



Kalispel Tribal Court

Filing for a Dissolution of Marriage
(Divorce)
Instructions

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DISSOLUTION OF MARRIAGE INSTRUCTIONS

General Information about a dissolution of marriage case

In the Kalispel Tribal Court a person may get a divorce without having to prove any wrongdoing. (The courts call a divorce a "dissolution.") A person just has to ask the court to end his or her marriage because it is not working. The court decides how to divide your property and debts and whether to order spousal maintenance or support (alimony) if it is requested. The court must also establish a parenting plan and child support for any children who are dependent on the parties.

Starting the Case

A dissolution is started by filing a summons and petition with the clerk of the Kalispel Tribal Court and by serving copies of these papers on the other spouse. If the case is agreed, a dissolution is started by filing a petition also signed by your spouse or a separate joinder form signed by your spouse. The spouse filing the petition is the "petitioner." The petition asks the court to "dissolve" the marriage. It makes no difference who files the petition.

The petition also tells the court what the petitioner would like the court to do concerning the parties' property, debts and children. A petitioner must be a resident of Washington at the time the petition is filed. There is a filing fee for filing the petition, unless the court decides the petitioner is unable to pay the fee.

The spouse responding to the petition is called the "respondent." The court cannot enter a decree of dissolution until 30 days after the summons and petition have been served on the respondent and all responses have been filed. The respondent must file a written response within 20 days after being served the summons and petition (or 60 days if the respondent is served out of the Court's jurisdiction) with the clerk of the court. The respondent must also make arrangements to have copies of the written response served on the petitioner or the petitioner's lawyer within the same time period. If the respondent does not file or serve a written response within the required time period the court may enter a default judgment against the respondent.

All papers you or your spouse file with the court will become part of a permanent public record. You can view your court file and obtain copies of any documents in the file at the court clerk's office.

Filling Out the Forms

A. Petition for Dissolution of Marriage

Caption. On the blank under "In re the Marriage of:" print your full name, you are the Petitioner. In the next blank below "and" print your spouse's full name, he/she is the Respondent.

Section I. Basis

Paragraph 1.1. Identification of Petitioner.

Fill in your name, birth date, and the county and state where you live.

Paragraph 1.2. Identification of Respondent.

Fill in your spouse's name, birth date, and the county and state where your spouse currently lives.

Paragraph 1.3. Children of the Marriage Dependent Upon Either or Both Spouses.

Under the words, "The husband and wife are both the parents of the following children", list the names and

ages of the children that you and your spouse had together, including any children you both adopted. Under the words “The husband is and the wife is not the parent of the following dependent children”, list any children that the husband had with other relationships. List the wife’s children after the words “The wife is and the husband is not the parent of the following children”. You do not need to list children who are over age 18 or emancipated, unless you or your spouse are still supporting those children.

Paragraph 1.4. Allegations Regarding Marriage.

Read this paragraph.

Paragraph 1.5. Date and Place of Marriage.

Fill in the date you married, and the city and state (or country, if outside the U.S.) where you were married.

Paragraph 1.6. Separation.

If you and your spouse still live together, check the first box.

If you live separately, check the second box and write in the date you and your spouse stopped living together for the last time.

Paragraph 1.7. Jurisdiction.

Read the paragraph carefully and check all of the boxes that apply.

- If your spouse lives within the exterior boundaries of the Kalispel Reservation now, check the first indented box.
- If you and your spouse lived within the exterior boundaries of the Kalispel Reservation while you were married and you still live here, check the second indented box.
- If your spouse is an enrolled member of the Kalispel Tribe of Indians, check the third indented box.
- If there are other reasons why you think the Kalispel Tribe has jurisdiction over your spouse, check the fourth indented box and write in the reason. (For example, your spouse may agree to file the dissolution in Kalispel Tribal Court. If s/he does, you may write “respondent agrees to personal jurisdiction in the Kalispel Tribal Court”.)

If your spouse has never lived within the exterior boundaries of the Kalispel Reservation and is not an enrolled member of the Kalispel Tribe of Indians, check the last box “this court does not have jurisdiction over respondent”.

Paragraph 1.8. Property.

If you have not yet decided how you want the court to divide your property, check the first box.

❖ **Caution:** If you check the first box, you are not permitted to ask the court to enter a default order dividing the property without filing and serving an Amended Petition for Dissolution that gives a specific division of property. If you think your spouse might not respond to the petition, you should follow the instructions for checking the second box.

If you have decided how you want the court to divide your property, check the second box and the first two indented boxes under it.

In the blank after the first indented box, “The petitioner should be awarded the parties’ interest in the following property”, list every item of property that you want the court to award to you. If you do not have enough room, you may write “see attached Exhibit A” and write a list on a separate paper, write Exhibit A

at the top, and staple it to your petition.

In the blank after the second indented box, “The respondent should be awarded the parties’ interest in the following property”, list every item of property that you want the court to award to your spouse. If you do not have enough room, you may write “see attached Exhibit B” and write a list on a separate paper, write Exhibit B at the top, and staple it to your petition.

- ❖ Remember that property includes things like bank accounts, IRAs, stock, and pensions as well as your home, real estate, cars and household items. You should list specific household items that are very valuable (example: petitioner’s mother’s diamond ring), but, if you are separated, you do not need to list every item of clothing or dish that you have. If you are separated and are happy with how you have split up your household items, you may write “All personal and household items currently in his/her possession” in the spaces saying what the petitioner and respondent should be awarded.

Paragraph 1.9. Debts and Liabilities.

If you and your spouse do not have any debts, check the first box. If you have not yet decided how you want the court to divide your debts check the first box and the first indented box “the division of debts and liabilities should be determined at a later date”.

❖ **Caution:** If you check the first indented box, you are not permitted to ask the court to enter a default order dividing the debts without filing and serving an Amended Petition for Dissolution that gives a specific division of debts. If you think your spouse might not respond to the petition, you should follow the instructions for checking the fourth box.

Check the second box if you and your spouse have any debts and you would like the court to make a fair and equitable division of them. Also check the second indented box, and the two boxes indented within that.

In the blank after the box “The petitioner should be ordered to pay the following debts and liabilities to the following creditors”, list every debt that you want the court to order you to pay. If you do not have enough room, you may write “see attached Exhibit C” and write a list on a separate paper, write Exhibit C at the top, and staple it to your petition.

In the blank after the box “The respondent should be ordered to pay the following debts and liabilities to the following creditors”, list every debt that you want the court to order your spouse to pay. You should also write “all debts incurred by petitioner since the date of separation” if you are not sure what debts your spouse has made since you separated. If you do not have enough room, you may write “see attached Exhibit D” and write on a separate paper, write Exhibit D at the top, and staple it to your petition.

When you are listing your debts, write the name of each creditor (person or company that you owe money to) and the amount owed for each debt. For example, if you owe \$350.00 on your JC Penney charge card, you would write “JC Penney” under CREDITOR and on the same line write “\$350.00” under AMOUNT OWED.

In most cases (whether or not you had debts before you separated) you should check the box next to “Each party should pay their debts incurred since separation”.

Paragraph 1.10. Spousal Maintenance.

If you do not want spousal maintenance (alimony) to be order, check the first box.

If you do want spousal maintenance to be ordered, check the second box and write the reasons that you think spousal maintenance should be ordered in the space provided.

Paragraph 1.11. Continuing Restraining Order.

If you do not want a restraining order, check the first box.

If you do want a restraining order that will tell your spouse not to harass or bother you, check the second box and then check husband or wife, as applies in your case.

If you do want a restraining order that will tell your spouse not to come to your home, work or school, or the daycare or school of your children, check the third box and husband or wife. List the children you want the spouse to be restricted from going to see.

If you do want a restraining order that will tell your spouse not come near your home, school, work, etc., check the fourth box and husband or wife, and write how far you want the respondent to stay away. Also list the children you want your spouse to stay away from.

If you do want a restraining order that will tell your spouse not to molest, harass, assault or stalk you, check the fifth box, write your spouse's name in the first blank, and write your name in the second blank.

If there are other restraining orders you want, check the sixth box and write what you want the court to restrain your spouse from doing in the blank.

If you ask for a restraining order against your spouse, when you get to trial, you will need to prove to the judge that you need the protection that you are asking for.

❖ If you want a restraining order before trial, you must file a motion for an emergency order, a motion for a temporary order or a petition for a protection order. These forms are available at the Kalispel Tribal Court.

Paragraph 1.12. Protection Order.

If you do not want a protection order against the other party to your case, check the first box.

If you do want the court to enter an Order for Protection for you against the other party as part of this case, check the second box. In the first blank, write your name and the name(s) of the child/ren to be protected. In the second and third blanks, write the other party's name. In the fourth blank, write the name(s) of the domestic violence survivor(s).

❖ If you want a domestic violence protection order to take effect soon, obtain the domestic violence protection order forms from the court clerk.

Paragraph 1.13. Pregnancy.

If the wife in your marriage is not pregnant, check the first box.

If the wife in your marriage is pregnant, check the second box.

If the wife is pregnant and the child belongs to the husband, you must fill out a Parenting Plan for the child. When you are filling out the parenting plan, you may simply refer to the child as "unborn child" in the Parenting Plan.

Paragraph 1.14. Jurisdiction Over the Children.

If you and your spouse do not have any children together, or all of your children are adults and no longer depend on you for support, check the first box and skip the rest of this paragraph.

If you and your spouse have children together, either natural or adopted, and they are under age 18, check the second box. Then, check all of the boxes after the second box that applies to your case. Keep in mind that if you check one of the boxes that is farthest to the left, you should also check at least one of the boxes that are indented under that box. For example, if you check the box that says "This state is the home state

of the children because”, you should also check one of the four boxes that follows that box.

❖ If you and your spouse have children age 18 or under, you must complete and file a Parenting Plan. Unless you have a child support administrative order (and you do not want to change it), you must also complete Child Support Worksheets, and Order of Child Support. All of these forms are available at the Kalispel Tribal Court.

Paragraph 1.15. Child Support and Parenting Plan for Dependent Children.

If you and your spouse do not have any children in common who are under age 18 or who depend on you for support, check the first box and skip the rest of this paragraph.

If you and your spouse have children together who are age 18 or under or who depend on you for support, check the second box, list the name of each child, and the name of the child’s mother and father. You must follow the instruction for the rest of this paragraph.

The petitioner’s proposed parenting plan for these children:

You should check the first box and complete and file a parenting plan. If you cannot complete a proposed parenting plan right now, check the second box.

During the last five years, the children have lived:

If your children have lived within the exterior boundaries of the Kalispel Reservation for the last five years, check the first box and skip to “Claims to custody or visitation.” If the children have not lived within the exterior boundaries of the Kalispel Reservation for all of the last five years, check the second box and then list by date, with the most recent place the children lived listed first, each city, state and reservation, if applicable, where the children have lived, who else lived there, and for how long. Complete as much information as you can. For example:

6/2005 – Present	Usk, WA (Kalispel)	Mother and Father
10/2004 – 5/2005	Wellpinit, WA (Spokane)	Jean and Tom Running Bear (mother’s parents)
1/2000 – 9/2004	Spokane, WA	Mother and Father

❖ If your children lived in the custody of anyone other than a parent in the last five years, you should include the name and current address of that person on the Confidential Information Form.

Claims to custody and visitation:

If your children are living with you or your spouse and there are no court orders placing the child with another person or giving another person visitation rights, check the first box. If a child lives with someone other than you or your spouse, or if there has been a court order placing the child or allowing visitation with someone other than you or your spouse, or you believe someone other than you or your spouse might have a legal claim to custody or visitation with your children, check the second box and write in the names of the children and names of the persons who might have a claim to custody or visitation with them.

Involvement in any other proceedings concerning the children:

If you have never been involved in any other court cases about custody of your children in the Kalispel Tribal Court or any other state or Tribal Court, check the first box. If there have been ANY legal proceedings about your children that you have been involved in, check the second box. This includes protection orders, juvenile criminal proceedings, dependency actions (CPS or ICW), parentage actions, administrative child support hearings, or cases in other states or reservations. List the date of the order, name of the court, case number, and the type of case. For example:

5/98	Spokane Tribal Court, Wellpinit, WA	Case No. 98-008CW	Dependency
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6/2005	Kalispel Tribal Court, Cusick, WA	Case No. 2005-0004-CV-RO	Protection Order
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Other legal proceedings concerning the children:

If there have never been any other court cases about your children that you are aware of, check the first box. If there have been court cases about your children that you have not been involved in, check the second box and then list the date of the order, name of the court, case number, and the type of case. (See example above).

Paragraph 1.16. Other.

Most people can skip this paragraph and leave blank. Consolidation of Existing Protection Order. If you have a Protection Order that was entered under a different case number, and you want to change it or extend the expiration date, write in what you want the court to do. For example, “The Protection Order entered on [date] under Case No. XXXXXXXX should be consolidated under this case number and should be modified: 1) The custody provisions should be changed to follow the Final Parenting Plan; and 2) the expiration date should be changed so the Protection Order is permanent.”

Section II. Relief Requested

You must complete this section to tell the court what you want the court to order in your marital dissolution. Make sure that you check every box next to something that you want the court to decide in your case. For example, if you want the court to order maintenance, check the first box, and then check the box next to either husband or wife depending on who you want to receive maintenance. If you have children and are filing a parenting plan, check the second box. Check the fourth box only if you have a separation contract or prenuptial agreement. If you have property or debts from your marriage, check the fifth box. If you have requests that are not listed, you may check the last box and write your requests in the blank. For example, if you are asking for a protection order to be consolidated with your dissolution case, check the “other” box and add “consolidate the protection order proceeding with this dissolution action and enter a permanent order of protection.”

Signature.

You should date the form and sign where it says “Signature of Petitioner or Lawyer”. You must also write the place (city, state), date, and your signature under the sentence that says “I declare under penalty of perjury.....”. Be sure to also print or type your name on the line behind your signature.

Joinder.

If your spouse agrees with the Petition for Dissolution, s/he should check the box next to the word “Joinder”. If your spouse wants you to give notice before the final dissolution orders are entered, s/he should check the third box (next to “I demand notice”) and write in his/her mailing address. If your spouse doesn’t want notice, s/he should check the second box (next to “I waive notice”). Your spouse should sign and date the form. Complete the joinder on the last page of the petition before you file the petition.

B. Confidential Information Form and Addendum.

In family law cases, you must give the court information about your address and telephone number, your social security number, date of birth, driver’s license, and the name and address of your employer, as well as certain information about the other people involved in the case.

Complete this form, file it with the court clerk, and keep a copy for yourself. **These forms will not be served on the Respondent.**

The Confidential Information form is not available to the other parties or the other parties’ attorney.

❖ Update the court by filing a new Confidential Information Form when your address changes, even after your case is finished. If you do not, legal papers may be sent to you at your old address and orders may be entered against you without actual notice to you.

- Section 1 The county and case number will be filled in by the court clerk.
- Section 2 Check the first box (divorce/separation.....non-parental custody/paternity/ modification.....)
- Section 3 If restraining orders or protection orders are in place, check the related boxes on the form and show who is protected (and if they go into effect later, file a revised updated form).
- Section 4 If you believe the safety of an adult or child would be in danger by giving out address information, even if you do not have a restraining order or a protection order, check the box “[t]he health, safety, or liberty.....,” and explain the risk or harm.
- Section 5 Write in the information requested on the form concerning the petitioner and respondents and the relationship to the child/ren.
- Section 6 Write in information requested on children.
- Section 7 Fill in the information requested about the adults the child/ren have lived with in the last 5 years (and the current address of each of those adults), and the names and current addresses of people besides the petitioner and respondent who have custody or who claim rights to custody or visitation with the children.
- Section 8 Fill in the information requested about yourself and the respondent, including your social security number.
- Section 9 Write in any additional information in the space provided.
- Section 10 If there are more than 2 children in your case, you should write the information about those children in the Addendum. Check the box near the bottom of the second page of the Confidential Information form next to “Addendum to Confidential Information Form Attached”.
- Section 11 If there is any information you don’t have, you may explain why you could not provide it in the space after “This information is unavailable because.....” right about the signature line.
- Section 12 Sign and date the form and write in the place where it was signed.

C. Filing Your Petition for Dissolution of Marriage.

Once all of your forms are completed they must be returned to the court for filing and service. The filing fee is also due at the time of filing. If you cannot afford the filing fee, you may ask the court to waive it (allow you not to pay it). To do this, ask the court clerk for the “Motion to Proceed in Forma Pauperis”. You must also wait for the court to approve or disapprove your Motion before your forms can be filed.

Once the filing fee is paid/waived the clerk will assign your case a case number, which the clerk will add to your forms. The clerk will then make you a copy of the forms for your records and keep the originals for the courts record.

D. Summons and Service of Summons and Petition.

Unlike other courts, the Kalispel Tribal Court Clerk will issue the Summons and arrange for service of the Summons and Petition pursuant to Kalispel Law and Order Code Chapter 3 section 3.3.

The Summons shall inform: (1) the respondent that he/she has twenty (20) days in which to respond to the petition; (2) the petitioner will have ten (10) days to reply to the respondent's response (if any); and (3) the parties a hearing on the petition will be set within thirty (30) days after all responses and replies are properly filed. The summons will also contain a notice that, in case of failure to appear at the hearing on the petition, judgment will be rendered against them according to the demand of the petition.

A copy of the Summons will be mailed to you when it is issued, and you will be informed by certified mail of any hearing times and dates. Any responses to your petition will also be mailed to you by certified mail.

As stated in the summons, once you receive the response from the Respondent, you will have ten (10) days to respond to it and then a hearing on the petition will be set within thirty (30) days after your response is received by the court.

The foregoing Instructions are only intended to assist in completing and filing a Petition for Dissolution. They should in no way be construed as legal advice. If you have any questions regarding dissolution we strongly suggest that you seek the advice of an attorney.