

LEGAL SEPARATION PACKET—NO MINOR CHILDREN

How does a legal separation differ from divorce?

Unlike divorce, a legal separation doesn't end a marriage. It provides a legal way to settle some of the issues that arise when spouses decide to separate. For example, when couples separate, one or the other might need financial support. If there are children, custody, visitation, and support must be decided. A legal separation must, like a divorce, be granted by a court. When it grants a legal separation, the court also resolves or helps to resolve the other issues. Acceptable grounds or reasons are similar to those for divorce.

A **divorce** ends your marriage. After you get divorced, you will be single, and you can marry again. If you get divorced, you can ask the judge for orders like child support, spousal support, custody and visitation, domestic violence restraining orders, division of property, and other orders.

Although the procedure and most of the issues involved are the same, a **legal separation** does not end a marriage. You can't marry someone else if you are legally separated (and not divorced). A legal separation is for couples that do not want to get divorced but want to live apart. The court order generally defines the rights and responsibilities of the spouses between each other while living apart. Couples sometimes prefer separation for religious reasons.

Legal separation is useful when spouses wish to separate but not end the marriage. It is useful for people who do not want to divorce for religious reasons. Or it may be used if one spouse does not want to deprive the other of insurance or pension benefits that person might lose in a divorce.

A divorce is a declaration by a court that a marriage contract is broken and has ended. The divorce occurs on the day the divorce decree is granted by the judge and filed at the courthouse. After the divorce, the two people are legally "single." They can remarry. This new status may affect their lives in many ways.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____,)
Plaintiff,)
v.) Civil Action No. _____
_____,)
Defendant.)

COMPLAINT FOR SEPARATE MAINTENANCE

The Plaintiff, _____, states (his) (her) claim for separate maintenance against the Defendant, _____, and shows this honorable court as follows:

1.

Jurisdiction and Venue (Check a, b or c)

a) The Defendant is a resident of _____ County, Georgia and can be served with a copy of this complaint and summons at the following address:

_____.

b) The Defendant is a non-resident of the State of Georgia, but s/he may be personally served with a copy of this complaint and summons in _____ County, Georgia at the following address:

_____.

c) The Defendant is a non-resident of the State of Georgia and cannot be personally served with process within the state; however, the Defendant owns property within the state in _____ County, Georgia, which is described as follows (insert the legal description of the property as it appears on the deed):

- d) The Defendant has signed an Acknowledgement of Service.
- e) The Defendant has signed an Acknowledgement of Service, Affidavit of Waiver of Venue and Personal Jurisdiction.

2.

Date of Marriage (Check a or b)

a) Plaintiff and Defendant were lawfully married on _____ in _____ County, _____ (State).

b) Plaintiff and Defendant are common law married, having entered into a common law marriage before January 1 1997 as of _____ in _____ County, _____ (State).

Note: Common law marriage was abolished in Georgia in 1997.

3.

Date of separation

The Defendant and I separated on _____ and have remained in a bona fide state of separation since that date.

4.

Reason for separation (choose a or b)

a) The separation between the parties was by virtue of a mutual agreement.

- b) The separation between the parties was due to misconduct on the part of the Defendant which is described as follows:

5.

No pending action for divorce

- There is no pending action for divorce between the parties in this state.

6.

Settlement Agreement (choose a or b)

- a) The parties have entered into a written agreement settling the issues of alimony, child support, child custody, and the like. The agreement is filed herewith.
- b) The parties have been unable to settle their differences.

7.

Marital Property (Check a, b or c)

- a) Defendant and I have no marital property.
- b) Defendant and I have already divided our marital property to our mutual satisfaction.
- c) Defendant and I have the following marital property that I have checked, and I am seeking an equitable division of this property.
 - A house located at

A notice of Lis Pendens is attached hereto as Exhibit “_____.”

- Pension(s): Mine _____ My spouse’s _____.
- Motor vehicles (list make, model & year):

- Furniture (list or attach list):

**IN THE SUPERIOR COURT OF DOUGHERTY COUNTY
STATE OF GEORGIA**

_____,)
Plaintiff,)
v.) Civil Action No. _____
_____)
Defendant.)

VERIFICATION

Personally appeared before me the undersigned who on oath states that the facts set forth in this Complaint are true and correct to the best of his/her knowledge and belief.

Plaintiff *pro se*

Sworn to and subscribed before me
this _____ day of _____, 200_.

Notary Public, State of Georgia

My Commission Expires: _____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

(1) _____,)
Plaintiff,)
v.) Civil Action No. _____
(2) _____,)
Defendant.)

**DEFENDANT'S ACKNOWLEDGEMENT OF SERVICE
AFFIDAVIT OF WAIVER OF VENUE AND PERSONAL JURISDICTION**

I, _____, the named Defendant in the above-styled case, after being duly sworn do hereby depose and say that I am a resident of _____ County, _____ (state), and that the Plaintiff in the above-styled case is a resident of _____ County, Georgia. I affirm that I have received a copy of said Petition/Complaint, and I hereby waive any and all further notice, service, and issuance of process.

After being duly informed that I have a constitutional right to a trial by judge or jury on the above matter in the county of my residence, and with that knowledge, I hereby expressly waive my right to venue in the county of my residence, and consent to venue and personal jurisdiction in the county of this superior court.

This _____ day of _____, 20____.

_____,
Affiant

Notary Public

Sworn to and subscribed before me this _____ day of _____, 20____.

**IN THE SUPERIOR COURT OF DOUGHERTY COUNTY
STATE OF GEORGIA**

| | | |
|------------|---|------------------------|
| |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Civil Action No. _____ |
| |) | |
| |) | |
| |) | |
| Defendant. |) | |

RULE NISI TEMPORARY RESTRAINING ORDER

The within and foregoing Complaint having been read and considered, the same is Allowed, Ordered and Filed.

Let the Defendant be served with a copy of this Complaint and a copy of this Order, and let the Defendant show cause before the Honorable _____ [name] at _____ --.M., on the _____ day of _____, 20__, then and there to be heard, why the prayers of the Plaintiff's Complaint should not be granted.

In the meantime and until further order of this Court, the Defendant is restrained and enjoined from molesting, harassing, or harming the Plaintiff or the minor [child, children] born as a result of this marriage in any way.

Judge, Dougherty County Superior Court

**IN THE SUPERIOR COURT OF DOUGHERTY COUNTY
STATE OF GEORGIA**

| | | |
|------------|---|------------------------|
| |) | |
| _____ , |) | |
| Plaintiff, |) | |
| v. |) | Civil Action No. _____ |
| |) | |
| _____ , |) | |
| Defendant. |) | |

LIS PENDENS NOTICE

To whom it may concern:

The above-styled case has been filed demanding that the following described real property be awarded to the Plaintiff as alimony or as equitable division of property:

This **Lis Pendens notice** has been filed and recorded as provided by law.

This ____ day of _____, ____ (year).

3.

Division of Property (Choose a, b or c)

- a) The parties have no marital property subject to equitable division.
- b) The parties have previously divided their marital property to their mutual satisfaction.
- c) The parties acknowledge that they possess various items of jointly owned property, which shall be divided as follows:

1) To the Wife:

2) To the Husband:

4.

Division of Debts (Check a or b)

- a) The parties acknowledge that they have no outstanding joint debts.
- b) The parties agree to the division of debts as indicated below:

| Creditor | Amount | Responsible Party |
|----------|--------|-------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

The responsible party indemnifies and holds harmless the non-responsible party for any collection on these obligations.

5.

Binding Agreement

The parties acknowledge that they have entered into this Agreement freely and voluntarily and that it is not the result of any duress or any undue influence. This Agreement constitutes the entire understanding of the parties. There are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

6.

Agreement enforceable with or without divorce

It is expressly understood that this Agreement does not obligate the parties to continue to live in a state of separation or to proceed with an action for divorce. However, in the event that either party shall bring or maintain an action for dissolution of the marital relationship, this Agreement shall be presented to the court and incorporated by reference into any judgment or decree concerning the matters provided herein. Notwithstanding such incorporation, this Agreement shall survive and be enforceable independently of the judgment or decree.

This Agreement is entered into this the ____ day of _____, 20____.

_____,
Plaintiff *pro se*

Sworn to and subscribed before me
This ____ day of _____, 20____.

_____,
Notary Public, State of Georgia
My Commission Expires _____.

_____,
Defendant *pro se*

Sworn to and subscribed before me
This ____ day of _____, 20____.

_____,
Notary Public, State of Georgia
My Commission Expires _____.

- The Court orders that the property owned by Defendant in this state and County be set aside to _____, to be used for his/her support;
- The Court orders that Plaintiff have the continued and exclusive use and possession of the marital residence;
- The Court orders that Defendant _____ be required to pay mortgage payments on the marital residence, together with the real estate taxes, insurance and other expenses in connection with the property;
- The Court orders that Plaintiff have the continued use of the family personalty located in the marital residence;
- The Court orders that Defendant _____ be ordered to pay Plaintiff's reasonable attorneys' fees and expenses of litigation for representation of his/her interest during the course of the proceeding.

This _____ day of _____, 20____.

Judge, _____ County Superior Court