

Hall County Simple Divorce

This packet may be used ONLY if the parties:

- (1) Have no minor children together and none are expected; AND
- (2) Have no property left to divide (no real estate, vehicles, personal items, bank accounts, or other property/assets still in both parties names or to be exchanged) and the parties already live separate or will be living separate at the time an agreement is signed); AND
- (3) Have no joint or marital debt to divide; AND
- (4) Are willing to sign a formal, written agreement with a notary and waive the right to formal service by the sheriff in writing.

Do NOT use this packet if you believe your spouse may need to be served.

Use these forms at your own risk

In no event will the Court Administrator, Clerk of Court, Family Law Information Center (FLIC) staff or anyone distributing or contributing to the development of these forms or instructions be liable for any damages resulting from the use of this packet. These forms may not be appropriate for your particular case. In addition, due to the changing nature of the law, the information in these instructions and forms may be outdated. You should review any statutes (laws) or rules mentioned in this packet to make sure the forms are current. Ask the advice of a lawyer to protect your legal rights. State law, O.C.G.A. § 15-19-51, prohibits court personnel (including staff attorneys or law clerks, calendar clerks, clerk's office staff and sheriff's department staff) from giving legal advice or answering legal questions.

****Mandatory electronic filing effective October 1, 2022****

Visit www.nejc.org/familylaw for more information.

See next page for Family Law Information Center services and hours of operation.

What services are available?

The Family Law Information Center (FLIC) offers limited help to residents of Hall or Dawson County or people who are eligible to file in Hall or Dawson County (specific types of cases). Free attorney consultations are also available for people who qualify.

Website/Forms:	www.nejc.org/familylaw
Hours:	8 - 5, Monday through Friday (<i>closed</i> Friday 11:30 AM - 12:30 PM)
Location:	Hall County Courthouse, 3 rd floor (1 st office on the right)
Phone:	770 531-2463
Email:	nejcflic@hallcounty.org
Appointments:	Complete the enclosed <i>Appointment Request Form</i> and deliver it to FLIC by email or in person

Will this packet work for you?

This packet is for someone filing an unrepresented divorce in **Hall County**, who has no **minor children** with his/her spouse, has divided everything from the marriage and believes both parties will sign a formal agreement with a notary. If you and your spouse have minor children together, use the *Divorce with Children* packet available in the Clerk's office or on the FLIC website.

Filling out divorce paperwork is extremely complicated. If you fill the forms out incorrectly or leave them incomplete, it can put your rights and your case at risk.

This packet does not cover every legal issue that may come up in a divorce. There may be better ways to handle your case than using these forms. There are often more issues than you realize.

Even if you have an agreement with your spouse, to protect your legal rights, speak with an attorney experienced in domestic relations (family) law before signing or filing any documents. **The instructions for this packet are no substitute for the advice and help of a lawyer.**

You may *especially* need to hire an attorney to represent you if:

- The case is contested OR an attorney represents your spouse.
- You are a victim of family violence by your spouse.
- You have had children with someone other than your spouse during the marriage.
- You are unable to locate your spouse.
- You and/or your spouse have military benefits.
- You and/or your spouse have a house, pension, 401(k), business or large amount of property or income to divide.
- You think you will have a hard time getting financial information from your spouse.
- You have pending criminal charges or a protection order against you.

Basic Steps - Checklist

Your case may require different or additional steps.

- ☐ Make an appointment with FLIC. Hall County Superior Courts require that you have your forms reviewed by FLIC before they will assign you a court date, with limited exceptions. It is therefore best to schedule an appointment with FLIC *before* filing to make sure you have your documents in order and to avoid delay. FLIC help is free.
- ☐ Carefully read these instructions and complete the forms in the packet, but don't *sign* your forms before your FLIC appointment. You can have them notarized at FLIC free of charge. If you show up for your appointment without filling out your forms, you will be asked to reschedule.
- ☐ Register for PeachCourt at www.peachcourt.com. E-filing is mandatory as of October 1, 2022.
- ☐ Come to your FLIC appointment with: 1) your paperwork, 2) your court fees (if you plan to file that day), 3) valid photo ID for notarizing and 4) a USB drive, if possible. FLIC can scan your documents for e-filing if you bring a USB drive. At FLIC you will receive a detailed checklist and instructions for requesting a court date. Some cases do not require formal hearings. See FLIC for details.
- ☐ Electronically file your paperwork using PeachCourt. FLIC has detailed e-filing instructions to guide you, whether you e-file from your home PC or at the courthouse. The Clerk's office has a free PeachCourt public access terminal (PAT). Filing fees still apply.
- ☐ Prepare for and attend your hearing. Or, if your case does not require a hearing (*Divorce by Verified Petition*), follow any additional instructions given to you by FLIC.
- ☐ File your *Final Judgment and Decree of Divorce* with the *General Civil and Domestic Relations Case Disposition Information Form*.

Forms List

Your case may require different or additional forms.

- ☐ *Petition for Divorce*
- ☐ *Verification*
- ☐ *Domestic Relations Standing Order and Certificate of Service or Inclusion*
- ☐ *General Civil and Domestic Relations Case Filing Information Form*
- ☐ *State of Georgia Report of Divorce, Annulment or Dissolution of Marriage*
- ☐ *Acknowledgment of Service*
- ☐ *Settlement Agreement*
- ☐ *Agreement to Try* (optional – see FLIC)
- ☐ *Proposed Rule Nisi* (to request a court date)

Forms to Finish your Case

- ☐ *General Civil & Domestic Relations Case Disposition Information Form*
- ☐ *Final Judgment and Decree of Divorce*

Filing and service fees

Call FLIC or the Clerk of Court at (770) 503-3217 for current filing and service fees.

Poverty Affidavit: If you have very little income, and feel you cannot afford to pay the filing and service fees, you can ask the Court to waive the fees. See FLIC for more information.

Introduction to Divorce Laws and Rules

In Georgia, if you want to end your marriage, you must file a petition for divorce in the Superior Court. There are two options available for filing a divorce case: (1) you can hire a lawyer who will prepare your paperwork and represent you in court; or (2) you can use the forms included in this packet and represent yourself in court. After a court grants your divorce and issues a final judgment and decree of divorce, you will be legally able to remarry.

Finding laws and rules

“O.C.G.A.,” followed by a symbol (“§”) and number, refers to a specific section (“§”) in the Official Code of Georgia Annotated (O.C.G.A.). The unannotated Georgia Code is available on the Georgia General Assembly’s website at: www.legis.state.ga.us.

Georgia’s “Domestic Relations” statutes are in Title 19 (starting with 19-1-1). A divorce is a domestic relations case. Georgia’s “Civil Practice” statutes are in Title 9. The Georgia Constitution has terms for where to file a divorce in Article 6, Section 2 (Venue), Paragraph I (Divorce). GA CONST Art. 6, § 2, ¶ I. Much of Georgia’s law that applies to divorce cases also comes from Court decisions (case law).

“USCR,” followed by a number, refers to a specific rule in the Uniform Superior Court Rules (USCR). USCR 24.1 through 24.12 include several rules that apply in domestic relations cases. The Uniform Superior Court Rules are available at <https://www.gasupreme.us/rules/> (under “Superior Court”).

Hall County has a *Domestic Relations Standing Order* that applies to all domestic relations cases and includes specific local rules and procedures. It must be filed in this case and you must serve a copy on the other party.

Want to finish your case without a formal hearing?

If you have a signed *Settlement Agreement* (with all the proper legal forms attached) and there are no complicated issues in your case, it may be possible to finish your case without a hearing. There are more steps and paperwork involved. See FLIC for details about the *Divorce by Verified Petition* process and forms.

Detailed Instructions for Completing the Forms in this Packet

Step 1: Complete the *Petition for Divorce*

➤ Caption (Heading)

Fill in your full name as the Petitioner, and your spouse's full name as the Respondent. Do not fill in the "Civil Action File No." The clerk will assign a number to your case when you file your *Petition* in the Clerk's office. After completing the heading, write your full name again in the space provided just before Paragraph 1.

➤ Paragraph 1: Subject Matter Jurisdiction

CHECK ONLY ONE BOX

Check box "(a)" if you have been a resident of the State of Georgia for at least six (6) months immediately before filing your *Petition*. (It is not good enough if you used to live in Georgia in the past, moved away, and have returned more recently than six months ago.)

Check box "(b)" if you are not a resident of the State of Georgia, but your spouse has been living in Georgia for at least the past six (6) months. (It is not good enough if your spouse used to live in Georgia in the past, moved away, and has returned more recently than six months ago.)

Note: If you live in Georgia, but have not lived here for a full six months, but your spouse has been living here for at least the past six months, you may still use the *Petition for Divorce* and file in Georgia. Just check box "(b)" and cross out the first eleven words ("I am not a resident of the State of Georgia, but"), so that the sentence is accurate.

➤ Paragraph 2: Venue

Note: The issue of venue in a divorce action is very complicated, and can result in your case being defective if it is not addressed properly. Read these instructions very carefully. If your situation does not seem to fit any of the choices exactly, you should talk to a lawyer. You may not be able to file your case in Hall County, or you may need to make very specific changes to this form. You should also talk to a lawyer if the Respondent is currently incarcerated (where a person is currently *living* does not always mean he/she *resides* there under the law).

On the first line, write your spouse's name in the space provided. Then ***CHECK ONLY ONE BOX***

Check box "(a)" if the Respondent currently resides in Hall County.

Check box "(b)" only if all of the following are true:

- ☐ the Respondent is not a resident of Hall County but resides in Georgia;
- ☐ the two of you lived together in Hall County at the time you separated;
- ☐ you still live in Hall County; and
- ☐ the Respondent has moved out of Hall County only within the past six (6) months prior to you filing this *Petition for Divorce*.

Check box “(c)” if the Respondent is not a resident of Hall County but resides in Georgia and will sign the *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* in front of a notary. (You must file the original signed and notarized form with the *Petition for Divorce*.) You must currently live in Hall County to check this box.

Check box “(d)” if you live in Hall County and the Respondent is not a resident of the State of Georgia, but he/she will sign the *Acknowledgment of Service and Consent to Personal Jurisdiction and Venue* in front of a notary. (You must file the original signed and notarized form with the *Petition for Divorce*.) You must currently live in Hall County to check this box.

➤ **Paragraph 3: Service of Process**

This paragraph tells the Court you think the Respondent will acknowledge service by signing (in front of a notary public) the *Acknowledgment of Service* included with this packet. You must include the signed and notarized original form with the *Petition for Divorce* when you file. **If you do not think your spouse will sign this form, do not use this packet.**

➤ **Paragraph 4: Date of Marriage**

CHECK ONLY ONE BOX

Check box “(a)” if you and the Respondent were married with a license and a ceremony, such as one by a clergyman or by a judge at the courthouse. Write the date of the marriage in the space provided.

Check box “(b)” if you and the Respondent did not have a marriage license and a ceremony, but you believe you have established a common law marriage. Under Georgia law, this generally means that you and the Respondent lived together and held yourselves out as husband and wife before January 1, 1997. Write the date you began your common law marriage on the space provided.

➤ **Paragraph 5: Date of Separation**

In the space provided, write the last date that you and the Respondent separated and remained separated up to the present time. Provide only one date. If you and the Respondent have separated, gotten back together, and then separated again, use the date of the most recent separation.

➤ **Paragraph 6: Settlement Agreement**

You are explaining to the Court that you expect the Respondent will sign a written settlement agreement resolving all issues from the marriage. A *Settlement Agreement* is included with this packet. The parties must agree voluntarily and this document must be signed by both parties in front of a notary public. See important notes about settlement agreements in **Step 5** below.

➤ **Paragraph 7: Child(ren)**

You are explaining to the Court that you have no minor children with your spouse and do not expect to have children with your spouse. **If you have minor children with your spouse, STOP! You should use a different packet, available in the Clerk’s office.**

➤ **Paragraph 8: Other Child(ren)**

Notes: Under Georgia law, there is a presumption that children born in wedlock or within the usual period of gestation thereafter are legitimate, making the husband the “legal” father (unless otherwise disproved). If this situation applies to you, consult with an attorney to discuss the legal implications of addressing or *not* addressing this issue.

Optional: Check and complete the box if the **wife** in this case is pregnant with a child (or children) or has had children during the marriage who are not the husband’s biological or adoptive children and you want the Court to acknowledge they are not his biological or “legal” children and he should have no legal relationship or potential rights or obligations arising from that relationship, to the children. Write facts you believe support the Court determining the husband is not the father (examples: the parties were separated for several years prior to the child’s birth and did not see each other at any point during that time; or DNA tests confirm he is not the father). In the spaces at the end of the paragraph, write why you believe terminating the husband’s presumed parental rights is in the best interests of the children.

➤ **Paragraph 9: Restore Former Name**

Optional: Check this box only if you want the Court to restore your former or maiden name. On the space provided, write the name you want to have restored. This case is not a name change action and cannot be used for anyone except the wife or husband in this divorce action. If your spouse wishes to have his/her former name restored, he/she will need to file an affidavit in this case asking the Court to restore his/her name or appear at the final hearing. You cannot request your spouse’s name be restored.

➤ **Paragraph 10: Grounds for Divorce**

This paragraph explains to the Court that the basis for your divorce is that there is no hope that you and the Respondent can save this marriage. This option is the language for grounds in most cases. It is the basis for granting a divorce when fault is not proven.

➤ **Final Paragraph: Request for Relief**

Strike through any provisions that do not apply to your situation.

- **To finish filling out this *Petition for Divorce*,** sign your name in the space provided on the last page, write your address and a daytime telephone number where the Court staff could reach you if necessary. However, if you are living in a shelter for victims of family violence, **DO NOT LIST THE ADDRESS OF THE SHELTER.** To do so would violate O.C.G.A. § 19-13-23. Instead, on the space for the address, list only the name of the shelter and the state where it is located. Also, if the Respondent does not know your address or phone number and it should be kept confidential because of family violence, do not write that address or phone number here. Instead, you should write another address here, where you can be sure that you will receive any information that is mailed to you by the Court or the Respondent.

Step 2: Complete the *Verification* Form

The *Verification* form must be filed with the *Petition for Divorce*. In the caption (heading), insert your name as the Petitioner and your spouse’s name as the Respondent. Do not fill in the Civil Action Case Number.

The clerk will assign a number to your case when you file your case in the Clerk's office. Insert your name in the space underneath the word "Verification," which is the title of this document. In the next space, insert the title of the document you are verifying as true, which is the "Petition for Divorce".

Before you sign this *Verification*, remember that you will be swearing under oath that the information you have provided in the *Petition for Divorce* is true and correct to the best of your knowledge and belief. Therefore, you should re-read your *Petition for Divorce* one more time, from start to finish, to make sure it is all true. When your forms are ready, sign your name on the *Verification* in front of the notary public in the space provided, and check the box to indicate that you are the Petitioner. The notary must complete the rest of the *Verification* form after you sign it under oath. The staff persons at the Family Law Information Center can notarize this document free of charge, but you must have proper photo identification.

Step 3: Read the *Domestic Relations Standing Order* and Complete the *Certificate of Service or Inclusion*

The *Domestic Relations Standing Order* sets out rules for family law cases in Hall and Dawson Counties. It is very important that you read this order. **The Court can hold you in contempt if you violate the terms of this order.**

You are required to serve a copy of this standing order on your spouse. The Clerk's office will reject the filing of the case if it is not included with the other documents when you file.

Complete only the one-page *Certificate of Service or Inclusion* that goes with the standing order to show the Court how you have delivered a copy to your spouse, or that you plan to have it served with process (by the sheriff) on your spouse.

Step 4: Prepare the *Acknowledgment of Service* and *Consent to Personal Jurisdiction and Venue*

This form is included for your spouse to complete and sign in front of a notary (and return to you for filing with the Court). If signed, you will not have to pay to have the sheriff serve your spouse.

- Complete only the heading on this form with full legal names.
- DO NOT ask your spouse to sign the *Acknowledgment of Service* until you are sure you have every document that you need completed and copied for your spouse to receive.
- It's best to wait until AFTER you have your paperwork reviewed by a lawyer or FLIC staff before asking your spouse to sign anything.

Step 5: Complete the *Settlement Agreement*

You are not required to sign a *Settlement Agreement*, but if you do not have one, your case will be considered contested and you should be using a different packet.

If you and your spouse have divided everything (including bank accounts and all other property and debt), there is nothing left to transfer, you have no minor children together, you are not asking for alimony, and you are no longer living together (or will no longer be living together when it is signed) you may use the *Settlement Agreement* with this packet to formalize your agreement in writing.

Work on the agreement before your FLIC appointment (or meeting with a lawyer), so FLIC can review it and make sure it is complete before it is signed.

Important notes about settlement agreements:

Generally, if two spouses sign a legal agreement to settle all issues in their divorce, and it is not signed under fraud, duress, accident, or mistake, the agreement is a contract which is binding on both parties. If the agreement is considered by the Court to be a valid agreement, it will become part of the Final Judgment and Decree of Divorce (and have the effect of a court order).

The Court is not required to accept your agreement, but if the judge is ok with your agreement, he or she will likely incorporate it into the final decree, binding both of you to the agreement. Therefore, once you and your spouse have executed the agreement, if you want to make any changes to it, you will both have to agree to those changes in writing, unless you can prove it is not a valid agreement.

In other words, DO NOT sign the *Settlement Agreement* if it is incomplete, or you and your spouse have agreed to something verbally that is not included in the agreement. DO contact an attorney if you have any questions at all about an agreement your spouse or his/her lawyer asks you to sign OR if you are unclear about any of the terms included in it. **Consult with an attorney before signing any agreement.**

Additionally, the *Settlement Agreement* included with this packet is just one sample of an agreement you might reach with your spouse. It does not cover every possible financial issue or situation that might come up in the future between you and your spouse. If you can hire an attorney to represent you, he or she will be able to help write out a specific agreement that is tailored to your precise needs.

If you execute an agreement with your spouse, and later believe the agreement is not valid, you will need to contact an attorney to find out what options might be available to you.

Step 6: Complete the other forms in your packet

- A. *STATE OF GEORGIA Report of Divorce, Annulment or Dissolution of Marriage* – Complete items 4 through 15. On item 14, write the grounds for your divorce. If you are filing because the marriage is “irretrievably broken”, then write these words in the space provided. If you have listed other grounds for divorce in your *Petition*, list those grounds as well.
- B. *Civil Disposition Information Form* (included with this packet) – You will not need this form until the day of your final hearing (keep it with your FLIC folder and bring it with you to Court). Fill in the requested information and file the form with your *Final Judgment and Decree of Divorce* on the day of your divorce.

General Information about Hearings and Finishing your Case

Timing

If you have properly completed and filed all of the forms in this packet and an *Agreement to Try* (see FLIC for this form), then you may ask to have the final hearing take place 31+ days after the signed and notarized *Acknowledgement of Service* was filed with the Clerk.

If you do not have the *Agreement to Try*, then your final hearing may take place 46+ days after the signed and notarized *Acknowledgement of Service* was filed with the Clerk.

Although it is possible to have the final hearing at 31 days or at 46 days, you may not receive a hearing that soon. It will depend on the particular Judge's schedule.

Finishing your case without a hearing

If you have a signed *Settlement Agreement* and there are no complicated issues in your case, it may be possible to finish your case without a hearing. There are more steps and paperwork involved. See FLIC for details about the *Divorce by Verified Petition* process and forms.

Preparing for the final hearing

With a simple divorce (using the forms in this packet), the process will be fairly straightforward but you still need to show up on time for Court with copies of all of your paperwork. You are your main witness. Once the hearing is over, take your *Final Judgment and Decree of Divorce* with the *General Civil and Domestic Relations Case Disposition Information Form* to the Clerk's office and file them. **You are not divorced until you complete this step.**