

Filing a No Fault Divorce under §3301 (d) of the Divorce Code-Two Year Separation

Self Help-Northampton County Court of Common Pleas

FORMS PACKET

Divorce in Pennsylvania involves important legal rights involving money, property, and custody of children. The forms provided on this website are not appropriate for everyone. If you and/or your spouse have property, such as real estate, automobiles, life insurance, pension and retirement benefits, stocks, bank accounts, credit cards, mortgages, loans, or other assets and debts, you should seek the advice of an attorney. Marital property is all property acquired during marriage, regardless of whose name is on a title, policy, or account. **IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.**

State and Local Court Rules Must Be Followed.

-Pennsylvania Rules of Civil Procedure are available at
<http://www.pacode.com>

-Northampton County Rules are available at
<http://courtrules.northamptoncounty.org>

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
CIVIL DIVISION**

)	DOCKET NO.
Plaintiff)	
)	
vs.)	
)	IN DIVORCE
)	
Defendant)	

NOTICE TO DEFEND AND CLAIM RIGHTS

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree of divorce or annulment may be entered against you by the court. A judgment may also be entered against you for any other claim or relief requested in these papers by the plaintiff. You may lose, money, property or other rights important to you, including custody or visitation of your children.

When the ground for the divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary at the Northampton County Courthouse, 1st Floor, 669 Washington Street, Easton, Pennsylvania, 18042.

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE
155 SOUTH NINTH STREET
EASTON, PA 18042

(610)258-6333

**IN THE COURT OF COMMON PLEAS OF
NORTHAMPTON COUNTY, PENNSYLVANIA
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)	
)	DOCKET NO.
Plaintiff)	
)	
vs.)	
)	IN DIVORCE
)	
Defendant)	

**COMPLAINT IN DIVORCE
UNDER SECTION 3301(c) OR 3301 (d) OF THE DIVORCE CODE**

AND NOW, this _____ day of _____ 20____, comes
the Plaintiff _____, who files this Complaint
in Divorce a statement of which follows:

1. The Plaintiff, _____(name), is an adult
individual residing at _____(address)
_____(City), _____(State/Zip Code)
_____(County).

2. The Defendant, _____(name), is an adult
individual residing at _____(address)
_____(City), _____(State/Zip Code)
_____(County).

3. Plaintiff and Defendant have resided in the Commonwealth of

Pennsylvania for at least six (6) months immediately prior to the filing of this Complaint.

4. Plaintiff and Defendant were married on _____(date) in _____(city, state or county).

5. There have been no prior actions for divorce or annulment of the marriage between the parties in this or any other jurisdiction. Except _____

6. Plaintiff avers that the Defendant is not a member of the armed services of the United States and so the protections afforded under the Service members Civil Relief Act are not applicable.

7. Plaintiff has been advised of the availability of marriage counseling and that Plaintiff may have the right to request that the Court require the parties to participate in counseling. Plaintiff hereby waives whatever rights he/she may have to request marriage counseling.

8. _____Plaintiff avers that there are no children of the parties under the age of eighteen (18).

_____Plaintiff avers that there is/are child(ren) of the parties under the age of eighteen (18).

Name

Birthdate

9. Plaintiff avers that the marriage is irretrievably broken.

WHEREFORE, Plaintiff requests this Honorable Court to enter a Decree in Divorce upon the following grounds.

- A. Plaintiff avers that the marriage between the parties is irretrievably broken and believes that the Defendant will consent to the entry of a divorce decree under 23 Pa.C.S.A. §3301(c), after at least ninety (90) days have passed from the date of service of the within complaint.

OR

- B. Plaintiff avers that the marriage between the parties is irretrievably broken within the meaning of 23 Pa.C.S.A. §3301(d) of the Divorce Code, and the parties will have lived separate and apart for a period of at least two (2) years at the time of hearing of this matter and /or at the time that the Plaintiff will file and Affidavit under 23 Pa.C.S.A. §3301 (d) of the Divorce Code.

Print Name: _____

Signature: _____

Address:

Telephone: _____

VERIFICATION

I verify that the statements made in this Pleading are true and correct. I understand that false statements herein made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

(Plaintiff's Signature)

(Date)

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NOTICE TO DEFENDANT

If you wish to deny any of the statements set forth in this affidavit, you must file a counter affidavit within twenty (20) days after this affidavit has been served on you or the statements will be admitted.

**PLAINTIFF'S AFFIDAVIT UNDER SECTION 3301 (d) OF THE
DIVORCE CODE**

1. The parties to this action separated on _____(date), and have continued to live separate and apart for a period of at least two years.
2. The marriage is irretrievably broken.
3. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.

Dated: _____

(Plaintiff's Signature)

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AFFIDAVIT OF SERVICE

Attach the Domestic Return Receipt here
(green post card)
Defendant's signature and date of delivery side up.

EXHIBIT "A"

Date:

Enter Defendant's Name
Enter Defendant's Address

**RE: Notice of Intention to Request Divorce Decree and
Blank Copy of Counter Affidavit**

Dear Enter Defendant's Name:

Pursuant to divorce action (*Enter file Number*), enclosed is a time-stamped copy of the Plaintiff's **Notice of Intention to Request Divorce Decree** and a **blank copy of the Counter Affidavit** form required by Pa.R.C.P. 1920.42 (d)(1).

Sincerely,

Plaintiff's Signature
Print Plaintiff's Name

Enclosures to this letter:

1. Notice of Intention to Request Divorce Decree
2. Blank counter Affidavit

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**Counter-Affidavit Under
§3301(d) of the Divorce Code**

1. Check either (a) or (b):

_____ (a) I do not oppose the entry of a divorce decree.

_____ (b) I oppose the entry of a divorce decree because:

-Check (i), (ii) or both-

_____ (i) The parties to this action have not lived separate or apart for a period of at least two years.

_____ (ii) The marriage is not irretrievably broken.

2. Check either (a) or (b):

_____ (a) I do not wish to make any claims for economic relief. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

_____ (b) I wish to claim economic relief which may include alimony, division of property, lawyer's fees or expenses or other important rights.

I understand that in addition to check (b) above, I must also file all my economic claims with the Civil Division in writing and serve them on the other party. If I fail to do so before the date set forth on the Notice of Intention to Request Divorce Decree, the divorce decree may be entered without further delay.

I verify that the statements made in this Counter-affidavit are true and correct. I understand that false statements herein made subject to the penalties of Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

(Date)

(Defendant)

NOTICE: IF YOU DO NOT WISH TO OPPOSE THE ENTRY OF A DIVORCE DECREE AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU SHOULD NOT FILE THIS COUNTER-AFFIDAVIT.

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**NOTICE OF INTENTION TO REQUEST ENTRY
OF §3301 (d) DIVORCE DECREE**

TO: _____(Defendant's Name)

You have been sued in court in an action for divorce. You have failed to answer the complaint or file a counter-affidavit to the §3301(d) affidavit.

Therefore, on or after _____(enter 20 day calculated date) the other party can request the court to enter a final decree in divorce.

If you do not file with the Clerk of Courts-Civil Division an answer with your signature notarized or verified or a counter-affidavit by the above date, the court can enter a final decree in divorce. A counter-affidavit which you may file with the Clerk of Courts-Civil Division is attached to this notice.

Unless you have already filed with the court a written claim for economic relief, you must do so by the above date or the court may grant the divorce and you will lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

You should take this paper to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer. If you cannot afford to hire a lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee.

ATTORNEY REFERRAL & INFORMATION SERVICES

155 SOUTH NINTH STREET

EASTON, PA 18042-4399

TELEPHONE: 610-258-6333

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CERTIFICATION OF SERVICE

I, _____, certify that I have served a copy of the attached Notice of Intention to Request Divorce Decree and a blank copy of the Counter Affidavit under §3301(d) in the above-captioned matter to:

on _____ (date) by First Class United States Mail.

(Date)

(Signature)

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PRAECIPE TO TRANSMIT RECORD

To The Clerk of Courts-Civil Division

Transmit the record, together with the following information, to the court for entry of a divorce decree:

1. Ground for divorce: irretrievable breakdown under _____§3301(c) or _____§3301(d) of the Divorce Code.

2. Date and Manner of Service of the Complaint and Notice to Defendant to Claim Rights:

Date of Service:

Manner of Service:

3. Execution of required affidavits. Complete either (a) or (b):

_____(a) §3301(c) of the Divorce Code:

Date of execution of the affidavits of consent:

Date Affidavit of consent was signed by plaintiff:

Date Affidavit of consent was signed by defendant:

_____ (b) §3301(d) of the Divorce Code:

(1) Date of execution of the Notice to Defendant-Plaintiff's Affidavit under §3301(d):

(2) Date of filing of the Notice to Defendant-Plaintiff's Affidavit Under §3301(d):

(3) Date of service of the Notice to Defendant-Plaintiff's Affidavit under §3301(d):

- 4. Related claims pending: None
- 5. Waiver of Notice/Notice of Intention. Complete either (a) or (b).

_____ (a) §3301(c) of the Divorce Code:

(1) Date plaintiff's Waiver of Notice was filed with the Civil Division:

(2) Date defendant's Waiver of Notice was filed with the Civil Division:

_____ (b) §3301(d) of the Divorce Code:

Notice of Intention to request Divorce Decree and blank copy of Counter Affidavit, a copy of which is attached:

Date of Service:

Manner of Service:

(Plaintiff) or (Defendant)

Print Name

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DECREE

AND NOW, this _____ day of _____, 20____, it is
Ordered and decreed that Plaintiff _____(name)
and Defendant _____(name), are divorced
from the bonds of matrimony.

The Court retains jurisdiction of any claims raised by the parties to this
action for which a final order has not yet been entered.

Any existing spousal support order shall hereafter be deemed an order for
alimony pendente lite if any economic claims remain pending.

J.