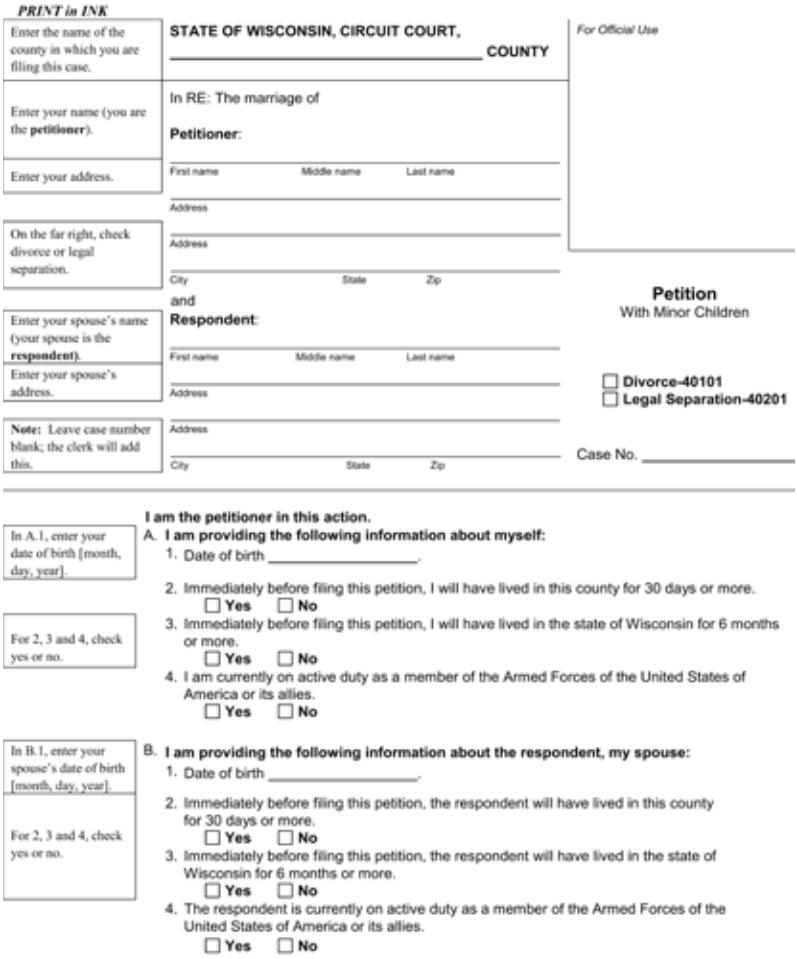
Appendix

Sample Petition for Divorce



PRINT in INK

Enter the name of the county in which you are filing this case.

STATE OF WISCONSIN, CIRCUIT COURT,
_____ **COUNTY**

For Official Use

Enter your name (you are the **petitioner**).

In RE: The marriage of

Petitioner:

Enter your address.

First name Middle name Last name

Address

Address

City State Zip

On the far right, check divorce or legal separation.

and

Respondent:

Enter your spouse's name (your spouse is the **respondent**).

First name Middle name Last name

Enter your spouse's address.

Address

Address

City State Zip

Note: Leave case number blank; the clerk will add this.

Petition
With Minor Children

☐ **Divorce-40101**
☐ **Legal Separation-40201**

Case No. _____

I am the petitioner in this action.

In A.1, enter your date of birth [month, day, year].

A. **I am providing the following information about myself:**

1. Date of birth _____.
2. Immediately before filing this petition, I will have lived in this county for 30 days or more.
   ☐ **Yes** ☐ **No**
3. Immediately before filing this petition, I will have lived in the state of Wisconsin for 6 months or more.
   ☐ **Yes** ☐ **No**
4. I am currently on active duty as a member of the Armed Forces of the United States of America or its allies.
   ☐ **Yes** ☐ **No**

For 2, 3 and 4, check yes or no.

In B.1, enter your spouse's date of birth [month, day, year].

B. **I am providing the following information about the respondent, my spouse:**

1. Date of birth _____.
2. Immediately before filing this petition, the respondent will have lived in this county for 30 days or more.
   ☐ **Yes** ☐ **No**
3. Immediately before filing this petition, the respondent will have lived in the state of Wisconsin for 6 months or more.
   ☐ **Yes** ☐ **No**
4. The respondent is currently on active duty as a member of the Armed Forces of the United States of America or its allies.
   ☐ **Yes** ☐ **No**

For 2, 3 and 4, check yes or no.

Sample Petition for Divorce (Continued)

Petition – With Minor Children Page 2 of 7 Case No. _____

In C.1 and 2, enter the date [month, day, year], city, and state in which you were married.

C. I am providing the following marriage information:

1. My spouse and I were married on (Date) _____.
2. We were married in (City) _____ (State) _____.
3. I am filing for
   a. ☐ **Divorce.** This marriage is irretrievably broken.
   b. ☐ **Legal Separation.** This marriage is broken and the reason I am requesting a legal separation and not a divorce is _____

In 4, check a or b. If b, enter the county and state in which it was filed, the case number assigned to it, and check yes or no to indicate if the case has been dismissed.

4. **Previous Actions**
   This is the first time that either my spouse or I have filed for divorce or legal separation **from each other** in Wisconsin or in any other state:
   a. ☐ **Yes**
   b. ☐ **No:** County _____
      State _____
      Case No. _____
      Has this case been dismissed? ☐ **Yes** ☐ **No**

In 5, check yes or no. If no, respond to 5a-5d with information about your most recent previous marriage.

5. This is my first marriage. ☐ **Yes** ☐ **No**
   a. I was previously married to _____
   b. The marriage was terminated by ☐ **divorce.** ☐ **death.**
   c. Date of the divorce or death _____
   d. The divorce was granted in:
      Name of court _____
      City _____ State _____
   e. I was also previously married to _____
   f. The marriage was terminated by ☐ **divorce.** ☐ **death.**
   g. Date of the divorce or death _____
   h. The divorce was granted in:
      Name of court _____
      City _____ State _____

If you had an additional previous marriage, respond to 5e-5h.

If you had more than 2 previous marriages, repeat 5e-5h on an additional sheet.

In 6, check yes or no. If no, respond to 6a-6d with information about your spouse's most recent previous marriage, if known.

6. This is my spouse's first marriage. ☐ **Yes** ☐ **No**
   a. My spouse was previously married to _____
   b. The marriage was terminated by ☐ **divorce.** ☐ **death.**
   c. Date of the divorce or death _____
   d. The divorce was granted in:
      Name of court _____
      City _____ State _____
   e. My spouse was also previously married to _____
   f. The marriage was terminated by: ☐ **divorce.** ☐ **death.**
   g. Date of the divorce or death _____
   h. The divorce was granted in
      Name of court _____
      City _____ State _____

If your spouse had an additional previous marriage, respond to 6e-6h.

If your spouse had more than 2 previous marriages, repeat 6e-6h on an additional sheet.

Sample Petition for Divorce (Continued)

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In D.1, enter the name and date of birth [month, day, year] for each **minor** child. If there are no other kids, check None.

D. **I am providing the following information regarding children:**

1. The **minor** children (age 17 or younger) born to or adopted together by me and my spouse before or during our marriage are
   ☐ **None.**

Name of Minor Child	Date of Birth

In 2, enter the name and date of birth [month, day, year] for each **adult** child. If you and your spouse do not have adult children together, check None.

2. The **adult** children (age 18 or older) born to or adopted together by me and my spouse before or during our marriage are
   ☐ **None.**

Name of Adult Child	Date of Birth

In 3, enter the name and date of birth [month, day, year] for each **other** child. If you and your spouse do not have other children, check None.

3. **Other** children born to the wife during this marriage, but not fathered by the husband are
   ☐ **None.**

Name of Child	Date of Birth

In 4, check a or b.

4. To the best of my knowledge, the wife in this marriage
   a. ☐ **is** currently pregnant. (An attorney [guardian ad litem] for the unborn child will be required if the husband is not the father.)
   b. ☐ **is not** currently pregnant.

In 5, check a, b, c or d. If d, enter the current address of the minor children. If the children currently reside at separate addresses, provide those addresses on an additional sheet.

5. The current address of the minor children is
   a. ☐ with mother at above address.
   b. ☐ with father at the above address.
   c. ☐ with both mother and father at the above addresses.
   d. ☐ at the address below:
      Address _____
      Address _____
      City _____ State _____ Zip _____

In 6, enter any previous addresses for the minor children living **with the parents** during the past 5 years. If none check "none." If the children have lived in more than 2 places over the past 5 years, provide those addresses on an additional sheet.

6. Previous addresses for the minor children are
   ☐ None (the children have lived at the current address for the last five years).
      Address _____
      Address _____
      City _____ State _____ Zip _____

      Address _____
      Address _____
      City _____ State _____ Zip _____

In 7, check yes or no.

7. Currently, or during the last 5 years, one or more of the minor children lived with a person

Sample Petition for Divorce (Continued)

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other than a parent.
☐ **Yes** ☐ **No**

If yes, enter the name of that minor child and the name and address of the person with whom that child lived.

Child _____
Person _____
Address _____
Address _____
City, State, Zip _____

Attach an additional sheet, if necessary.

Child _____
Person _____
Address _____
Address _____
City, State, Zip _____

Child _____
Person _____
Address _____
Address _____
City, State, Zip _____

In 8, check a or b.

If a, enter the name of the court in which it was ordered, the case number assigned to it, and date it was ordered

8. I personally have been (or I am aware of others who have been) a party, witness or participated in another way in other past court proceedings concerning the custody of or physical placement or visitation with the minor children listed in **D1** or **D3**, in Wisconsin or in any other state.
   a. ☐ **Yes** and the custody, physical placement, or visitation order was granted in:
      Name of court _____
      Case Number _____ Date _____
   b. ☐ **No.**

In 9, check a or b.

If a, enter the name of the court, the case number assigned to it, and the nature of the proceeding.

9. I am aware of a proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings related to domestic violence, protective orders, termination of parental rights, or adoption concerning the children listed in **D1** or **D3**, in Wisconsin or any other state.
   a. ☐ **Yes,** and the proceeding that could affect the current proceeding is in:
      Name of court _____
      Case Number _____
      Nature of Proceeding _____
   b. ☐ **No.**

In 10, check a or b. If a, attach a copy of written agreement.

10. My spouse and I have made written agreements or received orders from the court about some or all of the matters in this action such as maintenance (spousal support), child support, legal custody or physical placement of the minor children, or property division.
    a. ☐ **Yes, and *I have attached a copy of the written agreement to this Petition.***
    b. ☐ **No**

If you are requesting maintenance, child support and/or family support at this time, check yes. If not, check no.

I ASK THAT THE COURT:

1. Grant a judgment as requested.
2. Enter an order granting maintenance, child support and/or family support. ☐ **Yes** ☐ **No**
3. Enter other orders as it deems just and equitable.

Sample Petition for Divorce (Continued)

ACTS PROHIBITED BY STATUTE

In accordance with §767.117, Wis. Stats., neither the petitioner nor the respondent to this divorce or legal separation action can participate in any of the following activities while this action is pending:

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 in any other way 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 the 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. 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 without the consent of the other party or an order of the court or Circuit Court Commissioner.

4. Removing a minor child of the parties from the state of Wisconsin for more than 90 consecutive days without the consent of the other party or an order of the court or Circuit Court Commissioner.

5. Concealing a minor child of the parties from the other party without the consent of the other party or an order of the court or Circuit Court Commissioner.

A VIOLATION OF THE ABOVE PROHIBITIONS MAY RESULT IN PUNISHMENT FOR CONTEMPT, WHICH MAY INCLUDE MONETARY PENALTIES, IMPRISONMENT, AND OTHER SANCTIONS AS PROVIDED FOR IN SEC. 785.04 WIS. STATS.

A violation of paragraphs 3, 4, or 5 above 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 PROHIBITIONS apply until the action is dismissed, a final judgment in the action is entered, or the court orders otherwise.

STOP!
Take this document to a Notary Public BEFORE you sign it.

After you have been sworn by a Notary Public, sign and print your name and date the document in front of the Notary Public.	▶ _____ Signature _____ Print or Type Name _____ Date
Have the Notary Public sign, date, and seal the document.	State of _____ County of _____ Subscribed and sworn to before me on _____ *(Seal)* _____ Notary Public/Court Official _____ Name Printed or Typed My commission/term expires: _____

Sample Petition for Divorce (Continued)

Wisconsin Department of Children and Families
Child Support Percentage of Income Standards

Authority and Purpose
§49.22(9), Wis. Stats. requires the Department to adopt and publish a standard, based upon a percentage of the gross income and assets of either or both parents, to be used by courts in determining child support obligations. Chapter DCF 150 of the Wisconsin Administrative Code establishes Wisconsin's percentage of income standard for child support. It is based upon the principle that the child's standard of living should, to the degree possible, be the same as if the child's parents were living together.

Chapter DCF 150 defines the income upon which the support obligation is based, and sets the percentages of income for computing the support obligation based upon a number of children. It also explains optional procedures for adjusting the obligation when the parents share placement, when the parent has an obligation to support another family, or when the payer has particularly high or low income.

Applicability
The percentage standard applies to any temporary and final order for child support, including child support stipulations agreed to by both parents and modifications of existing child support orders. When used to calculate family support, the amount determined under the standard should be increased by the amount necessary to provide a net family support payment, after state and federal income taxes are paid, of at least the amount of a child support payment under the standard.

Definition of Income and Assets
Chapter DCF 150 defines gross income as income from any source, whether or not it is reported or taxed under federal law. The income can be in the form of money, property, or services. Public assistance or child support received from previous marriages or business expenses, which the court determines are reasonably necessary for the production of income or operation of a business are subtracted, and wages paid to dependent household member are added to determine "gross income available for child support."

The court may also determine that income may be "imputed" (assumed at a given level) based on earning capacity and/or assets, and that imputed income is added to the gross income for the calculation of the support obligation.

THE PERCENTAGE STANDARD
The percentages are:
17% for one child
25% for two children
29% for three children
31% for four children
34% for five or more children

Wisconsin Statutes require temporary and final support orders to be expressed as fixed sum in most situations.

For further details, refer to Chapter DCF 150 of the Wisconsin Administrative Code and Wisconsin Statute 767 Actions Affecting the Family. (Choose "Wisconsin Law" on http://www.legis.state.wi.us)

Sample Petition for Divorce (Continued)

Statutory Factors Courts May Consider In Determining Child Support Awards for Paternity, Divorce, or Legal Separation

§767.511, Child Support.

(1 m) Upon request by a party, the court may modify the amount of child support payments determined under §767.511 (1j) if, after considering the following factors, the court finds by the greater weight of the credible evidence that use of the percentage standard is unfair to the child or to any of the parties:

(a) The financial resources of the child.

(b) The financial resources of both parents.

(bj) Maintenance received by either party.

(bp) The needs of each party in order to support himself or herself at a level equal to or greater than that established under 42 USC 9902 (2).

(bz) The needs of any person, other than the child, whom either party is legally obligated to support

(c) If the parties were married, the standard of living the child would have enjoyed had the marriage not ended in annulment, divorce or legal separation.

(d) The desirability that the custodian remain in the home as a full-time parent.

(e) The cost of day care if the custodian works outside the home, or the value of custodial services performed by the custodian if the custodian remains in the home.

(ej) The award of substantial periods of physical placement to both parents.

(em) Extraordinary travel expenses incurred in exercising the right to periods of physical placement under §767.41.

(f) The physical, mental and emotional health needs of the child, including any costs for health Insurance as provided for under sub. (4m).

(g) The child's educational needs.

(h) The tax consequences to each party.

(hm) The best interests of the child.

(hs) The earning capacity of each parent, based on each parent's education, training and work experience and the availability of work in or near the parent's community.

(i) Any other factors which the court in each case determines are relevant.