spouse:

- Did not acquire any property together, **AND**
- Do not owe money to anyone for property acquired or services received while together.

Otherwise, mark one of the boxes indicating whether there **IS** or **IS NOT** an agreement as to the division of community property and debt, which is divided pursuant to the Decree.

### 3. f. Pregnancy and Paternity.

Mark the appropriate boxes to indicate whether the Petitioner or Respondent is pregnant, whether the other party is the father of the child, **AND/OR** if the parties had any children together that were born before the marriage. List the names and dates of birth for those children, if applicable.

### 3. g. Spousal Maintenance/Support.

Mark the appropriate box(es):

- If you have requested spousal maintenance/support (alimony) in the Petition, **OR**
- The judge has ordered one party to pay spousal maintenance/support at a Trial/Hearing, **OR**
- Whether the Spousal Maintenance/Support is modifiable or not **OR**
- Neither party is entitled to Spousal Maintenance/Support.

### 3. h. Parent Information Program.

Mark the appropriate boxes indicating whether the Petitioner and Respondent have completed the Parent Information Program class and filed the Certificate of Completion with the court. If one party has not completed the class or filed the certificate it is up to the judge whether to mark the box indicating that the person will be denied any requested relief to enforce or modify the decree until the class has been completed.

3. i. **Deviation from Child Support.** If there is no agreement as to Child Support, leave this section blank. The judicial officer will fill in this section if there is a deviation for child support.

If the parties have reached an agreement to deviate child support provide the information regarding the amount of child support that would have been ordered based on a completed **“Parent’s Worksheet for Child Support”** and the agreed upon amount after deviation. On the following page.

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3. j. **Physical Legal Decision Making Adjustment.** Leave this section blank. The judicial officer will fill in this section if there is an adjustment.
3. k. **Ability to Pay Child Support.** Leave this section blank. The judicial officer will fill in this section.
3. l. **Legal Decision Making of the Minor child(ren).** Mark this box only if legal decision making was contested (you and the other party did not agree), or if you and the other party have agreed to joint legal decision making. You must write the reasons in the space provided. See the Parenting Time Guidelines for help.
3. m. **Supervised or No Parenting time.** Mark this box only if you asked for supervised or no parenting time by the non-custodial spouse in your Petition, OR the party has agreed to this, OR the judge has ordered supervised or no parenting time after a trial. You must have a very good reason for such a request and you must write the reasons in the space provided. See the Parenting Time Guidelines for help.
3. n. **Domestic Violence.** If the parties are going to have joint legal decision making of the minor child(ren), check the box to say either domestic violence has not occurred, OR that it has not been significant. If domestic violence has occurred but was not significant, explain why joint legal decision making is in the best interest of the minor child(ren).

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#### D. THE COURT ORDERS:

1. **MARRIAGE IS DISSOLVED.** This section ends your marriage.
2. **NAMES.** Write in the current name of one or both of the parties that wish(es) to have a former name(s) restored. This is **ONLY** if one or both of the parties wants to use and/or be called by the former/maiden name. (The law does not require you to use your former/maiden name.)
3. **ENFORCEMENT OF TEMPORARY ORDERS.** If the court ordered temporary payment of child support, spousal maintenance/support (alimony), debt division, or other temporary orders, fill in the dates of ALL of the temporary orders. This section allows you to enforce nonpayment of those debts.
4. **LEGAL DECISION MAKING, PARENTING TIME, AND CHILD SUPPORT.** This section deals with legal decision making, parenting time and child support, pregnancy and paternity.
  - a. **PREGNANCY.** If either the Petitioner or the Respondent is pregnant, write in the expected date of birth for the unborn child.
    1. **Minor Children:** You must also write the names of the minor child(ren) common to the marriage, either natural or adopted, and the child(ren)’s date(s) of birth in the space provided.
    2. **Paternity:** Fill in the name(s) minor children common to the parties before the marriage, either natural or adopted, and the child(ren)’s date(s) of birth in the space provided.

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3. **Name Change (Optional):** Fill in any change of names of minor child(ren) for whom paternity has been established. (Optional)

**b. LEGAL DECISION MAKING (CUSTODY):**

- **Default:** The legal decision making box you mark should be the same as what you asked for in your Petition for Dissolution, **OR**
- **Consent:** You and the other party have signed a Joint Legal Decision Making Agreement and you are attaching it to the Decree or have already filed it with the court, **OR**
- **Trial:** The judge has ordered something different than what is in your Petition.

Gila County provides Alternative Dispute Resolution/Mediation for all new Family Law cases involving children at no additional cost. If you and the other party attended mediation and reached an agreement the Mediator will provide the parties with a copy of the mediated agreement, which may be filed with the mediators report of the parties all sign at that time, or you and the other party may both sign it at a later date to be filed with the Court.

If only one spouse agrees to the Parenting Plan and you have a default divorce hearing, you still must complete the Parenting Plan and tell the Court what you think should be the parenting time arrangement.

If parenting time is supervised and you have a default hearing or you are both in agreement, write in the name of person who will supervise the parenting time and any restrictions. Mark who will be paying for the cost of supervision.

**1. Sole legal decision making of the minor child(ren):** mark the appropriate box indicating whether the Petitioner or the Respondent is awarded sole legal Decision Making and choose **only** one of the three types of parenting time:

- 1) Parenting time awarded according to the terms of the parenting plan attached to the decree as Exhibit B; **OR**
- 2) Supervised; **OR**
- 3) No parenting time.

**2. For joint legal decision making** mark the appropriate box. Remember you must attach a copy of the Joint Legal Decision Making Agreement and Parenting Plan as Exhibit B signed by both parents, or have already filed it with the court. The approval of the agreement will be included as part of the Court Order ending your marriage.

**c. CHILD SUPPORT:** Mark who is to pay the child support (if applicable) and how much to the other party based on the request in the Petition for Dissolution, or on the parties' agreement. Otherwise, leave the space blank and the judicial officer will fill in the amount.

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**d. MEDICAL, DENTAL, VISION CARE INSURANCE, PAYMENTS, AND EXPENSES:** Mark who will be responsible for medical, dental, and vision care insurance. Mark what percent each party will pay for uninsured expenses.

**5. SPOUSAL MAINTENANCE/SUPPORT (ALIMONY)**

- a.** Mark this box if neither party is requesting spousal maintenance.
- b.** Mark this box if you requested spousal maintenance (alimony) in the Petition and **you** have a Default Hearing. (You cannot get spousal maintenance if the other party was served by publication.) **OR**, Mark this box if the parties agreed that one party would pay the other party spousal maintenance and whether it is modifiable.

Then mark who is to pay the spousal maintenance and who will receive the spousal maintenance. If the parties agree, put in the amount and the date the spousal maintenance will end. Otherwise, you should leave the amount and number of months of spousal maintenance blank until the judge approves the request. Be prepared to tell the judge what amount you are asking for, for what period, and why.

**6. PROPERTY, DEBTS and TAX RETURNS.**

- a. Mark the first two boxes, if each party will pay the debts that are unknown to the other party. By marking the third box under 6.a., you are telling the court you do **not** want to pay for bills your spouse got after you separated. Write the approximate date you separated on the line provided.
- b. Mark this box if there is property and debts to be divided, even if you have already divided the property. You can give the court this information on **“EXHIBIT A: COMMUNITY PROPERTY AND DEBTS”** that you must attach to the Decree if you mark this box. Instructions for Exhibit A are included at the end of this instruction.
- c. This states that you and your spouse get to keep separate property that you owned from the marriage or that was a gift to you during the marriage. You also can keep any personal items, clothing, and any other property you own that is not considered community property.
- d. This means either spouse can record the Decree if there is a transfer of title to certain property, like a house. This section also requires each spouse to sign documents to transfer other property, like titles to cars, and so forth. If you have a quit claim deed that transfers property from one spouse to the other spouse, attach a copy of the deed to the Decree, and check this box. Write in the date that both parties shall transfer all real and personal property.

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- e. Mark this box and tell the court whether the parties will file joint or separate tax returns for previous years if taxes have not been paid. For this calendar year, and future calendar years neither you nor your spouse can file joint tax returns. According to the IRS, State law governs whether you are married, divorced, or legally separated. If you are divorced under a final decree by the last day of the year, you are considered unmarried for the whole year.

See a lawyer or accountant for advice if you are not sure which box to check. You may also call the IRS at 1-800-829-4477 or visit their INTERNET site at <http://www.irs.ustreas.gov> for help.

- 7. **FINANCIAL INFORMATION EXCHANGES:** This shows that the parties must share/exchange financial information every 24 months. This information is important in determining amounts of child support or other related issues.
- 8. **TAX EXEMPTIONS:** Decide which parent will claim the children on income tax forms, for which year. Federal and state laws apply here. If you are not sure what to do, ask a lawyer or an accountant for help.
- 9. **MINOR CHILD(REN) TO WHOM THE DECREE DOES NOT APPLY:** Mark this box **only** if child(ren) was/were born during the marriage, that is/are not common to the marriage. Mark which party should have no legal rights to the child(ren). If you mark this box, list the name of any such child(ren) with the date(s) of his/her birth(s) in the space provided. Also, mark if Petitioner **OR** Respondent is pregnant with a child not common to the marriage, and include the expected due date of the child.
- 10. **FINAL APPEALABLE ORDER.** This decree/order/judgment is a final order and may be appealed.

11. **OTHER ORDERS.** List any other orders that are not described in the Decree.

**SIGNATURE SECTION:**

**The judge or commissioner will date and sign the Decree. (Do not sign or date the Decree for the judge or commissioner)**

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**DEFAULT HEARING:**

- Fill in the Respondent’s name and last known mailing address, your name and the date.
- If there is a Default Hearing, the Petitioner, must mail a copy of the Decree to the Respondent within 24 hours of the court hearing, after the judge has signed it.

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**“EXHIBIT A: COMMUNITY PROPERTY AND DEBT”**

- IF YOU MARKED the first box of **3 e.** ON YOUR DECREE AND HAVE NO COMMUNITY PROPERTY OR DEBTS, **DO NOT COMPLETE “EXHIBIT A”** You have completed your Decree. For a Consent Decree without any community property or debts skip to Pages 12 and 13.

If you have community property or community debt listed in your Petition, you should copy the information from that part of your Petition to Exhibit A. **REMEMBER:** if you are going by default, the division of property must be identical to the list in your petition. You cannot add new community property to the list, although you can give your spouse more property than that listed on your petition. You should also make sure it is very clear who gets what property. That means you should describe the property in detail and then designate whether Petitioner gets it or Respondent gets it.

1. **Division of Community Property.** Mark the first box if requesting that each party be awarded personal property in his or her possession **OR** the second box if you are requesting specific division of property between the parties as stated in the LIST OF COMMUNITY PROPERTY
2. Mark the box provide a detailed list in the spaces provided and who the property is to be awarded to, Petitioner or Respondent. Do not write on the back of any pages. If additional room is needed check the box at the bottom of the list, “Continued on attached list,” and attach the remaining list on single sided sheets of paper.
3. **Division of Retirement, Pension, Deferred Compensation.** Decide what you want to do about these assets. Generally, each spouse is entitled up to a half interest in the pension or retirement or deferred compensation benefits of the other spouse based upon the length of time the parties were married. This is **very complicated, and very important** to both spouses. If you are entitled to any interest in your spouse’s retirement assets, you may be required to file a **Qualified Domestic Relations Order**.

**This is a very important document. The Court does not have this document. See a lawyer for help.** Check the box that describes what you asked for in the Petition or what the parties have agreed to.

**Page 10 of the “Decree of Dissolution of Marriage (Divorce) With Children”**

4. **Division of Real Property:** Use this section if you own a home or real estate together. **IT IS VERY IMPORTANT THAT YOU WRITE IN THE CORRECT ADDRESS AND THE LEGAL DESCRIPTION OF EACH PIECE OF PROPERTY.** This information, including the address and legal description should also be the same as what you provided in the Petition. Decide which spouse gets the property, OR whether it should be sold and any proceeds divided.



## Page 11 of the “Decree of Dissolution of Marriage (Divorce) With Children”

5. **Division of Community Debts:** List all debts you listed on your Petition for Dissolution. You can update the amounts owed, only if the amounts are less than those amounts in the Petition or the parties agree to update the amounts. Then put which debts are to be the responsibilities of which party.

Also, decide if you want the order to divide debts incurred by a spouse that are not listed to be paid by the spouse who incurred the debt. Remember, just because the Decree orders either spouse to pay debts does not mean that the creditor cannot pursue collection from the other spouse, even after the divorce decree.

6. **Separate Property.** List your separate property and the other party’s separate property. Then check the box to say who gets the property.
7. **Separate Debt.** List your separate debt and the other party’s separate debt. Then check the box to say who pays the debt.

### After Page 11 attach any additional documents to be included as part of the decree including:

1. **The Parenting Plan and/or Joint Legal Decision Making Agreement.** Gila County provides Alternative Dispute Resolution/Mediation for all new Family Law cases involving children at no additional cost. If you and the other party attended mediation and reached an agreement the Mediator will provide the parties with a copy of the mediated agreement, which may be filed with the mediators report, if the parties all sign prior to leaving mediation, or you and the other party may both sign it at a later date to be filed with the Court.

Alternatively you may complete your own Parenting Plan to decide how legal decision making, parenting time, and all the details will work after the divorce. The best thing to do is for both parents to complete this plan together. **If you want Joint Legal Decision Making, both parents must complete and sign the Parenting Plan AND the Joint Legal Decision Making Agreement.**

2. Be sure to attach the Child Support Worksheet, the Order of Assignment and Child Support Order.
3. Be sure to include a quit claim deed, if a quit claim deed has been signed.

## Page 12 of the “Decree of Dissolution of Marriage (Divorce) With Children”

**APPLIES TO CONSENT DECREE ONLY- DO NOT complete this page if you are not filing a Consent Decree where both parties are in agreement.** Both parties initial in their respective boxes affirming that the information is true and correct.

## Page 13 of the “Decree of Dissolution of Marriage (Divorce) With Children”

**APPLIES TO CONSENT DECREE ONLY- DO NOT complete this page if you are not filing a Consent Decree where both parties are in agreement.**

**SIGNATURES SECTION:** The Petition and Respondent must sign in front of the Deputy Clerk at the Clerk of the Superior Court or a Notary. If either party is represented by an attorney, the attorney must sign as well. If the case is subject to Child Support Enforcement a representative of the Child Support Enforcement Administration must sign as well.

## Page 14 of the “Decree of Dissolution of Marriage (Divorce) With Children” Income Withholding Data Form

(Wage Garnishment for Child Support and/or Spousal Maintenance)

## INSTRUCTIONS: HOW TO COMPLETE A PARENTS WORKSHEET FOR CHILD SUPPORT

Use the **FREE** online child support calculator at: <http://www.azcourts.gov/familylaw/Child-Support-Calculator-Information> to produce the Parents Worksheet for Child Support that **MUST** be turned in along with your other court papers.

Using the online calculator is **FREE**. (Access to the Internet and a printer is required).

- **Go to:** <http://www.azcourts.gov/familylaw/Child-Support-Calculator-Information> to perform the calculations.
- **Click “[2018 Child Support Calculator](#)”**
  - Fill in all of the details
  - Click “Print Worksheet”
  - If you want to prepare additional forms, click on the “**Forms**” tab; complete that area, then print the forms. Click “**GO**” at the bottom of the page to generate the Child Support Order and related forms.

### **Advantages of Using the Online Child Support Calculator**

- The online calculator is free.
- The online calculator does the math for you.
- The online calculator produces a neater, more readable worksheet.
- The online calculator produces a more accurate child support calculation, AND
- You don’t have to go through 37 pages of Guidelines and Instructions