

## **Instructions for Complaint (Without Minor Children) & Form**

**A Complaint is required to begin a divorce action. It tells your spouse (and the court) what you are asking for and why. This is merely the start of your divorce action. Please note that you are not divorced until a Judgment and Decree of Divorce has been signed by the Judge and filed with the Clerk of Court.**

- **Complete this form in black ink only!**
- This is a 3 page form. 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.
- Answer or complete the paragraphs within the Complaint.
- Paragraphs 1 – 6 are self-explanatory.
- Paragraph No. 7: The primary reason for a divorce, in uncontested situations, is irreconcilable differences (no fault by either party). However, you may want to select an alternative reason in addition to irreconcilable differences. You are not, however, required to do so.
  - **Please understand that seeking a divorce primarily on the grounds other than irreconcilable differences is likely to result in a contested divorce which is both costly and complex. In those circumstances, you are strongly advised to meet with and hire an attorney to fully protect your interests.**
- Paragraph 9: Check “yes” if you have marital property and debts that need to be divided between of you. Check “no” if you did not acquire any marital property or debt during your marriage.
- Paragraph 10: Check whether you are seeking alimony.

### **In the “Prayer for Relief” (the Section starting with “Wherefore”):**

Review the paragraphs in this section. This is the section where you are telling the Court what you want. You do not need to do anything unless one of the parties is seeking to have a former name restored, which is in Paragraph 3.

Paragraph 1: You do not need to write anything. This paragraph tells the court that you are asking for a divorce from your spouse.

Paragraph 2: You do not need to write anything. This paragraph tells the court that you are asking the court to equitably divide your property and debts.

Paragraph 3: Indicate if either party wishes to have his/her former last name restored. Circle which party wants their former name restored. Enter the first, middle and last name (former name) of that party. Insert that party's date of birth.

Paragraph 4-5: You do not need to write anything. These paragraphs tell the court that you are requesting the additional relief requested in your Complaint as well as any other relief that is equitable and just.

- **You must sign and date the Complaint in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

**Verification Section:**

- **Although this section needs to be completed, do not fill out the verification until you are in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**

**WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be charged with a crime for not telling the truth.**

- Make at least two photocopies of the signed Complaint with Minor Children; one for you and one to be served on your spouse. The original copy must be filed with the Clerk of Courts.

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

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

---

<p>_____, Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>_____, Defendant</p>	<p>DIV _____</p> <p style="text-align: center;"><b>COMPLAINT (WITHOUT MINOR CHILDREN)</b></p>
---	---

---

1. Plaintiff's full legal name is \_\_\_\_\_ and his/her date of birth is \_\_\_\_\_.
2. Plaintiff is a resident of \_\_\_\_\_ County, State of \_\_\_\_\_.
3. Defendant's full legal name is \_\_\_\_\_ and his/her date of birth is \_\_\_\_\_.
4. Defendant is a resident of \_\_\_\_\_ County, State of \_\_\_\_\_.
5. Plaintiff and Defendant were married on \_\_\_\_\_ (date) in \_\_\_\_\_ (city and state). If the parties are living apart, the date upon which they began to do so is \_\_\_\_\_.
6. Is Plaintiff an active duty member of the armed forces? Yes \_\_\_\_\_  
No \_\_\_\_\_  
  
Is Defendant an active duty member of the armed forces? Yes \_\_\_\_\_  
No \_\_\_\_\_
7. Irreconcilable differences have arisen between the Plaintiff and Defendant which necessitates the dissolution of the marriage. Alternatively further grounds for dissolution of marriage exist under SDCL 25-4-2, subsection:  
  - \_\_\_ (1) Adultery;
  - \_\_\_ (2) Extreme cruelty;
  - \_\_\_ (3) Willful desertion;
  - \_\_\_ (4) Willful neglect;
  - \_\_\_ (5) Habitual intemperance; or
  - \_\_\_ (6) Conviction of felony.

8. We do not have any children which have been born to or adopted by the parties. The Wife is not pregnant.
9. The parties have accumulated property and/or debts during the course of the marriage which must be equitably divided. Yes \_\_\_\_\_ No \_\_\_\_\_
10. Plaintiff seeks spousal support (alimony). Yes \_\_\_\_\_ No \_\_\_\_\_

**WHEREFORE,** Plaintiff prays for Judgment as follows:

1. For a Judgment and Decree of Divorce dissolving the marriage of the parties;
2. For an equitable division of the marital property and debts;
3. That Plaintiff's / Defendant's (*circle one*) last name be restored to:  
 \_\_\_\_\_ . Date of birth: \_\_\_\_\_;
4. For alimony, if requested above; and
5. For such other and further relief as may be equitable and just.

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

\_\_\_\_\_  
 Plaintiff's Signature

\_\_\_\_\_  
 Print Plaintiff's name

\_\_\_\_\_  
 Mailing Address

\_\_\_\_\_  
 City/State/Zip

\_\_\_\_\_  
 Phone Number

