

## Completing Form CAO 8-1: Decree of Divorce [Children]

Use this form for a case with minor children (Revised 5/20/2005)

In an uncontested or default divorce, the Decree of Divorce must have exactly the same information as the Complaint. You cannot change anything without the agreement of the other party. If you do need or want to make changes that both of you agree upon, you can file a “Stipulation for Entry of a Decree of Divorce”. Obtain Court Assistance Office Form No. CAO 6-8 and CAO Instruction 5A.

Exactly like you did in the Complaint, at the top left-hand corner of page 1, fill in your name, address and telephone number. Fill in the county and judicial district in the heading (for example, “In the District Court of the Third Judicial District in and for the County of Canyon”). Fill in your full legal name in the caption above “Plaintiff”. Fill in your spouse’s full legal name above “Defendant”. Fill in the Case Number.

Leave the date blank in the introductory sentence. Check either the first box if this is a default divorce, or the second box if you and your spouse filed a written stipulation (Form CAO 6-8) for the entry of this decree.

Fill in the name and date of birth for each minor child.

### 1A. Legal Custody

- Check the first box if both parents are fit persons to share the decision-making rights, responsibilities and authority relating to the health, education and general welfare of the child/ren. **or**
- Check the second box if one parent is to have sole legal custody of the child/ren, **and**
- Fill in the blank to indicate which parent will be awarded sole legal custody.

### 1B. Physical Custody

- Check the first box if both parents are to be awarded physical custody of the child/ren **and**
  - Attach a copy of the Parenting Plan you attached to your Complaint. **IMPORTANT:** The Parenting Plan must be attached if you want to make it a part of the Decree of Divorce.**or**
- Check the second box if physical custody of the child/ren will be awarded to only one parent, **and**
- Fill in the blank to indicate which parent will be awarded sole physical custody.
  - If the other parent will have time with the child/ren, write in the parent’s name **and**
  - Write in the terms and conditions of the other parent’s time with the child/ren. **or**
  - Attach the Parenting Plan. **IMPORTANT:** The Parenting Plan must be attached to make it a part of the Decree of Divorce.

### 2. Child Support

- Check the first box if there is already a Child Support Order **and**
  - Write in the case number,
  - The county and state where the order was entered, **and**

- The date the child support order was entered.

**or**

- Check the second box if child support will be set in this case **and**
  - Fill in the name of the parent paying child support and the total amount of each monthly payment.
  - Fill in the base amount of child support
  - If your child support calculation includes a pro rata sharing of medical insurance premiums and/or tax benefits, check the appropriate boxes and fill in the amount(s).
- If you have more than one minor child, you will need to have a separate calculation to reflect the changed amount of support as each child is no longer eligible for support under Idaho law. Fill in the total amount of child support, as calculated according to the Idaho Child Support Guidelines.

Extended Visits. if your child/ren live/s with one parent more than 75% of the time:

- Check the box if you want one or both of the paragraphs included.
- If you selected the first paragraph, indicate how much the support payment will be reduced by either checking the box for 50% or filling in your own percentage.

3. Medical Insurance: Check the appropriate box and fill in the blank to designate how health insurance coverage is now being provided for the child/ren. Write in the percentage to be paid by each parent, based on each of your Guidelines income.

4. Health Costs. Write in the percentage to be paid by each parent, based on each of your Guidelines income.

5. Net Work-related Child Care Costs

- Fill in the percentages each parent will pay.
- Check the box if both parents will pay the care provider directly.

6. Income Tax Exemption: Write in the blank which parent will claim each child as a dependent on their income tax return(s).

7. Separate Property

- Check the first box if you do not want a court order confirming ownership of separate property.
- If you want a court order confirming that specific separate property belongs to the Husband, or an order that separate property be returned to the Husband, check the second box and describe the property in the first section of "Exhibit C". Initial and date the Exhibit.
- If you want a court order confirming that specific separate property belongs to the Wife, or an order that separate property be returned to the Wife, check the third box and describe the property in the first section of "Exhibit D". Initial and date the Exhibit.

8. Community Real Property

- If you have acquired community real property during the marriage, check the box **and**
  - Fill in the residential address of the property (house number and street name),

- The name of the city and county **and**
- The legal description for the property.
- Check one of the first three boxes to indicate what the disposition of the community real property and any equity in the property will be, and fill in the blanks **or**
- Check the fourth box and write in your own words how the property and any equity in the property will be distributed.

9. Community Personal Property

- If you have not acquired any community personal property, check the first box. **or**
- If you have already divided your community personal property and each of you have the property in your possession, check the second box. **and/or**
- If there is specific property awarded to the Husband and the property is already in Husband's possession, check the third box and list the property in the second section on "Exhibit C" (Husband's property). Initial and date the Exhibit.
- If there is specific property awarded to the Wife and the property is already in Wife's possession, check the fourth box and list the property in the second section on "Exhibit D" (Wife's property). Initial and date the Exhibit.
- If there is property awarded to the Husband that is still in the possession of the Wife, check the third box **and** list the property in the third section on "Exhibit C" (Husband's property). Initial and date the Exhibit.
- If there is property awarded to the Wife that is still in the possession of the Husband, check the fourth box **and** list the property in the third section on "Exhibit D" (Wife's property). Initial and date the Exhibit.

Note: The Decree of Divorce can be used to transfer titles or deeds; but only if the description of the property is first listed in the Complaint or there is a Stipulation for Entry of Decree and the property description is complete and accurate (example: for vehicles, all identifying information on the title; for real property, a legal description of the property and not just the residential address of the property).

If you have listed any property on "Exhibit C" or "Exhibit D", the Exhibits must be attached to every copy of the Decree of Divorce. Initial and date each Exhibit.

10. Debts

- List each creditor Husband should pay; **and/or**
- List each creditor Wife should pay.

Note: If both of you are going to pay a part of the same debt, also put in the amount each of you should pay.

11. Debts Incurred Since Separation. If the Decree should order that each party will assume any debt incurred by them after the separation date, check the box and write in the date you stopped living together.

12. Name Change. If either party wants to stop using the last name of the spouse and go back to using their former last name (any name legally used), fill in the name of the person wanting the name change

and fill in the former last name. (Accurate spelling is very important.)

Leave the date blank. The judge will fill in the date when s/he signs the Decree of Divorce.

Clerk's certificate of service: Fill in name, mailing address, city, state and zip code for Husband and Wife. Leave the date blank. The clerk will fill it in when s/he signs the certificate.

Exhibits: Attach the Parenting Plan to the Decree. If you have listed property on "Exhibits C" and/or "D", they must also be attached to the Decree.

Make three more copies of the Decree (total of 4) with all the Exhibits attached.

CONTINUE TO FOLLOW INSTRUCTION NO. 5 TO FINALIZE YOUR DIVORCE.

REMEMBER TO REMOVE THESE INSTRUCTIONS BEFORE SUBMITTING THE DECREE TO THE COURT!

\_\_\_\_\_  
Full Name of Party Submitting This Document

\_\_\_\_\_  
Mailing Address (Street or Post Office Box)

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Telephone Number

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_,  
Plaintiff,  
vs.  
\_\_\_\_\_,  
Defendant.

Case No.: \_\_\_\_\_

DECREE OF DIVORCE

This matter came before the court on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_. It appears from the records and files of this action that a Complaint was filed and  
served upon the Defendant.

[ ] Twenty (20) days have passed; the Defendant is not in the armed services of the  
United States of America and is not a minor nor an incompetent. A Default has been entered.

**or**

[ ] Defendant and Plaintiff have agreed and signed a written stipulation to the entry of  
this Decree.

It appears that the allegations of the Plaintiff's Complaint are sustained and the Plaintiff  
is and was a bona fide resident of the State of Idaho and has been a resident for more than six  
(6) weeks preceding the commencement of this action.

The parties are the parents of the following child/ren, who is/are under the age of 18 years, or 19 years and still pursuing a high school education:

| <u>Name</u> | <u>Date of Birth</u> |
|-------------|----------------------|
| _____       | _____                |
| _____       | _____                |
| _____       | _____                |
| _____       | _____                |

The court has jurisdiction to determine custody of the minor child/ren pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act, Idaho Code Section 32-11-101, et seq. because Idaho was the home state of the minor child/ren on the date of filing the Complaint.

The court has jurisdiction to determine child support.

IT IS HEREBY ORDERED AND DECREED:

1. The bonds of matrimony now existing between the Plaintiff and the Defendant are dissolved on the grounds of irreconcilable differences, and the Plaintiff is awarded an absolute decree of divorce from the Defendant.

**2. Custody.**

**A. Legal Custody.**

Both parents are awarded joint legal custody of their minor child/ren. **or**  
 \_\_\_\_\_ is awarded sole legal custody of their child/ren.

**B. Physical Custody.**

Both parents are awarded joint physical custody of their child/ren on the terms and according to the Parenting Plan which is attached as "Exhibit A". **or**

\_\_\_\_\_ is awarded sole physical custody of their minor child/ren.

\_\_\_\_\_ shall have time with the child/ren

as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**or**

in accordance with the Parenting Plan attached as "Exhibit A".

**3. Child Support.**

Child support has already been set in Case No. \_\_\_\_\_, entered in \_\_\_\_\_ County, State of \_\_\_\_\_, on (month/day/year) \_\_\_\_\_.

**or**

Child support shall be paid by \_\_\_\_\_ in the total amount of \$\_\_\_\_\_ per month. The total amount includes:

- Base child support in the amount of: \$\_\_\_\_\_
- plus or minus a pro rata share of \_\_\_\_\_
- Work-related childcare expenses \$\_\_\_\_\_
- Medical, dental, +/-or optical Insurance premiums allocated in the amount of: \$\_\_\_\_\_
- Tax benefits allocated in the amount of: \$\_\_\_\_\_

Payments shall begin on the 20th day of the month after the Decree of Divorce is signed and shall continue to be paid on the 20th day of each following month until the child/ren reaches the age of eighteen or nineteen for the child who is still pursuing a high school education.

Payment shall be made payable to the Department of Health and Welfare and sent to: **Idaho Child Support Receipting, P.O. Box 70008, Boise, ID 83707-0108.**

The parents have more than one minor child. If this child support order has not been modified, when one child is no longer entitled to support, child support for the remaining children shall continue in the total amount of \$\_\_\_\_\_ per month; when two children are no longer entitled to support, child support for the remaining child/ren shall continue in the total amount of \$\_\_\_\_\_ per month; when three children are no longer entitled to support, child support for the remaining child shall continue in the total amount of \$\_\_\_\_\_ per month.

**Extended Visits:** Our child/ren live/s in the home of one parent at least 75% of the time.

When the parent paying child support has physical custody of the child/ren for 14 or more overnights in a row, the amount of base child support shall be reduced for that period of time; however, visitation of two overnights or less with the other parent will not eliminate the reduction of base child support during extended visits. The child support reduction for the period of the actual physical custody shall be  50% **or**  \_\_\_\_\_% of the base child support obligation. The reduction shall be subtracted from the child support payment due the next month.

If the parent paying child support has physical custody of some but not all of the children for 14 overnights in a row, before a reduction is made, the base child support obligation shall first be divided by the number of children under eighteen (18) years of age. The

reduction for the paying parent shall only apply to the base child support thus allocated to the children in that parent's custody.

(Example: Parent has 3 of 4 children for 14 overnights. \$300/mo. base support payment divided by 4 children = \$75 per child per month divided by 30 = \$2.50 per day per child x 14 = \$35.00 x 3 for 3 children = \$105.00. Reduction = 50% of \$105 or \$52.50.)

#### NOTICES

According to Chapter 12, Title 32, Idaho Code, this Child Support Order is immediately enforceable through income withholding. Income withholding shall be enforced by a Withholding Order issued to the paying parent's employer without additional notice to the paying parent. A statewide lien on all real and personal property of the paying parent will arise automatically if child support is past due in an amount equal to the smaller of \$2,000 or 90 days of support, according to Idaho Code §§7-1206 and 45-1901, *et seq.*

The Support Order can also be enforced by license suspension.

#### **4. Medical Insurance.**

\_\_\_\_\_ is/are currently providing health insurance for the minor child/ren and shall continue to do so, so long as it is reasonably available through that parent's employment. If such insurance becomes unavailable to the parent currently providing insurance, the parent first reasonably able to obtain group health insurance through employment shall do so. **or**

Neither parent is currently providing health insurance for the child/ren. The parent first reasonably able to obtain group health insurance through employment shall do so. **or**

The child/ren participate in the Children's Health Insurance Program. The parent first reasonably able to obtain group health insurance through employment shall do so.

The total child support amount does not include any actual cost paid by either parent for health insurance premiums for the child/ren. That cost, whether being paid now or incurred in the future, should be prorated between the parents in proportion to their Guidelines income. Father should pay \_\_\_\_\_% and Mother should pay \_\_\_\_\_. The payment should be in addition to the base child support award and promptly paid directly between the parents.

Where medical insurance is provided, each parent is ordered to provide the other with all medical insurance information necessary to obtain health care for the child/ren. Insurance proceeds shall be applied first to unpaid medical bills and then to reimburse the paying parent for any prepaid medical costs. Both parents shall sign any needed document that provides continuing health care for their child/ren.

#### Notice

Failure to provide medical insurance coverage may result in the direct enforcement of a

medical support order by either the obligee (party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child/ren) or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections 32-1214A through 32-1214J, Idaho Code, and applicable rules of the department.

**5. Health Care Costs Not Paid by Insurance.** The actual cost paid by either parent for health care expenses for the child/ren not covered or paid in full by insurance, including, but not limited to orthodontic, optical and dental, shall be prorated between the parents. \_\_\_\_\_ % shall be paid by Father and \_\_\_\_\_ % shall be paid by Mother. These payments shall be in addition to the child support award and be promptly paid directly between the parents.

Any claimed health care expense for the child/ren (whether denominated as psychiatric, psychological, special education, addiction treatment or counseling in any form, and including regular medical or dental care), whether or not covered by insurance, that would result in an actual out-of-pocket expense of over \$500 to the parent who did not incur or consent to the expense, shall be approved in advance, in writing, by both parents or by prior court order. Relief may be granted by the court for failure to comply under extraordinary circumstances, and the court may in its discretion apportion the incurred expense in some percentage other than that specified herein and, in so doing, may consider whether consent was unreasonably requested or withheld.

**6. Work-Related Child Care Costs.**

The total child support amount does not include work-related child care costs. The actual net out-of-pocket costs for work-related child care shall be paid: \_\_\_\_\_% by Father and \_\_\_\_\_% by Mother. [ ] Payment shall be made directly to the child care provider by both parents according to arrangements made with the care provider.

If one parent pays the child care provider any portion of the other parent's share of costs, the non-paying parent shall reimburse the paying parent within 10 days after the paying parent provides a copy of the invoice and receipt for the payment.

**7. Income Tax Exemption.** The state and federal dependency tax exemption(s) for the parties' minor child/ren is/are assigned as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

The parent not receiving the exemption(s) shall sign the required Internal Revenue Service form(s) to release the claim to the exemption(s).

**8. Separate Property.** (Land and/or Personal Property)

None.

The separate property listed on the attached "Exhibit C" is confirmed as the Husband's separate property. Wife is ordered to return to Husband any such property in Wife's possession.

The separate property listed on the attached "Exhibit D" is confirmed as the Wife's separate property. Husband is ordered to return to Wife any such property in Husband's possession.

**9. Community Real Property.**

None.

The Husband and Wife have a community interest in real property, located at

\_\_\_\_\_ in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Idaho, and described in the deed as follows:

\_\_\_\_\_  
\_\_\_\_\_.

The real property described above:

shall be sold and the net proceeds divided \_\_\_\_\_% to the Wife and \_\_\_\_\_% to the Husband. **or**

is awarded to the Wife, subject to any liens, and the Husband is ordered to convey his interest in the property to the Wife when she pays him \$\_\_\_\_\_ for his share of the equity in the property. **or**

is awarded to the Husband, subject to any liens, and the Wife is ordered to convey her interest in the property to the Husband when he pays her \$\_\_\_\_\_ for her share of the equity in the property. **or**

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**10. The Community Personal Property of the parties is divided and awarded as follows:**

No community personal property. **or**

Each party is awarded the community personal property now in his or her possession.

The property listed in the attached "Exhibit C" is awarded to the Husband as his sole and separate property.

The property described in the attached "Exhibit D" is awarded to the Wife as her sole and separate property.

Each party is ordered to deliver to the other any of the community personal property currently in his/her possession that is awarded to the other party, and the parties shall execute and deliver any documents necessary to effectuate the property division.

**11. Debts.**

The Husband is ordered to pay the following debts as or before they become due and hold the Wife harmless for any further liability concerning these debts: (list each creditor)

The Wife is ordered to pay the following debts as or before they become due and hold the Husband harmless for any further liability concerning these debts: (list each creditor)

**12. Debts Incurred Since Separation.**  Each party shall assume any debt incurred by that party since \_\_\_\_\_, the date of the parties' separation. Each party is ordered to pay those debts as or before they become due and to hold the other party

harmless for any liability concerning those debts.

**13. Name Change.** [  ] \_\_\_\_\_ is restored to the former last name of \_\_\_\_\_.

Date: \_\_\_\_\_  
Magistrate Judge \_\_\_\_\_

**CLERK'S CERTIFICATE OF SERVICE**

I certify that a copy of the Decree of Divorce was served:

To:

\_\_\_\_\_  
(Name) [  ] By Hand-delivery  
\_\_\_\_\_  
(Address) [  ] By Mailing  
[  ] By fax to (number) \_\_\_\_\_  
\_\_\_\_\_  
(City, State and Zip)

To:

\_\_\_\_\_  
(Name) [  ] By Hand-delivery  
\_\_\_\_\_  
(Address) [  ] By Mailing  
[  ] By fax to (number) \_\_\_\_\_  
\_\_\_\_\_  
(City, State and Zip)

Date: \_\_\_\_\_  
Deputy Clerk of the District Court \_\_\_\_\_

**REMOVE THIS PAGE AND**

**Attach and Mark as “EXHIBIT A”**

**PARENTING PLAN**

**Attach “EXHIBIT C”**

**HUSBAND’S PROPERTY – if you are using it**

**Attach “EXHIBIT D”**

**WIFE’S PROPERTY - if you are using it**

**HUSBAND'S SEPARATE PROPERTY**

*(Describe each item, including a legal description for real property)*

**PERSONAL COMMUNITY PROPERTY IN HUSBAND'S POSSESSION TO BE AWARDED TO HUSBAND**

*(Describe each item)*

**PERSONAL COMMUNITY PROPERTY IN WIFE'S POSSESSION TO BE AWARDED TO HUSBAND**

*(Describe each item)*

\_\_\_\_\_  
Initials

\_\_\_\_\_  
Date

**EXHIBIT C**

**WIFE'S SEPARATE PROPERTY**

*(Describe each item, including a legal description for real property)*

**PERSONAL COMMUNITY PROPERTY IN WIFE'S POSSESSION TO BE AWARDED TO WIFE**

*(Describe each item)*

**PERSONAL COMMUNITY PROPERTY IN HUSBAND'S POSSESSION TO BE AWARDED TO WIFE**

*(Describe each item)*

\_\_\_\_\_  
Initials

\_\_\_\_\_  
Date

**EXHIBIT D**