

INSTRUCTIONS FOR FILLING OUT FORMS

PURPOSE. These forms are to be used when you are married and you want to file for divorce. A divorce will dissolve the marriage, the court will divide the marital property and divide the marital debt between the parties. The court will award custody, child support and visitation of the child(ren) who were born when you were legally married. If a child was born before the marriage then you need to file for paternity by using the paternity form. If you are filing for divorce you must be a resident of the reservation you are filing and one of the parties to the marriage must be a tribal member.

FORMS INVOLVED. The first form is a **Civil Court Filing Statement-Contact Information** you need to fill out (there are no instructions for this form as it is self-explanatory). The second form is a **Summons** which may be required. The third form is the **Complaint**. You will need to fill in the necessary information with the help of the instructions below and file the forms with the clerk of the RST Tribal Court.

What is a Civil Court Filing Statement-Contact Information? This will allow the Clerk of Courts the ability to contact the parties when needed for scheduling and service of papers by mail. It will also allow the Court Process Server to locate and personally serve the defendant with the Summons and Complaint for divorce.

What is a Summons? A summons is a document that is served with the complaint on the opposing party you are seeking to divorce. A summons notifies the opposing party that an action for divorce in the form of a complaint has been filed against them and that the opposing party must answer in writing to both you and the court that they deny your claims in the complaint. If the opposing party fail to answer your summons and complaint within 30 days after service on them or if they fail to appear you may seek a default judgment.

What is a Complaint? A complaint sets out your cause of action or claim against the opposing party. A complaint puts the court and the opposing party on notice of what a plaintiff's claims are. If you file a summons and complaint you are called the plaintiff. The person you are seeking to divorce is called the defendant. In this case it is letting the defendant know that the plaintiff has filed for divorce and any other claims the plaintiff has against the defendant such as child custody, child support or division of property and debts.

Jurisdiction. In order for Rosebud Sioux Tribal Court to hear your claim the court must have jurisdiction. First, the court must have jurisdiction over the people involved, that means the court must have jurisdiction over you and the opposing party. Second, the court must have jurisdiction over the subject matter of the plaintiff's claim. This means the court has jurisdiction to hear type of claim you filed such as divorce.

In order for Rosebud Sioux Tribal court to have jurisdiction over a divorce the following must exist:

1. The party filing for divorce(plaintiff) must be a resident of the Rosebud Sioux Indian Reservation and;

2. One of the parties to the marriage (either the plaintiff or defendant) must be a member of the Rosebud Sioux Tribe.

Filing and service fees. The court will require payment of a filing fee unless waived to file your summons and complaint with the court. There is also a fee to have your summons and complaint served on the defendant. It is required by law that your summons and complaint be personally served on the defendant. This can be by the Court Process Server which will incur a service fee to have them serve your papers. You can file a motion to waive the filing and service fees if you can show you are indigent or don't have the resources to pay the fees. Use the **Motion to Waive Filing and Service Fees** form to ask the court to waive those costs or for a partial waiver. You can also have a tribal member over the age of 18 and not a party to the action serve the defendant with the summons and complaint and they may do it free. If you go this route, have the person who serves the court papers on the defendant complete the **Affidavit of Service** form and you must file the affidavit with the court as proof the defendant was served.

How to file a summons and complaint. A summons and complaint is filed when you take them to the courthouse and file them along with the filing fee and Civil Cover Sheet-Contact Information with the clerk of courts. When you file your complaint or petition with the clerk, please date and sign the form in front of the clerk so they can notarize your signature.

What happens if the opposing party fails to Answer. If the opposing party fails to answer your summons and complaint within 30 days after being served with the summons and complaint, you can ask the court for a default judgment.

Please use the Pro Se Divorce Guide to help you understand the issues and how to proceed with the divorce action in court.

CIVIL COURT FILING STATEMENT-CONTACT INFORMATION

PLAINTIFF:

A. Full Name: _____

Mailing Address: _____

Physical Address or Direction to Residence: _____

Contact Numbers:

Cell: _____ Home: _____ Work: _____

Employed? Yes No Place of Employment: _____

DEFENDANT:

A. Full Name: _____

Mailing Address: _____

Physical Address or Direction to Residence: _____

Contact Numbers:

Cell: _____ Home: _____ Work: _____

Employed? Yes No Place of Employment: _____

Age: _____ Height: _____ Weight: _____ Color of Hair: _____ Length: _____

Type/Location/Color/Description of Residence: _____

Make/Model/Color Year of Vehicle: _____

Other Description or Information that can Aid in Serving Papers on the Defendant: _____

INSTRUCTIONS FOR FILLING OUT THE FORMS. To fill out the Summons and Complaint forms follow these instructions. The number below is the number on the form where the information for that number needs to be inserted. You can print this page in its entirety or you can scroll down to the summons form and then scroll down farther to find the complaint. There will be a blank screen between these instructions and the forms and between the forms so keep scrolling or just copy this page in its entirety.

Instructions for filling out the **Summons**:

- (1) on this line insert your name.
- (2) on this line insert the name of the person you want to divorce.
- (3) on this line insert your name.
- (4) on this line insert your entire mailing address.
- (5) on this line insert the day.
- (6) on this line insert the month.
- (7) on this line insert the year.
- (8) on this line insert your name by signing.

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD, SOUTH DAKOTA)

IN CIVIL COURT

(1) _____

DOCKET _____

PLAINTIFF(S)

VS

SUMMONS

(2) _____

DEFENDANT(S)

THE ROSEBUD SIOUX TRIBE TO THE ABOVE NAMED DEFENDANT(S):

You are hereby summoned and required to answer the Complaint of the Plaintiff(s) in the above entitled action, a copy of the Complaint is attached hereto and is hereby served upon you, and to serve a copy of your answer to the Complaint on the Plaintiff, (3) _____, at the address of (4) _____, thirty (30) days after service of the Summons upon you; exclusive of the day of such service; and in the case of your failure to Answer the Plaintiff's Complaint within that time, judgment may be rendered against you as requested in the Complaint.

Dated this (5) _____ day of (6) _____, (7) _____.

(8) _____
Plaintiff

Instructions for filling out the **Complaint**:

- (1) on this line insert your name.
- (2) on this line insert the name of the your spouse you are going to divorce.
- (3) on this line insert your name.
- (4) if you are an enrolled member of a federally recognized tribe leave this blank. If you are not enrolled in any tribe insert “not”.
- (5) insert the name of your tribe or if you are not enrolled in any tribe please indicate.
- (6) insert “within” if you live on a reservation or insert “outside” if you live outside the reservation where you are filing this complaint.
- (7) insert the name of the reservation you currently reside or leave blank if you do not live on a reservation.
- (8) insert your mailing address.
- (9) if defendant is enrolled in a federally recognized tribe leave this line blank. If defendant is not enrolled in any tribe insert “not”.
- (10) insert the name of the defendant’s tribe or if defendant is not enrolled in ay tribe pleas indicate.
- (11) insert “within” if defendant lives on a reservation or insert “outside” if defendant lives outside the reservation where you are filing this complaint.
- (12) insert the name of the reservation defendant currently resides or leave blank if defendant does not live on a reservation.
- (13) insert defendant’s mailing address if you know what it is otherwise insert “unknown”.
- (14) insert the date that you and defendant were married.
- (15) insert the name of the city where you were married.
- (16) insert the name of the county where you were married.
- (17) insert the name of the state where you were married.
- (18) insert each child’s name as it appears on their birth record who was born during the marriage. If no children were born during the course of the marriage leave (21), (22), and (23) blank.
- (19) insert each child’s correct date of birth (DOB).
- (20) insert the city, county and state where each child was born.
- (21) insert “have” if you and defendant acquired property during the marriage or “have not” if you and defendant have not acquired property during the marriage.
- (22) insert “have” if you and defendant incurred debts during the marriage or “have not” if you and defendant have not incurred debt during the marriage.
- (23) insert the grounds for your divorce. The grounds for divorce include adultery, extreme cruelty, willful desertion, willful neglect, habitual intemperance (being drunk all the time), conviction of a felony, chronic mental illness or irreconcilable differences (differences between you and your spouse that cannot be fixed). See Burden Of Proof section above for grounds.
- (24) insert your maiden name if you want it restored or leave blank if you do not or you are a man.
- (25) on this line insert the day.
- (26) on this line insert the month.
- (27) on this line insert the year.
- (28) on this line insert your name by signing.

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD, SOUTH DAKOTA)

IN CIVIL COURT

(1) _____

DOCKET _____

PLAINTIFF(S)

COMPLAINT FOR DIVORCE

VS

(2) _____

DEFENDANT(S)

Comes now (3) _____ (“Plaintiff”) and for her/his complaint against the Defendant, states and alleges as follows:

1. That Plaintiff is (4) _____ an enrolled member of (5) _____, and is presently residing (6) _____ the exterior boundaries of the (7) _____. Plaintiff’s address is (8) _____.

2. That Defendant is (9) _____ an enrolled member of the (10) _____, presently residing (11) _____ the exterior boundaries of the (12) _____. Defendant’s address is (13) _____.

3. That Plaintiff and Defendant were legally married on (14) _____ in the city of (15) _____, (16) _____ County, in the state of (17) _____.

4. That the following child(ren) as a result of the marriage between Plaintiff and Defendant:

a. (18) _____ DOB:(19) _____ at(20) _____

b. (18) _____ DOB:(19) _____ at(20) _____

c. (18) _____ DOB:(19) _____ at(20) _____

d. (18) _____ DOB:(19) _____ at(20) _____

e. (18) _____ DOB:(19) _____ at(20) _____

_____.

f. (18)_____ DOB:(19)_____ at(20)_____

_____.

g. (18)_____ DOB:(19)_____ at(20)_____

_____.

h. (18)_____ DOB:(19)_____ at(20)_____

_____.

5. That Plaintiff is the child(ren)'s primary caretaker and has had the care custody and control of the child(ren), and it is in the child(ren)'s best interest that the care, custody, and control be awarded to Plaintiff.

6. That the Defendant is an able-bodied person capable of paying child support to the Plaintiff in an amount deemed reasonable by the Court.

7. That Plaintiff and defendant (21)_____ accumulated property during the course of their marriage.

8. That Plaintiff and Defendant (22)_____ incurred debts during the course of their marriage.

9. That plaintiff and defendant have irreconcilable differences, or in the alternative, the defendant has perpetrated acts upon plaintiff amounting to (23)_____ which make it impossible to fulfill the aims and goals of their marriage.

10. That the wife be restored her maiden name of (24)_____.

WHEREFORE, Plaintiff prays that this Court order that

- A. This court has jurisdiction over the parties and subject matter herein;
- B. Judgment be entered awarding Plaintiff a Decree of Divorce from Defendant.
- C. The Plaintiff be granted custody of the child(ren).
- D. The Defendant pay a reasonable amount of child support.
- E. The Court make a fair and equitable division of the property and make a fair and equitable distribution of the debts.
- F. That the Defendant reimburse the Plaintiff for the fees incurred in this matter.

G. For any other relief the Court deems just and equitable.

Dated this (25)____ day of (26)_____, (27)_____.

(28)_____
Plaintiff

VERIFICATION

Rosebud Indian Reservation)
)SS
Rosebud, South Dakota)

(3)_____, being first duly sworn on oath, state and depose that he/she is the plaintiff in the foregoing Complaint, that he/she has duly executed said Complaint after reading the same, they he/she knows the content thereof to be true to his/ her own knowledge, except those matters stated to be on information and belief, which matters he/she believes to be true.

Dated this (25)____ day of (26)_____, (27)_____.

(28)_____
Plaintiff

Subscribed and sworn to before me this ____ day of _____, _____.

Notary Public
My commission expires:
(SEAL)