

**INSTRUCTIONS FOR SUMMONS AND PETITION FOR LEGAL SEPARATION
(WITH MINOR CHILDREN)**

This form is intended for use by an individual who believes that his or her marriage is irretrievably broken or that his or her marital relationship is broken, and who wishes to file for legal separation. The form is to be used when the parties have children together who are under the age of 18. You can file for legal separation only if at least one of the parties has lived in Jackson County for thirty (30) days immediately before filing for legal separation. **You do not need to file for legal separation in order to file for divorce.**

Read and fill out the forms. Type or print neatly. Please review carefully the following instructions. The numbers on the instructions below correspond to the numbers on the forms.

PETITION FOR LEGAL SEPARATION

In the caption at the top of the first page, print your name on the line labeled "petitioner". Print your spouse's name on the line labeled "respondent".

1. Print your full name on the line labeled "Petitioner's name". Print the other information requested.
2. Print your spouse's full name on the line labeled "Respondent's name". Print the other information requested.
3. Fill in the date on which you were married and the county and state where the marriage took place.
5. Check whether the husband, wife or both parties have resided in Jackson County for 30 days immediately before filing for legal separation.
6. If one or both of you have previously filed for a legal action affecting this marriage, state in the space provided who filed, in what county and when (if you know the date).
7. If either of you was previously married, indicate in the space provided which party was previously married, to whom, and the date the marriage was terminated (if you know the date).
8. In the space provided, list the names, birthdates and social security numbers of the minor child(ren) born to or adopted by the parties.
9. If any children were born to the wife during the marriage and her husband is not the father, list those children here with their birthdates. If all children born to the wife during the marriage are children of the husband, print "none" in this section.
11. If the wife is pregnant, cross out the word "not".
13. Circle the items that you are requesting the judge to order.
14. In the space provided, state the specific reason why you are requesting a legal separation.

Sign and date the Petition for Legal Separation where indicated.

SUMMONS

In the caption at the top of the first page, print your name on the line labeled “petitioner”. Print your spouse’s name on the line labeled “respondent”.

On the first blank line in the middle of the first page, print your name. Print your address on the second blank line.

Date and sign the document where indicated. Follow the instructions in the paragraph above as to your address.

UNIFORM CHILD CUSTODY JURISDICTION ACT AFFIDAVIT

1 – 3. Provide the information requested on the lines indicated.

4 – 5. If there has ever been a court case as to custody of your children, check the “yes” box and explain where indicated. If there has never been a court case as to custody of your children, check the “no” box.

6. If any person, other than you and your spouse, has physical custody of the child or custody, visitation and placement rights, check the “yes” box and explain who it is. If no other person has such rights, check the “no” box.

Sign the Uniform Child Custody Jurisdiction Act Affidavit in front of a Notary.

Make three additional copies of your documents after you have signed them.

FILE CASE AND PAY FEE

Take the **original and three copies** of the forms to the Clerk of Courts, Jackson County Courthouse, 307 Main Street, Black River Falls, WI 54615 in order to file the case. You will have to pay a filing fee of \$182.

If you believe that you are entitled to a waiver of the fee because of poverty, fill out a Petition for Waiver of Filing and Service Fees available online. **The Family Court Commissioner will determine if the fee can be waived. If you ask for a waiver, do so before paying any fees, not after.**

SERVE THE SUMMONS AND PETITION FOR LEGAL SEPARATION ON THE OTHER PARTY

You must serve the other party to the legal separation with the Summons and Petition for Legal Separation. Service must be within 90 days of the date the case is filed.

Service by sheriff

If the other party lives in Jackson County, you may have the documents served on the other party by the Civil Process Division of the Jackson County Sheriff’s Department, 30 N. 3rd Street, Black River Falls, WI 54615. The sheriff will need two copies of the forms you filed. There is a \$30 charge for every service attempt plus 50 cents per mile, round trip, which the process server travels. If you believe you are entitled to a waiver of the fee because of poverty, fill out a Petition for Waiver of Filing and Service Fees available online. The Family Court Commissioner will determine if the fee can be waived.

Once the documents have been served, you will be sent a proof of service. When proof of service is returned, mail or take the original to the Family Court Commissioner’s office after you make a copy of the proof of service for yourself.

If the person to be served lives outside of Jackson County, call the sheriff in that county for instructions on service of the papers.

Service by private process server

You may use a private process server to serve the documents. Look in the Yellow Pages under “process servers”. Once the documents have been served, you will be sent a proof of service. When proof of service is returned, mail or take the original to the Family Court Commissioner’s office after you make a copy of the proof of service for yourself.

Admission of service

If you believe the respondent will be willing to admit that he or she received the Summons and Petition for Legal Separation, you can have the respondent sign an Admission of Service form available online. If an Admission of Service form is signed by the respondent, you do not need to have the respondent served by the sheriff or a private process server. If the respondent signs an Admission of Service form, mail or take the original to the Family Court Commissioner’s office after you make a copy of the proof of service for yourself.

Service by publication

If you are unable to discover the respondent’s home address or place of work for purpose of serving the documents, you may have to publish the notice in the newspaper. Forms for filing a Service by Publication are available online.

5/3/05

In re the marriage of:

_____,
Petitioner,

**PETITION FOR LEGAL
SEPARATION
(with minor children)**

and

_____,
Respondent.

Case No. _____

The petitioner states as follows:

1. Petitioner's name: _____
 Address: _____
 City, State, ZIP: _____
 Date of birth: _____ Social Security No. _____
 Occupation: _____
2. Respondent's name: _____
 Address: _____
 City, State, ZIP: _____
 Date of birth: _____ Social Security No. _____
 Occupation: _____
3. The parties to this action were married on _____, 19____ / 20____
 at _____.
4. The grounds for legal separation are:
 - a. The marriage is irretrievably broken with no prospect for reconciliation
 - b. Or the marital relationship is broken.
5. The husband wife parties has/have been (a) resident(s) of Jackson County for thirty (30) days immediately prior to the commencement of this action.
6. No other legal action affecting this marriage has been brought by either of the parties in this state or elsewhere. (Except:
7. Neither party was previously married. (Except:

8. The following minor child(ren) has/have been born to or adopted by the parties:

Name:

Birthdate:

Social Security No.:

9. No other minor child(ren) were born to the wife during this marriage. (Except:

10. The custody information set forth on the attached form is given under oath in order to comply with Wis. Stat. § 822.09.

11. The wife is (not) pregnant.

12. The parties have not entered into any written agreements as to support, legal custody, physical placement of the child(ren), maintenance of either party, or property division.

13. Petitioner requests the following relief:

- a. Legal separation
- b. Fair and final property settlement
- c. Orders establishing custody and physical placement
- d. Child support
- e. Maintenance
- f. Costs of this action
- g. The services provided under Wis. Stat. § 49.22
- h. Such other relief as the court deems just and reasonable

14. Petitioner states the specific reason for requesting a legal separation, pursuant to Wis. Stat. § 767.085(1)(f):

You are hereby notified that pursuant to Wis. Stat. § 767.087, during the pendency of this action, both parties are prohibited from and may be held in contempt of court for:

1. harassing, intimidating, physically abusing or imposing any restraint on the personal liberty of the other party or a minor child of either of the parties;

2. encumbering, concealing, damaging, destroying, transferring or otherwise disposing of property owned by either or both of the parties, without the consent of the other party or an order of the court or a circuit court commissioner, except in the usual course of business, in order to secure necessities or in order to pay reasonable costs and expenses of the action, including attorney fees;
3. without the consent of the other party or an order of the court or a circuit court commissioner, establishing a residence with a minor child of the parties outside the State of Wisconsin or more than 150 miles from the residence of the other party within the state, removing a minor child of the parties from the State of Wisconsin for more than 90 consecutive days or concealing a minor child of the parties from the other party.

Except, that a violation of paragraph (3) is not a contempt of court if the court finds that the action was taken to protect a party or a minor child of the parties from physical abuse by the other party and that there was no reasonable opportunity under the circumstances for the party to obtain an order authorizing the action.

These restraining orders apply until the action is dismissed, a final judgment in the action is entered, or the court or a circuit court commissioner orders otherwise.

A violation of the above restraining order may result in punishment for contempt, which may include monetary penalties, imprisonment and other sanctions as provided for in Wis. Stat. § 785.04.

Petitioner Pro Se

Date

In re the marriage of:

_____,
Petitioner,

LEGAL SEPARATION (Code 40201)

and

SUMMONS (with minor children)

_____,
Respondent.

Case No. _____

THE STATE OF WISCONSIN, TO THE PERSON NAMED ABOVE AS RESPONDENT:

You are hereby notified that the petitioner named above has filed a petition for legal separation against you, which is attached, stating the nature and basis of the legal action.

Within twenty (20) days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of Wisconsin Statutes, to the petition. The court may reject or disregard any written answer that does not follow the requirements of the statutes. The answer must be sent or delivered to this court, whose address is:

Jackson County Clerk of Courts, 307 Main Street, Black River Falls, WI 54615,

and to _____, the petitioner, whose address is: _____.

You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court will enter a default judgment granting a legal separation to the petitioner. If you do not provide a proper answer within twenty (20) days, the court may grant a judgment against you for the award of money or other legal action as requested in the petition, and you may lose your right to object to anything that is or may be incorrect in the petition. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment of wages or seizure of property.

If you and the petitioner have minor children, accompanying this summons will be a document setting forth the percentage standard for child support established by the Department of Workforce Development under Wis. Stat. § 49.22(9), and listing the factors that a court may consider for modification of that standard under Wis. Stat. § 767.25(1m).

You are hereby notified that if you and the petitioner have any minor children, violation of the following criminal statutes is punishable by a fine not to exceed \$10,000.00 or

imprisonment not to exceed two years (Class E felony) or both; or is punishable by a fine not to exceed \$10,000.00 or imprisonment not to exceed ten years (Class C felony) or both.

§ 948.31 INTERFERENCE WITH CUSTODY BY PARENT OR OTHERS.

(1) (a) In this subsection, “legal custodian of a child” means:

1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.
2. The department of health and family services or the department of corrections or any person, county department under s. 46.215, 46.22 or 46.23 or licensed child welfare agency, if custody of the child has been transferred under ch. 48 or 938 to that department, person or agency.

(b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class F felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

(2) Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child’s parents or, in the case of a nonmarital child whose parents do not subsequently intermarry under s. 767.60, from the child’s mother or, if he has been granted legal custody, the child’s father, without the consent of the parents, the mother or the father with legal custody, is guilty of a Class I felony. This subsection is not applicable if legal custody has been granted by court order to the person taking or withholding the child.

(3) Any parent, or any person acting pursuant to directions from the parent, who does any of the following is guilty of a Class F felony:

- (a) Intentionally conceals a child from the child’s other parent.
- (b) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining child custody rights, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in s. 822.02(9).
- (c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period.

(4) (a) It is an affirmative defense to prosecution for violation of this section if the action:

1. Is taken by a parent or by a person authorized by a parent to protect his or her child in a situation in which the parent or authorized person reasonably believes that there is a threat of physical harm or sexual assault to the child;
2. Is taken by a parent fleeing in a situation in which the parent reasonably believes that there is a threat of physical harm or sexual assault to himself or herself;

3. Is consented to by the other parent or any other person or agency having legal custody of the child; or
 4. Is otherwise authorized by law.
- (b) A defendant who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.

(5) The venue of an action under this section is prescribed in s. 971.19(8).

(6) In addition to any other penalties provided for violation of this section, a court may order a violator to pay restitution, regardless of whether the violator is placed on probation under s. 973.09, to provide reimbursement for any reasonable expenses incurred by any person or any governmental entity in locating and returning the child. Any such amounts paid by the violator shall be paid to the person or governmental entity which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.

You are also notified that, under Wis. Stat. § 767.081(2), you may request, and may have to pay for, the following written information from the Family Court Commissioner:

1. The procedure for obtaining a judgment or order in this action.
2. The major issues usually addressed in such an action.
3. Community resources and family court counseling services available to assist the parties.
4. The procedure for setting, modifying and enforcing child support awards or modifying and enforcing legal custody or physical placement judgments or orders.
5. A copy of the statutory provisions in Chapter 767 generally pertinent to this action for inspection or purchase.

If you require the assistance of auxiliary aids or services because of a disability, please call 715-284-0213 and ask for Kathy Powell.

Dated this _____ day of _____, 20____.

BY

Petitioner pro se Signature

Name Printed: _____

Address: _____

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

For Official Use

Case Caption:

**Uniform Child Custody
Jurisdiction Act Affidavit**

Case No. _____

Under oath I state:

1. The child's name and present address are:

Name: _____

Present Address: _____

2. The child has lived in the following places over the last 5 years:

3. The name and present address of the persons with whom the child has lived over the last 5 years are:

Name: _____

Present Address: _____

Time Period: _____

Name: _____

Present Address: _____

Time Period: _____

Name: _____

Present Address: _____

Time Period: _____

Name: _____

Present Address: _____

Time Period: _____

4. I have participated as a witness or in any other capacity in any other litigation concerning the custody of the child.

Yes No If Yes, explain: _____

5. I have information of other custody proceedings concerning the child pending in this or any other state.

Yes No If Yes, explain: _____

6. I know of persons not a party to this proceeding who have physical custody of the child or claim to have legal custody, physical placement, or visitation rights with respect to the child.

Yes No If Yes, explain: _____

7. I understand that I have a duty to inform the court if I learn in the future of any custody or physical placement proceeding concerning the child in this or any other state.

Subscribed and sworn to before me

on: _____

Signature of Party

Notary Public, State of Wisconsin

Name Typed or Printed

My commission expires: _____

Date