

# PLAINTIFF'S CHECKLIST FOR DIVORCE WITH MINOR CHILDREN

These forms are related to specific South Dakota Codified Laws (SDCL) concerning divorce matters. You can find these laws on the South Dakota Legislature website. If you have any legal questions, it is highly recommended that you consult with an attorney. Court staff are unable to provide legal advice or assist with form completion. For specific questions related to the forms, you can also contact the Legal Form Help Line at 1-855-784-0004 or email UJS staff at [ujssrlhelp@ujss.state.sd.us](mailto:ujssrlhelp@ujss.state.sd.us).

## **Before You Begin**

If you are the person starting the divorce, you are the Plaintiff on all forms. Your spouse will be referred to as the Defendant. This form serves as a simple checklist outlining the steps for the Plaintiff in a divorce proceeding. Each form mentioned in this checklist will include instructions.

If you have already received a Summons and Complaint, consult the Checklist for Divorce with Minor Children (Defendant's Checklist).

Divorce actions can only be filed in the county in which you or your spouse reside.

Remember that all original copies of any form must be filed with the Clerk of Court, who upon request will provide you with file stamped copies. Before submitting anything to a Sheriff, process server, or opposing party, make sure to retain a copy for your own records.

## **Starting a Divorce**

- ☐ Complete a Case Filing Statement (UJS-232) with both your demographic information and your spouse's demographic information. Your social security number and date of birth are required when filing a divorce action with children.
- ☐ Complete the Summons (with Minor Children) (UJS-311) and attach a copy of the current South Dakota Parenting Time Guidelines (UJS-302) to the back.
- ☐ Complete the Complaint (with Minor Children) (UJS-312).
- ☐ File the original copies of each of the forms listed above with the Clerk of Court along with the required \$97 filing fee.
  - ☐ **WAIVER OF FILING/SERVICE FEE** - If you cannot afford the \$97 filing and or service fee, please complete the Motion, Affidavit, and Order to Waive Filing Fee (UJS-022) and submit it with the above forms in lieu of the \$97.

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- ☐ Serve the Defendant with the Summons, attached South Dakota Parenting Time Guidelines, the Complaint, and a blank Case Filing Statement (UJS-232).
  - ☐ For more detailed instructions on how to serve the Defendant, please refer to the Instruction for Service of Summons and Complaint with Minor Children (UJS-317).
- ☐ File the proof of service with the Clerk of Court (ex. Sheriff Return, Certificate of Service, etc.)

**PLEASE NOTE: REGULAR OR CERTIFIED MAIL IS NOT CONSIDERED PROPER SERVICE**

### **South Dakota Parenting Course**

According to South Dakota law, all parties involved in an action related to child custody or parenting time, must complete a court-approved parenting course within sixty days of being served with the Summons and Complaint. Failure to comply may result in delays in finalizing the divorce proceedings.

1. **Course Requirement:** Both parents must complete the court-approved parenting course. The course aims to educate participants about the impact of divorce proceedings on children.
2. **Waiver or Delay:** Participation in the course can only be waived or delayed if:
  - a. Good cause is shown.
  - b. The individual has previously completed a court-approved course within the last five years.
3. **Requesting a Waiver:** If you believe you have good cause to waive the required parenting course, complete and file the Affidavit on Court-Approved Parenting Course (UJS-364) form and file the original with the Clerk of Court.
4. **Course Information:** For more details about court-approved parenting classes, visit the South Dakota Unified Judicial website:  
[https://ujs.sd.gov/Parenting\\_Education/Default.aspx](https://ujs.sd.gov/Parenting_Education/Default.aspx)

### **Stipulated Divorce**

If/When both parties come to an agreement regarding the terms and conditions of their divorce, it is referred to as a stipulated divorce. If such an agreement has been reached, both parties are required to complete and file the following forms:

- ☐ Complete the Financial Statement (UJS-023).
- ☐ Stipulation and Settlement Agreement with Minor Children (UJS-325). All pages must be initialed and signed by both parties.

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- ☐ Complete and attach child support calculation to your Stipulation Agreement. The Child Support Obligation calculator can be found at:  
<https://dss.sd.gov/childsupport/obligationsdetermined.aspx>
- ☐ Statement of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce (UJS-319B) will need to be signed by both parties.
- ☐ File the originals of the completed forms with the Clerk of Court.

### **Finalizing a Stipulated Divorce**

If both parties have signed the stipulation, the stipulation has been filed with the Clerk of Court, and the sixty-day waiting period has elapsed since the Defendant was served with the Summons and Complaint, you may proceed as follows:

- ☐ Complete form UJS/DSS-089 and file with the Clerk of Court.
- ☐ Complete the Judgment and Decree of Divorce Stipulation and Agreement with Children (UJS-326B): Fill out this form and either file the original with the Clerk of Court or bring it to your hearing if one is required. Carefully read the instructions and complete the form as directed. Please contact the Clerk of Court to determine whether a hearing is required.
  - ☐ Attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree to the Judgment and Decree of Divorce.
- ☐ Judgment and Decree of Divorce Signing: If granted, the Judge will sign the Judgment and Decree of Divorce.

### **Notice of Entry of Judgment and Decree of Divorce**

Once the Judge has signed the Judgment and Decree of Divorce, the Clerk of Court will provide you with signed certified copies. To finalize the process, follow these steps:

- ☐ Complete and File the Notice of Entry: You may obtain this form from the Clerk of Court. Depending on the county, either the Clerk of Court will complete the form for you or provide you with the form for completion. Check with the Clerk of Court in your county.
- ☐ Complete the Statement of Mailing: You may obtain this form from the Clerk of Court. Again, depending on the county, either the Clerk of Court will complete it or provide you with the form for completion. Check with the Clerk of Court in your county.
- ☐ File the originals of both the Notice of Entry and the Statement of Mailing with the Clerk of Court.

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- ☐ Mail a copy of the Notice of Entry, the Statement of Mailing, and the signed, certified copy of the Judgment and Decree of Divorce (UJS326B) to the opposing party.

**\*Steps under "Finalizing a Stipulated Divorce" can be completed by either party**

### **Default Divorce**

If it has been at least sixty days since the Defendant was served with the Summons and Complaint, and the Defendant has failed to file an Answer, you may request a Default Divorce by following these steps:

- ☐ Complete form UJS/DSS-089.
- ☐ Complete the Statement of Default (UJS-323A) along with the Application for Judgment and Decree of Divorce Default (UJS-323B).
- ☐ Complete the Statement of Military Status (UJS-306).
- ☐ Complete the Statement of Mailing (UJS-323D). Mark which forms are being mailed.
- ☐ File the originals of all documents with the Clerk of Court.
- ☐ Mail a copy of the above-listed forms to the opposing party.
- ☐ If a hearing is not required on your Application for Default Divorce, complete the Judgment and Decree of Divorce with Children (Default) (UJS-322B) and attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree. File the completed form with the Clerk of Court for the Judge to review.

### **Hearing on Default Divorce**

If a hearing on the Application for Default Divorce is required, you will need to complete the following steps as well:

- ☐ Complete the Notice of Hearing (UJS-323C). The Clerk of Court or Court Administration will provide you with a hearing date and time.
- ☐ Complete a Statement of Mailing (UJS-323D). Mark which forms are being mailed.
- ☐ File the originals with the Clerk of Court.
- ☐ Mail a copy of the documents to the Defendant.
  - ☐ Attend the hearing on the date and time that was provided to you for the Notice of Hearing. Bring a completed copy of the Judgment and Decree of Divorce with Children (Default) (UJS-322B) and attach SDCL 25-4A-5 Sanctions for Violation of Custody or Visitation Decree to the Default Judgment and Decree of Divorce for the Judge's review.

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## **Default Divorce Granted**

If the Court grants the Default Judgment of Divorce Decree, a signed, certified copy of the Judgment and Decree of Divorce (Default) will be provided to you, and you will need to do the following:

- ☐ Complete and File the Notice of Entry: You may obtain this form from the Clerk of Court. Depending on the county, either the Clerk will complete the form for you or provide you with the form for completion. Check with the Clerk of Court in your county.
- ☐ Complete the Statement of Mailing: You may obtain this form from the Clerk of Court. Again, depending on the county, either the Clerk will complete it or provide you with the form for completion. Check with the Clerk of Court in your county.
- ☐ File the originals of both the Notice of Entry and the Statement of Mailing with the Clerk of Court.
- ☐ Mail a copy of the Notice of Entry, the Statement of Mailing, and the signed, certified copy of Judgment and Decree of Divorce (Default) to the Defendant.

## **Dismissing the Divorce**

If the parties reconcile before the Judge grants the divorce, the divorce action may be dismissed. You will choose one of the following options:

- ☐ Stipulation and Order for Dismissal (UJS-328): Use this form if both parties agree to dismiss the divorce action and file the original with the Clerk of Court.
- ☐ Motion and Order for Dismissal (UJS-329): If the Plaintiff wishes to dismiss the action and the Defendant has not yet filed an Answer, this form should be used, and the original filed with the Clerk of Court.

## **Contested Divorce (The Parties cannot agree on some or all of the terms of the divorce)**

- ☐ If the parties cannot agree on the terms and conditions of the divorce, one party will have to request that a hearing, or trial, be scheduled.
- ☐ Contact the Clerk of Court or Court Administrator to obtain a court date.
- ☐ Complete a Notice of Hearing (UJS-336), available in the General Motions link on the UJS forms webpage, <https://ujs.sd.gov/self-help/pro-se->

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[forms/general-motion-forms/](#), and make two copies. File the original. Send one copy to the other party and keep a copy for yourself.

- ☐ Complete the Statement of Mailing (UJS-338), available at the General Motions link given immediately above. Make one copy for yourself and file the original.
- ☐ If the parties cannot reach an agreement, the Judge can order them both to mediation. A Court-approved mediator will help the parties mutually agree on the various issues in your divorce. Mediation is not binding, and the issues discussed in mediation are confidential.

**For more information on your case or to track events you may register as a user on eCourts, at: <https://ecourts.sd.gov/Account/Login.aspx?ReturnUrl=%2f>.**