

DIVORCE SELF-SERVICE PACKET

Table of Contents

Use and Disclaimer.....	2
Important Terms to Know	2
Divorce in Tohono O’odham Courts.....	4
Basic Overview of Divorce Process	6
Checklist of Documents to Fill Out	8
Completing the Civil Cover Sheet	8
Completing the Petition	9
Completing the Summons	11
Checklist of Documents to File at the Courthouse	11
Completing the Filing	11
Completing the Proof Of Service.....	12

Use and Disclaimer

Court staff cannot provide legal advice.

The Court assumes no responsibility and accepts no liability for actions taken by the users of these forms or in reliance upon the instructions or information provided. The forms may be updated from time to time and it is the individual's responsibility to ensure that the most recent form is being used. Individuals may also create and use documents in a format that meets the requirements of the Rules of Court.

Court cases can be very complicated, and even if you are representing yourself, you may see a legal practitioner for legal advice about how the law applies to you and what may be best for your particular situation. This might save you time, money, and trips to the courthouse, and may avoid serious mistakes. A list of legal practitioners authorized to practice before the Tohono O'odham courts is available at the Justice Center reception window and online at: <https://tojc-nsn.gov/>.

Important Terms to Know

PETITIONER: The individual filing the Petition, will be called the PETITIONER on all documents relating to your case, regardless of who files any later documents.

RESPONDENT: Your spouse will be called the RESPONDENT on all documents.

DEFAULT JUDGMENT: A judgment where the Court orders that you receive everything legally reasonable asked for in your petition. This usually happens when the RESPONDENT does not respond to your Petition or does not appear in Court.

PETITION: A written, legal request for a divorce.

SUMMONS: A written order to your spouse to appear in court that provides the date, time, and place of the hearing.

SERVICE OF PROCESS: There are several ways to complete the service of process, which is giving legal notice of what you have filed to your spouse. You must provide a copy of any papers filed with the court (petition, summons, and all other relevant documents) to your spouse. You may give notice by mail, personal service (hand-delivery), or if all else fails, by publication in a newspaper or by community posting. Service by publication in a newspaper may cost money and may delay the case. See T.O. Rules of Civil Procedure Rule 3.1(f).

PROOF OF SERVICE: A document you sign and file with the Court to prove you gave notice to your spouse, the date you served your spouse, and how you did it (by personal service, mail, or publication). See Rule of Civil Procedure 3(d)-(f).

FEE DEFERRAL: You may ask the Court for a payment plan so that you can pay your fees in installments or over time.

FEE WAIVER: You may ask the Court to waive any fees if you permanently lack the ability to pay them. This means you will not have to pay these fees.

Divorce in Tohono O'odham Courts

To file for a divorce in Tohono O'odham courts, under 4 T.O.C., Ch. 1 § 1-101(b)(6), you and your spouse must fall into one of the following categories:

- Both parties are members of the Nation; or,
- If you are a member and non-member couple, one party must have lived on the Nation for 6 months; or,
- If both parties are non-members, one of you must have lived on the Nation for 6 months, AND jurisdiction over the parties is agreed to before affecting the person's interests in separate property or community property not located within the Nation—which means the parties must agree to the Court's authority to hear the case.



NOTE: Do not file in the Nation's Court if you or your spouse do not fit under one of these situations because the Court will not have jurisdiction over the suit.

Tohono O'odham Courts, under 9 T.O.C. Ch. 1, § 11, may grant a divorce in any of the following cases:

1. When either party commits adultery;
2. When one of the parties was physically incompetent at the time of the marriage and remained so until a petition for divorce was filed;
3. When one of the parties was convicted of a felony and sentenced to prison, and was not convicted on the testimony of the other party; a divorce action may not be brought until one year after the final judgment of conviction; a pardon is not a defense to such divorce action;
4. When either party has willfully deserted the other for 90 days before the filing of the divorce action or for habitual intemperance (chronic drunkenness or drug addiction) of either party;
5. Where the husband or wife is guilty of excesses, cruel treatment, or outrage toward the other, whether by personal violence or other means;
6. When the husband, having the ability to provide but failing to do so because of his idleness, recklessness, or self-indulgence, fails to provide his wife with the common necessities of life for the period of one year;

7. When, before the marriage, either party was convicted of a felony or infamous crime in any state or country without the other party's knowledge of that fact at the time of the marriage; or
8. In favor of the husband when the wife, at the time of the marriage, was pregnant by a man other than the husband and without the husband's knowledge at the time of such marriage.



What you are requesting from the Court must have a basis in Tohono O'odham law. The Tohono O'odham Code is available for free, online at <https://www.tolc-nsn.gov/tohono-oodham-code/> and the Tohono O'odham Rules of Court are available at <https://tojcnnsn.gov/rules-and-opinions/>. You may also request a copy of these documents at the Justice Center. There is a charge for these copies.

Basic Overview of Divorce Process

Throughout the divorce process, you and your spouse will need to think about the division of property or debts (individual and separate property and debts; community property and debts), spousal maintenance (alimony), and whether or not you want to change your last name. If you and your spouse have a child or children, then you and your spouse will need to consider legal decision-making (legal custody), parenting time (physical custody), and child support.

If, before filing for divorce, you and your spouse negotiate a settlement agreement, you can file that with the Court along with your divorce petition.



NOTE: If your case is or becomes complicated, you may wish to seek the advice of a legal practitioner. See the Judicial Branch website homepage at <https://tojcnnsn.gov/> for the List of Legal Practitioners Accepting Clients.

Step 1: Court Fees. The court charges a fee to file a petition. The fee must be paid at the time you file. A list of current Court Fees and Costs can be found on the Tohono O’odham Judicial Branch website: [Court Fees and Costs | Tohono O’odham Judicial Branch \(tojcnnsn.gov\)](#).



If you are unable to afford court fees, you may be eligible to receive a deferral or waiver of these fees by filing a request. The form is available at the Justice Center reception window or on the website: [Financial Affidavit and Request for Fee Waiver](#).

Step 2: File a Petition for Divorce. The entire divorce packet must include the Petition, any summons you need, and the Civil Cover Sheet, which can be found online here: [Civil Cover Sheet](#). The Court Clerk will set a hearing within 45 days of the filing. All of the required documents can be found at the Justice Center reception window or on the Court’s website at <https://tojcnnsn.gov/forms/>. The forms and instructions are included in this packet.

Step 3: File a Summons Form. The [Civil Summons Form](#) should be filled out and handed in when you file your Petition so that the Court Clerk can put the hearing date on the summons. The summons (and copies of your petition) will be returned to you. You must deliver these documents to your spouse.

Step 4: Serve the Divorce Paperwork. Copies of your petition and summons form must be delivered to your spouse. This is called “service of process.” Service allows your spouse the chance to respond to your request for a divorce. You can deliver the documents in person, by U.S. mail with a return receipt, or under limited

situations, by publication or community posting. See T.O. Rules of Civil Procedure, Rule 3 for more guidance. <https://tojc-nsn.gov/rules-and-opinions/>

- **Time Frames to Serve Process:** You must give your spouse notice of the court papers. If your spouse receives a summons less than 7 days before any hearing, they may notify the Court in writing and ask for a continuance of the hearing. [T.O. Rules of Civil Procedure, Rule 3\(g\)](#).
- **Proof of Service:** You must file signed and notarized proof that your spouse was served all of the documents. A Proof of Service Form can be found at the Justice Center reception window or on the website at <https://tojc-nsn.gov/forms/>. When there is only one person served, you may place a diagonal line through the sections that do not apply.



You must sign and date the Proof of Service document in front of a notary public before filing with the Court. There may be a notary available at the Justice Center.

Step 5: Possible Outcomes. After you file with the Court, one of the following will happen.

- **Default Judgment.** If your spouse does not file a Response to your petition with the Court within the time limits, you can ask the judge to make a decision in your favor. The judge then issues an order awarding what you've requested in your petition.
- **Settlement Agreement.** If your spouse does file a Response and you don't want a divorce trial, the two of you can work out a settlement agreement. This agreement must be filed with the Court.
 - If the parties can't reach an agreement, or reach agreement on some things but not others, a judge will decide any issues you and your spouse cannot agree on. Additionally, you may request Judge-Conducted Mediation. See T.O. Rules of Court, Section 17 which can be found here: <https://tojc-nsn.gov/rules-opinions/>.
 - If there are no disputed issues, a judge will review the settlement agreement and approve the decree of divorce.
- **Divorce Trial.** If you and your spouse can't reach a settlement agreement, the matter will go to a divorce trial.

Checklist of Documents to Fill Out

- ☐ [Civil Cover Sheet](#) – to be filed at the beginning of the case
- ☐ Petition for Divorce – to be filed at the beginning of the case
- ☐ [Civil Summons](#) – to be filed at the beginning of the case
- ☐ [Proof of Service](#) – filed after your spouse has been given the Petition and summons
- ☐ [Protective Order Petition](#) (*optional*)
- ☐ [Child Support Worksheet & Support Schedule](#) (*optional*) (You will need Excel to open this document.)

All of these documents are available at the Justice Center reception window or on the website at <https://tojc-nsn.gov/forms/> as downloadable and fillable PDF forms. You will need Adobe Acrobat Reader to view them. Adobe is free software available from Adobe's website at <https://get.adobe.com/reader/>. You may fill the forms out online before printing, or print and fill them out by hand with a blue or black ink.

Completing the Civil Cover Sheet

Type or print in black or blue ink in all blanks except the CASE NUMBER. The Court Clerk will assign the case number after you file the Petition.

If you are the filing party, you are the Petitioner and your spouse is the Respondent.

PETITIONER'S LEGAL COUNSEL (if applicable)

- Leave blank if you do not have a lawyer or legal practitioner.

ATTORNEY BAR NUMBER (if applicable)

- Leave blank if you do not have a lawyer.

PETITIONER'S SECTION

- Fill in your name, birthdate, and full address.

RESPONDENT'S SECTION

- Fill in your spouse's name, birthdate, and full address.

INTERESTED PARTY'S SECTION

- Leave blank.

NATURE OF ACTION

- Check or place an “X” in the box that says “Divorce.” Choose only this category as it most accurately describes your primary case.

Completing the Petition

CAPTION

- Name of Petitioner – Enter your name as the Petitioner.
- Name of Respondent – Enter your spouse’s name as the Respondent.
- Case No. – Leave this blank. The Clerk will fill this information in when you file your documents.

Fill in the following information where requested:

1. Fill in your name, select your membership status from the drop-down menu, and your address (city, state, zip code).
2. Fill in your spouse’s name, select your spouse’s membership status on the drop-down menu, and your spouse’s address (city, state, zip code).
3. Fill in the date and location of the marriage.
4. Check all the grounds for divorce that apply. There are seven (7) options.
5. Check this box if you and your spouse have reached a written settlement agreement. Attach a copy of that document to the Petition.
6. Choose one option about whether or not a restraining order is needed against the Respondent. If you are requesting a restraining order, then you will also need to file a [Protective Order Petition](#) available at the Justice Center reception window or on the Court’s website at <https://tojc-nsn.gov/forms/>.
7. Check all of the statements that apply to you and your spouse’s property interests. Using **Attachment A**, describe and list any land and buildings that you and your spouse own. Describe and list property, other than land, that is jointly owned by you and your spouse, its value, and how you would like it to be divided.
8. Check all of the statements that apply to you and your spouse’s debts. Using **Attachment B**, describe and list all loans, bills, or unpaid accounts and the balance owed under the person who is or will be responsible for payment.

9. Choose one option for requesting or not requesting spousal support. Fill out **Attachment C** if you are requesting spousal support.
10. Choose one option about requesting a name change.
11. Check the box that applies to your relationship regarding domestic violence. Fill in your explanation.
12. Check the box that applies to any drug or alcohol related criminal convictions in the last 12 months. Fill in your explanation.
13. Choose one option about whether you and your spouse have children together. If you and your spouse have children, then fill out **Attachment D**, by checking all of the statements that apply to Child Custody and Parenting Time. If needed, briefly state the reason(s) or describe the arrangement you are requesting. Use the Child Support Worksheet & Support Schedule to calculate child support. This form is available at the Justice Center reception window or on the Court’s website at <https://tojcnnsn.gov/forms/>. (You will need Excel to open this document.) If you and your spouse have **no** children, please mark questions 11-13 as “Not Applicable” or N/A.
14. **Requests to the Court:** check the boxes in subsections A through G for the things you are asking the Court to do. Put any other requests in subsection I.



Before you submit the petition, make sure to sign and date it, verifying that any attachments you filled out are included, and that the information you are submitting is true, accurate, and complete to the best of your knowledge and belief.

The Respondent (your spouse) has the opportunity to join your petition. They can do this by signing and dating the petition under your signature.

Completing the Summons

- Fill in the following information where requested: your name, address (city, state, zip code), and telephone number. Check the box “Self (without legal counsel)” if you are representing yourself. If you are representing yourself, leave the Attorney Bar Number blank.

CAPTION

- Name of Petitioner – Enter your name as the Petitioner.
- Name of Respondent – Enter your spouse’s name as the Respondent.
- Case No. – Leave this blank. The Clerk will fill in this information for you when you file your Summons.
- Leave the rest of the form blank.

Checklist of Documents to File at the Courthouse

- ☐ Petition with any completed attachments
- ☐ Copy of Marriage Certificate
- ☐ Documents proving land ownership, if applicable (optional)
- ☐ Child Support Worksheet with proof of income (if needed)
- ☐ Summons

Completing the Filing

There are three options for filing your documents with the Court. No matter which you choose, the Clerk will date/time stamp the Petition and each copy, and complete the summons with hearing date and time information. The copies of the Petition and the summons will be returned to you, one for your file and one to serve on the Respondent.

- Option 1. **Bring the Originals and 2 Copies to the Clerk to be Filed:** Bring the original Petition with all of your attachments and 2 full copies (one for yourself and one for the Respondent) to the Reception window at the Justice Center, along with the summons and your filing fee.
- Option 2. **File the documents by email or fax:** See T.O. [Rules of Civil Procedure 4.2\(c\)-\(d\)](#) for guidance. Electronically filed documents must be in a PDF format and named in a precise way. There will not be a case number in your first filing with the Court but after that, be sure to include the case number in the name. Before filing electronically, be sure that you fully understand the Rules of Court that apply. If you file by email or fax you only need to file one document and your filing fee must be received by the Clerk’s Office

within three business days of the Clerk’s written confirmation of receipt. Failure to submit a filing fee will result in the filing being rejected by the Clerk.

Option 3. **Mail the documents and your filing fee to the Justice Center:**

Office of the Clerk
Tohono O’odham Justice Center
P.O. Box 761
Sells, AZ 85634



Pay Your Filing Fee: The filing fee is due at the time you file the Petition and can be paid by money order, cashier’s check, or cash. Do not mail in cash. If you are unable to pay the filing fee, file the Financial Affidavit and Request for Deferral, Reduction, or Waiver of Court Fees form. See T.O. [General Rules of Practice](#), Rule 10.

Completing the Proof Of Service

You must fill out the [Proof of Service Form](#) after you have served the documents on the Respondent. Provide documents to prove the service, such as the receipt returned from the U.S. Post Office or a copy of the publication. See [Rules of Civil Procedure](#) 3.1(f) for details about how to serve someone by publication. It is important to return the Proof of Service document because, if there is any question about whether you served the documents or you need to request action because your spouse did not respond, this document will provide evidence of your service or attempted service of the documents.

- Fill in the following information where requested: your name, address (city, state, zip code), and telephone number. Check the box “Self (without legal counsel)” if you are representing yourself.

CAPTION

- Name of Petitioner – Enter your name as the Petitioner
- Name of Respondent – Enter your spouse’s name as the Respondent
- Case Number
- Check the box of Legal Counsel, Petitioner, or Respondent, that best describes the person filing the PROOF OF SERVICE.

Fill out the following information where requested for each person served:

- Name: Enter the name of the person who received the copies
- Method: Check the method you used to deliver the documents –

- by Personal Service (enter the name of the person who served the documents; date, time, and location of that service; the name of the person who accepted the documents; and signature of the person who accepted the documents if you are able to obtain a signature)
 - by Mail (enter the address used, mail delivery service used, date mailed, attach proof of delivery, i.e., the signed green return receipt)
 - by Publication (provide a printed copy of the publication or community posting along with an affidavit telling the Court the way and dates the publication was done)
- Fill out the date when SERVICE is completed.
 - Put a diagonal line through any sections you do not need.



DO NOT sign the Verification section until you are in front of a Notary Public. Sign on the signature line above the Verification section, in front of a notary public. Notary service may be available at the Judicial Center.

After completing the form, make copies of the following documents for each party, including yourself: the Proof of Service document (if served by first-class mail, the postal receipt card and a photocopy of the mailing envelope or the Affidavit of Publication (if any)), and assemble the documents into three complete packets (one original and two copies).

Take or mail the packets to the Court Clerk as described above. The **original will be kept by the Clerk and the copies** will be returned to you for delivery to the Respondent.