

## 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):

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

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- 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:

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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

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

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

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- Furniture (list or attach list):

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Bank accounts and investments (list or attach list)

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Other:

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8.

**Joint Debts (Check a or b)**

- a) Defendant and I have no joint outstanding debts.
- b) Defendant and I have the following debts. I have indicated which party should be responsible for each debt. The responsible party will indemnify and hold harmless the non-responsible party for any collection on these obligations.

Creditor	Amount	Responsible Party

9.

**Alimony (Check a, b or c)**

- a) I am seeking temporary alimony which will last until \_\_\_\_\_.
- I did not engage in adultery, desertion, cruel treatment, or other fault grounds for divorce.

- b) I am seeking temporary and permanent alimony which will last until my spouse or I should die. I did not engage in adultery, desertion, cruel treatment, or other fault grounds for divorce.
- c) I voluntarily waive alimony for the past, present, and future.

10.

**Minor Children of the Marriage**

- a) There are no minor children born of the marriage and the wife is not now pregnant.

THEREFORE, Plaintiff requests:

- (a) that process issue and Defendant be served with a copy of Plaintiff’s Summons and Complaint For Separate Maintenance;
- (b) that s/he be awarded separate maintenance from Defendant;
- (c) That (he) (she) be awarded temporary and permanent alimony for the support of (himself) (herself) during the term of separation;
- (d) That the property owned by the Defendant in this state and county be set aside to (him) (her), to be used for (his) (her) support;
- (e) that Plaintiff have the continued and exclusive use and possession of the marital residence;
- (f) 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;
- (g) that Plaintiff have the continued exclusive use and possession of the family personalty located in the marital residence;
- (h) that the court determine ownership of all other tangible personal property of the parties, for either of them, and order a partition or sale in lieu of partition of all jointly owned such property, and a division of the proceeds;
- (i) that Defendant be ordered to pay Plaintiff’s reasonable attorney’s fees and expenses of litigation for representation of her interest during the court of this proceeding;
- (j) that Plaintiff have such other and further relief as the court may deem equitable or appropriate;
- (k) that Rule Nisi issue requiring Defendant to show cause why the temporary relief requested by Plaintiff should not be granted.

Respectfully submitted,

\_\_\_\_\_   
 Plaintiff *pro se*

Address \_\_\_\_\_

Phone number \_\_\_\_\_



**IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA**

\_\_\_\_\_, )  
 )  
Plaintiff, )  
 )  
v. ) Civil Action No. \_\_\_\_\_  
 )  
\_\_\_\_\_, )  
 )  
Defendant. )

**ACKNOWLEDGMENT OF SERVICE AND SUMMONS**

The undersigned Defendant hereby acknowledges service of the above Summons and Complaint for Separate Maintenance and states that he/she has received a copy of said Complaint, and Defendant hereby waives any further service of process.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Defendant *pro se*

Sworn to and subscribed before me

this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Georgia

My Commission Expires: \_\_\_\_\_





**IN THE SUPERIOR COURT OF \_\_\_\_\_ 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, Superior Courts  
\_\_\_\_\_  
Judicial Circuit

**IN THE SUPERIOR COURT OF \_\_\_\_\_ 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 \_\_\_\_\_, 20 \_\_\_\_\_.

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

**IN THE SUPERIOR COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA**

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

**SETTLEMENT AGREEMENT**

This is an agreement by and between \_\_\_\_\_ (hereinafter referred to as “Wife”) and \_\_\_\_\_ (hereinafter referred to as “Husband”).

WHEREAS, the parties are married but are currently living in a bona fide state of separation;

WHEREAS, the parties desire to settle between themselves all questions of division of property, alimony, and all other rights and obligations arising out of their marital relationship;

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

1.

**Separation**

The parties shall continue to live separate and apart and each shall be free from interference, molestation, authority and control, direct or indirect, by the other as fully as if sole and unmarried, and each may reside at such place or places as he or she may select.

2.

**Alimony (Choose a or b)**

a) The  Husband/  Wife shall pay to the  Husband/  Wife as alimony the sum of \$\_\_\_\_\_ per week/month, to be paid beginning on \_\_\_\_\_ and to continue thereafter until the  Husband/  Wife remarries or dies.

b) The parties hereby expressly waive alimony for the past, present and future.

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:

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2) To the Husband:

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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 \_\_\_\_\_ 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.

FUTHER ORDERED that each party is hereby restrained and enjoined from molestating or harassing the other party.

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
JUDGE, Superior Courts  
\_\_\_\_\_Judicial Circuit