

3301 (C) DIVORCE PACKET

Please read all of the information contained in this packet before you start filling out the forms.

This packet does not constitute legal advice. If you have questions about this process, you should seek the advice of an attorney. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents.

We encourage you to contact an attorney to advise you in this matter. If you cannot afford an attorney, you may contact Neighborhood Legal Services at 1-866-761-6572 or online at www.nlsa.us.

This packet is for filing for a consented-to divorce (when both parties agree to the divorce). This packet cannot be used if you or your spouse want to include custody in the divorce. You must file a separate custody action using Butler County's Custody Complaint packet.

If the Defendant does not consent or agree to the divorce, we recommend you seek the advice of an attorney, or you may do your own research on proceeding with your divorce. There is a law library on the 3rd Floor of the Butler County Government Center and also, helpful information available for self-represented litigants including forms on www.pacourts.us/learn/representing-yourself/divorce-proceedings

GENERAL INSTRUCTIONS:

1. When filling out these forms, please write as **CLEARLY** and **NEATLY** as possible, preferably using blue ink.
2. Fill out these forms to the best of your ability, completing every line that applies. DO NOT LEAVE ANY LINES BLANK, unless otherwise instructed. Use "NONE" or "0" if necessary. Do not use N/A anywhere on the forms.
3. The caption is the parties' names and the case number. Since you are filing the Complaint, you are the "Plaintiff" in the caption, and the other party is the "Defendant."
4. Be sure the caption is filled out exactly the same on all forms. The Plaintiff and the Defendant lines should always have the same names in the same place on each form.
5. Fill out the "Notice to Defend and Claim Rights" and the entire "Complaint for Divorce."
6. Make two (2) copies of the "Notice to Defend and Claim Rights" and the "Complaint for Divorce." You can make these copies yourself or pay for the copies at the County Law Library or the Prothonotary's Office.
7. Take the original documents and the two (2) copies to the Prothonotary's Office on the 1st Floor of the Butler County Government Center and file them. One of these copies is for your records. You are responsible for serving the other copy on the Defendant.

Checklist for your personal use only – not to be filed

This checklist will be helpful for when you are completing the necessary steps in your divorce case. Please keep track of your dates with this checklist. You will need the information to finish your divorce.

***** This checklist is for your personal use. DO NOT FILE this checklist *****

Plaintiff's Name: _____

Defendant's Name: _____

Docket Number (assigned by the Prothonotary's Office): _____

Date Divorce Complaint filed: _____

Date In Forma Pauperis (if applicable) filed: _____

Date Divorce Complaint served on the other party: _____

Manner in which Divorce Complaint was served: _____

The documents listed below **CANNOT BE** dated, signed or filed until after 90 calendar days have passed from the date of service on the Defendant.

Date Plaintiff's Affidavit of Consent was signed _____ and filed _____

Date Defendant's Affidavit of Consent was signed _____ and filed _____

Date Plaintiff's Waiver of Notice was signed _____ and filed _____

Date Defendant's Waiver of Notice was signed _____ and filed _____

Date Praeclipe to Transmit the Record was filed: _____

Date final Divorce decree was granted/denied: _____

***** This checklist is for your personal use. DO NOT FILE this checklist *****

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL ACTION

PLAINTIFF

vs.

Case No. _____

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 or 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 _____

(Room Number - Address)

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.

Office of Prothonotary, Butler County, Butler County Government Center, 124 West

Diamond Street, Butler, PA 16001 (724) 284-5214

Butler County Bar Association, 240 S. Main Street, Butler, PA 16001 724-841-0130

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
CIVIL ACTION

PLAINTIFF _____

vs.

Case No. _____

IN DIVORCE

DEFENDANT _____

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

1. Plaintiff is _____ (Name), who currently resides at _____ (Street Address),
_____ (City), _____ (County), _____ Zip Code
_____ (State), since _____ (Date).
2. Defendant is _____ (Name), who currently resides at _____ (Street Address),
_____ (City), _____ (County), _____ Zip Code
_____ (State), since _____ (Date).
3. Plaintiff and/or Defendant has/have been a bona fide resident(s) in the Commonwealth
for at least six months immediately previous to the filing of this Complaint
4. The plaintiff and defendant were married on _____ (Date) at
_____ (City) _____ (State/County).
5. There have been no prior actions of divorce or for annulment between the parties, except

6. The marriage is irretrievably broken.

7. Plaintiff has been advised that counseling is available and that Plaintiff may have the right to request that the Court require the parties to participate in counseling.

8. Plaintiff requests that the Court enter a decree of divorce.

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

Respectfully submitted,

Date: _____

Plaintiff's Signature

Plaintiff's Name

Street Address

City, State and Zip

Telephone

SERVICE OF THE COMPLAINT

After filing the "Notice to Defend and Claim Rights" and the "Complaint for Divorce" in the Prothonotary's Office, these documents must be served on the other party within 30 days of the date they were filed. This is the time-stamped date on the documents. If the other party does not live in Pennsylvania, the time requirement is extended to 90 calendar days. If service is not completed within 30 days of the date of filing, the Complaint must be reinstated using a Praecept to Reinstate (fee applies) and re-served on the Defendant. Service of the "Notice to Defend and Claim Rights" and the "Complaint for Divorce" must be made either by Personal Service by Acceptance of Service (see form attached) or Affidavit of Personal Service (see form attached) or by regular and certified mail return receipt requested, restricted delivery (see form attached).

How to complete service: Decide how you are going to serve the other party. Next, determine which form you will need. Then, fill in the caption exactly as it appears on the Notice to Defend and Divorce Complaint and follow the following instructions:

Acceptance of Service - Give the other party the Notice to Defend and Divorce Complaint.

After being given the Notice to Defend and Divorce Complaint, the other party signs the Acceptance of Service (form attached) stating that he/she has received a copy of the Notice to Defend and Divorce Complaint.

-OR-

Personal Service – An adult other than you, a relative or friend of yours (such as the Sheriff or any reliable third party) may personally hand the Notice to Defend and Divorce Complaint to the other party. The person who hands the papers to your spouse must sign a completed Affidavit of Service by Personal Service (form attached).

-OR-

Service by Mail – Mail the Notice to Defend and Divorce Complaint to the other party by regular and certified mail, return receipt requested, restricted delivery. The Post Office can assist you in mailing a document by certified mail. You must complete the Affidavit of Service by Mail (form attached) stating that you have mailed your spouse the required forms by certified mail. You must also attach the green card receipt received from the Post Office. Make a photocopy of this green card for your records and file the original by attaching it to the Affidavit of Service by Mail form. If the certified mail is returned unclaimed, another form of service must be used.

IN THE COURT OF COMMON PLEAS OF Butler COUNTY, PENNSYLVANIA
CIVIL ACTION

Plaintiff

vs.

No. _____

Defendant

ACCEPTANCE OF SERVICE

I accept service of the:

- Divorce:** Divorce Complaint, Notice to Defend and Claim Rights, and Notice of Availability of Counseling
- Custody:** Custody Complaint, Notice to Defend, and Criminal Record / Abuse History Verification

Date: _____

Defendant's Signature

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA
CIVIL ACTION

Plaintiff _____

vs. _____
No. _____

Defendant _____

AFFIDAVIT OF SERVICE BY PERSONAL SERVICE
Pursuant to 1930.4

I, _____, hereby depose and say that I am 18 years or older, and am not a party to the action, nor an employee or a relative of a party.

On _____ I personally served the defendant by handing to him or her a:

- Complaint in Divorce, Notice to Defend and Claim Rights, and Notice of availability of Counseling,
- Custody Complaint, Notice to Defend, and blank Criminal Record / Abuse History.

I verify that the statements in this document are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Respectfully Submitted,

Date: _____

Signature of Person who Served Defendant
(not Plaintiff)

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

CIVIL ACTION

Plaintiff

vs.

No. _____

Defendant

AFFIDAVIT OF SERVICE BY MAIL
Pursuant to Pa. R.C.P. 1930.4

1. On _____, (date documents mailed) I _____, Plaintiff in the within action, mailed a copy of the:
 - Divorce:** Divorce Complaint, Notice to Defend and Claim Rights, and Notice of Availability of Counseling
 - Custody:** Custody Complaint, Notice to Defend, and Criminal Record / Abuse History Verificationto the Defendant by Certified Mail, Return Receipt Requested, Deliver to Addressee Only and regular mail, at Defendant's last known address, as indicated on the attached mailing receipt.
2. On _____, (date of defendant's signature on green return card), Defendant received the aforesaid Complaint. The mailing receipt and return receipt card evidencing the same are attached hereto and made a part hereof.

I verify that the statements in this document are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Respectfully Submitted,

Date: _____

Plaintiff's Signature

AFTER you have completed one of the above forms, (whichever method you chose to serve the other party), make one copy for your records.

Take the original and the copy to the Prothonotary's Office to be time-stamped and filed. The original will stay in the file in the Prothonotary's Office, and the copy will be returned to you for your records.

If you are having trouble completing service, you may file a Praecept to Reinstate the Complaint, as many times as you need. There is a fee for this. The clock starts from the day it is time-stamped in the Prothonotary's Office. If you continue to have problems completing service, it is recommended that you speak to an attorney. You may not proceed further until proper service has been made.

Instructions for Completing a Divorce by Agreement of All Parties

After you serve the Defendant with the Notice to Defend and Divorce Complaint, you **MUST WAIT** 90 calendar days before you can move to the next step in your case. The date the Defendant is served is Day 1 of 90 calendar days.

1. **After the 90 day waiting period** has passed, the Plaintiff and Defendant both need to complete the forms "Affidavit of Consent" and "Waiver of Notice" to show that they both consent to the divorce. **Do not date or sign these** forms until you are ready to file everything after the 90 days has passed. The date on the forms **MUST** be within 30 days of the date on which you file these forms at the Prothonotary.
2. The Plaintiff should fill out the "Praecept to Transmit Record." This cannot be completed until both parties have filed their "Affidavit of Consent" and "Waiver of Notice" forms. You will need these dates to complete the "Praecept to Transmit Record." Make a copy for your records and take the original to the Prothonotary's Office to be time-stamped and filed.
3. Both parties will receive a divorce decree in the mail or a notification from the Court explaining why the divorce wasn't finalized so you can correct the error.

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

PLAINTIFF : Case No. _____
vs. : IN DIVORCE
DEFENDANT :
:

AFFIDAVIT OF CONSENT

1. A Complaint in divorce under Section 3301(c) of the Divorce Code was filed on _____ and served on the defendant on _____
(Date) (Date)
2. The marriage of plaintiff and defendant is irretrievably broken and 90 days have elapsed from the date of filing and service of the Complaint.
3. I consent to the entry of a final decree of divorce after service of the Notice of Intention to File Praecipe to Transmit Record.

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. § 4904 relating to unsworn falsification to authorities.

Date: _____
(PLAINTIFF) (DEFENDANT)

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

_____, : Case No. _____
PLAINTIFF : IN DIVORCE
vs. :
_____, :
DEFENDANT :
_____, :

AFFIDAVIT OF CONSENT

1. A Complaint in divorce under Section 3301(c) of the Divorce Code was filed on _____ and served on the defendant on _____.
(Date) (Date)
2. The marriage of plaintiff and defendant is irretrievably broken and 90 days have elapsed from the date of filing and service of the Complaint.
3. I consent to the entry of a final decree of divorce after service of the Notice of Intention to File Praecipe to Transmit Record.

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. § 4904 relating to unsworn falsification to authorities.

Date: _____

(PLAINTIFF) (DEFENDANT)

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

PLAINTIFF : Case No. _____
VS. : IN DIVORCE
DEFENDANT

**WAIVER OF NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT
RECORD**

1. Without further notice, I consent to the entry of:
 - a final decree of divorce; or
 - an order approving grounds for divorce.
2. I understand that I may lose rights concerning alimony, equitable division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.
3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed.

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. § 4904 relating to unsworn falsification to authorities.

Date: _____ (PLAINTIFF) (DEFENDANT)

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

PLAINTIFF : Case No. _____
vs. : IN DIVORCE
DEFENDANT : ,

**WAIVER OF NOTICE OF INTENTION TO FILE THE PRAECIPE TO TRANSMIT
RECORD**

1. Without further notice, I consent to the entry of:
 - a final decree of divorce; or
 - an order approving grounds for divorce.
2. I understand that I may lose rights concerning alimony, equitable division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.
3. I understand that I will not be divorced until a divorce decree is entered by the Court and that a copy of the decree will be sent to me immediately after it is filed.

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. § 4904 relating to unsworn falsification to authorities.

Date: _____ (PLAINTIFF) (DEFENDANT)

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

PLAINTIFF : Case No. _____
vs. : IN DIVORCE
DEFENDANT :

PRAECIPE TO TRANSMIT RECORD

To the Prothonotary:

Transmit the record, together with the following information, to the court for entry of (check one of the following):

- a divorce decree;
- a divorce decree with marital settlement agreement attached;
- a bifurcated divorce decree with the Court retaining jurisdiction over unresolved ancillary claims; or
- an order approving grounds for divorce with the Court retaining jurisdiction over unresolved ancillary claims.

1. Check the applicable section of the Divorce Code.

Grounds for divorce: irretrievable breakdown under:

- Section 3301(c)(1)
- Section 3301(c)(2)
- Section 3301(d)

2. Service of the Complaint:

(a) Date served: _____

(b) Manner of service: _____

3. Complete either paragraph (a) or (b).

(a) **Section 3301(c)(1) or (2) of the Divorce Code** - Insert the date each party signed the Affidavit of Consent, and if the ground for divorce is under Section 3301(c)(2) of the Divorce Code, insert the date the spouse was convicted of the personal injury crime identified in 23 Pa.C.S. § 3103 next to the appropriate party and complete (1) and (2).

Plaintiff: _____;

Defendant: _____.

(1) The date the party signed the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code _____;

(2) The date of filing and manner of service of the Affidavit to Establish Presumption of Consent under Section 3301(c)(2) of the Divorce Code and a blank Counter-Affidavit under Section 3301(c)(2) upon the other party _____

(b) **Section 3301(d) of the Divorce Code:**

(1) The date the Affidavit under Section 3301(d) of the Divorce Code was signed: _____;

(2) Date of filing and manner of service of the Affidavit under Section 3301(d) of the Divorce Code and blank Counter-Affidavit under Section 3301(d) of the Divorce Code upon the other party: _____

4. Related ancillary claims pending: _____.

5. Complete either (a) or (b).

(a) Notice of Intention to File the Praeclipe to Transmit Record:

(1) Date served: _____.

(2) Manner of service: _____.

(b) The date of filing of the party's Waiver of Notice of Intention to File the Praeclipe to Transmit Record:

(1) Plaintiff's Waiver: _____

(2) Defendant's Waiver: _____

(Attorney for)(PLAINTIFF)(DEFENDANT)