

# GUIDE FOR AN UNCONTESTED DIVORCE

## 1. WHAT IS AN UNCONTESTED DIVORCE?

- An uncontested divorce is an action to obtain a divorce when you and your spouse voluntarily agree on issues relevant to the divorce and you and your spouse agree to the divorce.
- The uncontested divorce becomes effective, when the court of jurisdiction confirms the divorce agreement and you or your spouse files the *Certificate of Confirmation* with the *Statement of Divorce* to the chief of city, county or town nearby.

## 2. UNCONTESTED DIVORCE PROCEDURES

### ONE : FILING A JOINT PETITION FOR AN UNCONTESTED DIVORCE

#### A. REQUIRED DOCUMENTS

- 1) ***Joint Petition for Confirmation of the Parties' Intention for an Uncontested Divorce Application* [one(1) completed original]**
  - You and your spouse are required to fill out this document jointly. The form is available at the Civil Service Application Counter (Information Desk) of any court or on the electronic civil petition section of the Supreme Court Website (<http://help.scourt.go.kr>) for downloading.
  - It is required that you provide any change of personal contact information (including telephone numbers) immediately to the court since the court office may contact you over the telephone to notify you of court appearance dates.
- 2) ***Family Relations Certificate and Marriage Relations Certificate of Husband* [one(1) of each document]; AND *Family Relations Certificate and Marriage Relations Certificate of Wife* [one(1) of each document]**

- These certificates can be obtained at a city, county or town office.
- 3) ***Statement of Divorce* [three(3) originals]**
- The *Statement of Divorce* form is available at the Civil Service Application Counter(information desk) of any court or at any city, county or town office.
  - You and your spouse are required to fill this document jointly by following the instructions provided on the back of the form. However, be sure to leave “⑤ *Designation of Parental Rights*“ blank. This should be completed once the court confirms parental rights of the minor child(ren) and at the event when confirmation of uncontested divorce is granted by the court.
- 4) ***Certificate of Resident Registration* [one(1) original]**
- This certificate is only required when *Joint Petition for Confirmation of the Parties’ Intention for an Uncontested Divorce* is filed at the court with jurisdiction based on domicile of you or your spouse.
- 5) **For Parties with Minor Child(ren): *Agreement on Custody, Child Support and Parentage* [one(1) original and two(2) copies] OR the *Family Court’s Judgment and Certificate of Confirmation on Final Decision* [three(3) originals]**
- For purposes of this section, minor includes unborn child(ren) but excludes minors turning legal age within the three months period after being informed of the divorce procedures or any period that the court prescribes.
  - After receiving court’s guidance, you and your spouse must submit the aforementioned documents.
  - However, if you and your spouse both appear to file for the petition and receive divorce guidance provided by the court, then you and your spouse may submit the *Agreement on Custody, Child Support and Parentage* within one(1) month prior to the date for court appearance while the *Family Court’s Judgment and Certificate of Confirmation on Final Decision* may be submitted anytime prior to the such date.
  - If you and your spouse cannot reach an agreement regarding child custody, child support or parentage rights, then you must file an action with the

Family Court without delay. Once the court's decision is obtained, the parties should submit an original copy of the *Family Court's Judgment and Certificate of Confirmation on Final Decision*.

- If you and your spouse do not submit these aforementioned documents or submit them after the due date, the confirmation of an uncontested divorce will not be granted or the overall process may be delayed.

**6) For Parties with a Spouse Residing Abroad or under Confinement in Prison**

- If your spouse is residing abroad, submit a *Certified Copy of the Overseas Korean Registration* (issued by an Embassy or by the Ministry of Foreign Affairs and Trade) [**one(1) original**]
- If your spouse is confined, submit a *Certificate of Incarceration* (issued by the prison official or by a detention center) [**one(1) original**]

**B. FILING YOUR CASE WITH THE PROPER COURT**

- You and your spouse must appear **jointly** to file the *Joint Petition for Confirmation of the Parties' Intention for an Uncontested Divorce*. The application must be submitted to the court where you have established an address for family relations registry or a residential address.
- If a spouse is either residing abroad or confined in prison (or detained), then a spouse may file the *Joint Petition for Confirmation of the Parties' Intention for an Uncontested Divorce* and receive guidance on divorce, while unaccompanied by the other spouse. If you and your spouse have a minor child(ren), the *Agreement on Custody, Child Support and Parentage* (1 original and 2 copies) or the *Family Court's Judgment and Certificate of Confirmation on Final Decision* (3 originals) must be submitted with the application.

**C. YOU AND YOUR SPOUSE MUST RECEIVE COURT'S GUIDANCE REGARDING THE DIVORCE**

- You and your spouse **must receive guidance provided by the court on divorce** and the court may recommend that you and your spouse receive counseling by a consultation commissioner. Counseling is especially

recommended in cases where a minor child(ren) is(are) involved. It is further recommended that agreements regarding custody, child support and parentage of the minor should be made after receiving a pre-divorce counseling with a consultation commissioner and later put in writing.

#### **D. SHORTENING OR EXEMPTION OF THE WAITING PERIOD BEFORE CONFIRMATION OF DIVORCE**

- If you and your spouse have a **minor child(ren)**, including an unborn child(ren), then **waiting period** applies from the date you received the court's guidance regarding divorce.
  - A mandatory three(3) month of waiting period applies to you and your spouse.
  - For minor child(ren) who will be reaching the legal age in between one(1) to three(3) months, then waiting period is until the date the minor child reaches the legal age.
- If you and your spouse have a minor child(ren) who will be reaching the legal age within one(1) month after receiving court's guidance, then a one(1) month waiting period applies.
- If you and your spouse do not have any minor child(ren), then one(1) month waiting period applies.
- Even though the above-mentioned applies to you and your spouse, if there is a need for shortening or exemption of the waiting period due to circumstances such as likelihood of domestic violence, then you may submit a statement to make such a request. In addition, you may submit the statement after counseling with the consultation commissioner.
  - If you do not receive any notification by the court within seven(7) days after you submitted the request, then the initial date set for confirmation is effective and you may not challenge this decision.

#### **E. CONFIRMATION OF INTENTION TO OBTAIN AN UNCONTESTED DIVORCE**

- You and your spouse must **both** appear on the hearing date in court with valid IDs and personal seals for each person. A valid ID includes a

certificate of resident registration, a driver's license, a government employee ID, or a passport.

- If you or your spouse do not appear in court on the first date set for court appearance, you and your spouse can appear on the second date. If you or your spouse do not appear for the second time, the court will consider this as an intention to withdraw from the procedures to obtain an uncontested divorce and you must re-file the required documents.
- If you and your spouse have a minor child(ren), after the court confirms the *Agreement on Custody, Child Support and Parentage* or the *Family Court's Judgment and Certificate of Confirmation on Final Decision*, then you and your spouse will be issued one(1) *Certificate of Confirmation of the Parties' Intention for an Uncontested Divorce* and one(1) certified copy of the *Agreement on Custody, Child Support and Parentage* or the *Family Court's Judgment and Certificate of Confirmation on Final Decision*.
- If you and your spouse were unable to reach an agreement until the date of court appearance and have filed a complaint with the Family Court, then you and your spouse may appear before the court on the set date and present such grounds for delay. The court will set a later date for appearance.
  - If the Family Court renders judgment, which has been confirmed, then you must submit the copy of the *Family Court's Judgment and Certificate of Confirmation on Final Decision*.
  - If the Family Court dismisses or denies your action, then you and your spouse will not be able to obtain a court's confirmation of an uncontested divorce unless you file an *Agreement on Custody, Child Support and Parentage* by the court appearance date.
- The court may order to modify Agreement on the Custody, Child Support and Parentage for welfare of the minor child(ren) and if you and/or your spouse refuse to follow such orders, you and your spouse will not be granted the confirmation for an uncontested divorce.
- If you and your spouse are not able to obtain an confirmation for an uncontested divorce, then you may file for a divorce with the Family Court or may re-file a *Joint Petition for Confirmation of the Parties' Intention for an Uncontested Divorce* and request the court to determine parentage rights.

## TWO: FINALIZING YOUR UNCONTESTED DIVORCE (YOU MUST NOTIFY THE PROPER AGENCY)

- *The Certificate of Confirmation of the Parties' Intention for an Uncontested Divorce ("Certificate of Confirmation") is valid only for **three(3) months** from the date of delivery. If you and your spouse intend to finalize the uncontested divorce, during this three month period, you or your spouse must **notify** the chief of the city, county, or town by filing a *Statement of Divorce* with the *Certificate of Confirmation* attached.*
- *If you or your spouse do **not** notify a *Statement of Divorce*, then you and your spouse are **not** legally divorced. If three(3) months have elapsed and you and your spouse still intend to obtain an uncontested divorce, you and your spouse **must** file with the court again and receive the *Certificate of Confirmation*.*
- *If you and your spouse have a minor child(ren), you or your spouse must notify which party has parentage right by filing an *Agreement on Custody, Child Support and Parentage* or the *Family Court's Judgment and Certificate of Confirmation on Final Decision* when you finalize your uncontested divorce.*
  - *If you and your spouse have an unborn child, you or your spouse must notify parentage rights by filing the above-mentioned documents when the birth of the minor is notified.*
- *For lost copies of *Certificate of Confirmation*, you and your spouse can re-file for a *Joint Petition for Confirmation of the Parties' Intention for an Uncontested Divorce*. If the *Certificate of Confirmation* is lost within three(3) months from the date of delivery, you or your spouse may request the court to re-issue the certificate. Afterwards, you and your spouse may complete the *Statement of Divorce* to finalize the divorce. If, however, three(3) months have elapsed since the date of delivery of the *Certificate of Confirmation*, you must re-file for the court's confirmation.*
- *You and your spouse are urged to make duplicate copies of the original *Agreement* since the documents are kept by the court for only one(1) year.*

### **THREE: WITHDRAWING YOUR UNCONTESTED DIVORCE**

- Even after the court confirms the parties' intentions for a divorce, if you or your spouse no longer possess intention to dissolve the marriage, then you or your spouse may stop the divorce by not submitting the *Statement of Divorce* or by filing a *Statement to Withdraw Intention for Divorce* to the chief of the city, county or town where the withdrawing party(parties) has(have) established an address for family relations registry or a residence.
- Note: Once you or your spouse file a *Statement of Divorce*, filing of the *Statement to Withdraw Parties' Intention for Divorce* afterwards does not stop the divorce.

### **3. EFFECTS OF AN UNCONTESTED DIVORCE**

- You and your spouse can obtain a divorce by notifying the *Certificate of Confirmation* issued by the Family Court. You and your spouse continue to have duties and rights as parents over child(ren) regardless of the uncontested divorce. If you and your spouse have a minor child(ren), including an unborn child(ren), both of you must follow the *Agreement on Custody, Child Support and Parentage* or obey the Family Court's *Judgment on Parentage*.
- In the uncontested divorce proceedings, if the wife wants to establish a separate address for family relations registry from that of the husband, then she must submit a *Change of Address for Family Relations Registry* when notifying the divorce.