

## **Instructions for Judgment and Decree of Divorce (Default) (With Children) & Form**

- **This form is used only if the parties have not completed a Stipulation and Settlement Agreement!**

You must wait at least sixty (60) days **after** serving the Defendant before requesting that the Judge sign the Judgment and Decree of Divorce (Default).

- Complete this form in black or blue ink only!
- Complete “the Caption.” **NOTE:** The caption is the top portion of each form. You will need to know the name of your county, judicial circuit (ask your Clerk of Court if you don’t know), name of Plaintiff, name of Defendant and case filing number (ask your Clerk of Court if you don’t know). The caption is the same on every form.
- **YOU DO NOT COMPLETE THE REMAINDER OF THIS FORM NOR DO YOU SIGN THIS FORM – THE JUDGE WILL COMPLETE THE REMAINDER OF THE DOCUMENT AND SIGN THE JUDGMENT AND DECREE OF DIVORCE.**
- At the time of your trial on the Application for Judgment and Decree of Divorce (Default), submit the Judgment and Decree of Divorce (Default) to the court.
- If the judge signs the Judgment and Decree of Divorce (Default), the Clerk of Courts will complete the Notice of Entry (Form UJS-327) and send a certified copy to each party.

STATE OF SOUTH DAKOTA )  
 ) :SS  
COUNTY OF \_\_\_\_\_ )

IN CIRCUIT COURT  
\_\_\_\_\_) JUDICIAL CIRCUIT

\_\_\_\_\_) Plaintiff,  
vs.  
\_\_\_\_\_) Defendant

DIV \_\_\_\_\_

**JUDGMENT AND  
DECREE OF DIVORCE  
(DEFAULT)**

The above-entitled matter came before this Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ on Plaintiff's Application for Judgment and Decree of Divorce (Default). It satisfactorily appearing to the Court from the records and files herein that the Defendant was duly served with the Summons (with Minor Children), Parenting Time Guidelines and Complaint with Minor Children on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. The parties were married on \_\_\_\_\_ (date) and at \_\_\_\_\_ (city and state). It further appearing to the Court by virtue of the Affidavit of Default signed by Plaintiff and filed herein that said Defendant has failed to plead, to otherwise defend, or make any appearance in this action and that said Defendant is in default; Findings of Fact and Conclusions of Law having been waived by virtue of Defendant's failure to appear in this action; the Court having jurisdiction over the parties and the subject matter herein, now therefore,

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

1. Plaintiff is granted a Judgment and Decree of Divorce on the grounds of irreconcilable differences, and the parties hereto are restored to the status of single persons.
2. The parties are the parents of the following minor child(ren):

\_\_\_\_\_, DOB \_\_\_\_\_  
\_\_\_\_\_, DOB \_\_\_\_\_  
\_\_\_\_\_, DOB \_\_\_\_\_

3. Custody of the minor child(ren) shall be (check the applicable box):

Joint legal between the parties with Plaintiff / Defendant (*circle one*) having primary physical custody;

The parties share joint legal and joint physical custody of the minor child(ren);

Sole legal and physical custody to Plaintiff / Defendant (*circle one*);

The parents agree to joint legal and physical custody with a shared parenting plan, as set forth below, in which the child(ren) reside no less than 180 nights per calendar year in each parent's home. The parents further agree to share the duties and responsibilities of parenting the child(ren) and shall divide the expenses of the child(ren) in proportion to their incomes; i.e. Plaintiff paying \_\_\_\_\_% and Defendant paying \_\_\_\_\_%; or

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Plaintiff / Defendant's (*circle one*) parenting time (visitation) with the minor child(ren) shall be as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. \_\_\_\_\_ (*insert name of party*) shall pay child support for the support and maintenance of the minor child(ren) in the amount of \$\_\_\_\_\_ per month, which includes (*check all the boxes that apply*):

his/her pro rata share of the health insurance provided by the Plaintiff / Defendant (*circle one*) for the parties' minor child(ren);

his / her pro rata share of day care expenses for the minor child(ren);

an annualized abatement of \$\_\_\_\_\_ per month in consideration for the months \_\_\_\_\_ has the child(ren) 10 or more overnights per month. Pursuant to SDCL 25-7-6.14, it shall be presumed that the parenting time is exercised for the purposes of the abatement;

a deviation of \$\_\_\_\_\_ per month pursuant to SDCL 25-7-6.10(\_\_\_\_), based on  
\_\_\_\_\_  
\_\_\_\_\_

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6. Any reasonable medical costs, including optometric, dental or orthodontic, counseling or other health care costs for the minor child(ren) which exceed \$250.00 in any year and are not covered by insurance shall be split between the parents with Plaintiff paying \_\_\_\_% and Defendant paying \_\_\_\_%. Pursuant to SDCL 25-7-6.16, the parent with physical custody, which is \_\_\_\_\_, is solely responsible for the first \$250.00 of health care expenses incurred for each child in any calendar year.

The child support calculation is filed herein.

7. The child support obligation shall commence on the 1<sup>st</sup> day of \_\_\_\_\_, 20\_\_\_\_.
8. Pursuant to SDCL 25-5-18.1, the support obligation shall continue until each child attains the age of eighteen (18) or until each child attains the age of nineteen (19) if the child is a full time student in a secondary school.
9. The obligor's current or subsequent payor of income shall be immediately directed to withhold amounts for current support and arrearages as specified herein and as provided in SDCL 25-7A-23 and shall transmit said amount as provided in SDCL 25-7A-34.
10. Until otherwise notified by the Office of Child Support Enforcement all payments shall be made payable to "Office of Child Support Enforcement" and mailed to:

Office of Child Support Enforcement  
700 Governor's Drive  
Pierre, SD 57501-2291

11. Regarding health insurance:

Plaintiff / Defendant (*circle one*) shall obtain and/or maintain health insurance coverage for the minor child(ren) if available through employment or other group carrier at a reasonable cost. \_\_\_\_\_ shall notify the Department of Social Services of the insurance company name, address and policy number and the names of persons covered within thirty days of entry of the Judgment and Decree of Divorce and shall also notify the Department of any changes in coverage. \_\_\_\_\_ shall also provide \_\_\_\_\_ with a card or copy of the health insurance card setting forth the insurance company name, address and policy number and the names of persons covered within thirty days of entry of the Judgment and Decree of Divorce; or

The court finds that neither parent currently has medical insurance for the minor child(ren). Medical insurance shall be provided for the child(ren) by a parent if the insurance is accessible for the child(ren) and available to a parent at reasonable cost. SDCL 25-7-6.16. The cost shall be apportioned between the parents. Id. The parent providing medical insurance shall notify the Department of Social Services of the insurance company name, address and policy number and name of persons covered within 30 days and shall also notify the Department of any

changes in coverage. The parent providing medical insurance shall also provide the other parent with a card or copy of the health insurance card setting forth the insurance company name, address and policy number and the names of persons covered within thirty days.

12. The parties shall retain as their separate property all of the vehicles, personal clothing and effects, all household goods, appliances and such other items and personal property as are currently in their respective possessions, free and clear of any claim from the other.

In addition the Plaintiff shall exclusively receive, as their sole and separate property, the following: \_\_\_\_\_

\_\_\_\_\_ ; and

The Defendant shall exclusively receive, as their sole and separate property, the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

13. Retirement / Investment accounts shall be divided as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

14. Any encumbrances or debts relating to or accompanying an item of personal property shall be the sole responsibility of the party retaining such property.

The following debts shall be assumed and paid solely by Plaintiff:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ; and

The following debts shall be assumed and paid solely by Defendant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

All other debts shall be paid by the party incurring such debt.

15. Regarding alimony, the Court orders:

Neither party shall be given alimony or spousal support; or

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

16.  Plaintiff, born \_\_\_\_\_  Defendant, born \_\_\_\_\_ shall be restored to his/her former or maiden name of “\_\_\_\_\_” pursuant to SDCL 25-4-47 and shall be known hereafter as “\_\_\_\_\_”.

17. If required by the Court, the  Plaintiff  Defendant shall successfully complete the S.M.I.L.E. program within ninety days of signing this Judgment and Decree of Divorce and file a Certificate of Completion with the court.

18. Each party shall, at the request of the other, sign and deliver any such instruments (legal documents or papers) as may be required in order to carry out the intentions and provisions of this Judgment and Decree of Divorce. In the event either party shall fail to execute deeds, titles, or other documents of transfer as required by this Judgment and Decree of Divorce, this Judgment and Decree shall operate as an effective transfer of that party’s interest in said property as set forth herein.

19. Additional order(s):

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Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BY THE COURT:

ATTEST:

\_\_\_\_\_  
CIRCUIT COURT JUDGE

Clerk of Courts

By \_\_\_\_\_

(SEAL)