

## **Instructions for Affidavit of Plaintiff and Defendant as to Jurisdiction and Grounds for Divorce & Form**

In South Dakota, both parties must typically agree to use irreconcilable differences as the reasons for divorce. Additionally, the Plaintiff must be a resident of the State of South Dakota when the divorce is started. This Affidavit confirms those facts for the Court. **If the parties sign the Stipulation and Settlement Agreement (With Minor Children) document, they must also sign this document.**

- **Complete this form in black or blue ink only!**
- Complete the “caption.” This information will be the same as on the Summons (With Minor Children) and Complaint With Children. The caption is the same on every form.
- Fill in the full legal names of the Plaintiff and Defendant.
- In Paragraph 3, insert the name of the city where the Plaintiff resided when the divorce action was started.
- The Plaintiff must fill in the date with the day, month and year that he/she signs the Affidavit.
- **The Plaintiff must sign the document in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**
- The Defendant must fill in the date with the day, month and year that he/she signs the Affidavit.
- **The Defendant must sign the document in the presence of a notary public or clerk of court. Make sure to bring photo identification to show the notary public or clerk of court. A notary public can usually be found at the bank and sometimes at the courthouse.**
- **If the Defendant refuses to sign the form, the Plaintiff should still file the Affidavit with his/her single signature.**
- **Make a copy for each of you and file the original with the Clerk of Court.**

**WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court could find you in contempt or you could be prosecuted for not telling the truth.**

STATE OF SOUTH DAKOTA )  
 ) :SS  
 COUNTY OF \_\_\_\_\_)

IN CIRCUIT COURT  
 \_\_\_\_\_ JUDICIAL CIRCUIT

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

DIV \_\_\_\_\_

**AFFIDAVIT OF PLAINTIFF AND  
 DEFENDANT AS TO JURISDICTION  
 AND REASON FOR DIVORCE**

\_\_\_\_\_, Plaintiff and \_\_\_\_\_,  
 Defendant, being first duly sworn upon their oath, depose and state as follows:

**1.**

That they are the Plaintiff and the Defendant in the above-entitled divorce action.

**2.**

This Affidavit is made pursuant to the provisions of SDCL 25-4-17.3 so that the divorce may be granted without requiring the personal appearance in Court by either party.

**3.**

Pursuant to SDCL 25-4-30, the Plaintiff, at the time of the commencement of this divorce action was a bona fide resident of \_\_\_\_\_ of the State of South Dakota (or stationed in the State of South Dakota while a member of the armed services).

**4.**

Plaintiff and Defendant agree by signing this Affidavit that there are irreconcilable differences between the parties which the parties cannot repair to save the marriage. Both parties consent to the Court’s entry of a Decree of Divorce to both parties on the grounds of irreconcilable differences.

**5.**

A written Stipulation and Settlement Agreement (With Minor Children) has been entered into between the Plaintiff and Defendant setting forth the terms and conditions of the division of property and other matters, which agreement is presented to the Court with this Affidavit.

6.

Both parties authorize the immediate presentation of the Stipulation and Settlement Agreement (With Minor Children) and of this Affidavit to Jurisdiction and Grounds for Divorce and of the proposed Judgment and Decree of Divorce to the Court and respectfully request the Court to consider the same without need for any noticed hearing or trial. The parties further waive the entry of formal Findings of Fact and Conclusions of Law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Plaintiff  
(Sign only in front of a Notary or Clerk of Courts)

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(SEAL)  
If notary, my commission expires:

\_\_\_\_\_  
Notary Public/Clerk of Court

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Defendant  
(Sign only in front of a Notary or Clerk of Courts)

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(SEAL)  
If notary, my commission expires:

\_\_\_\_\_  
Notary Public/Clerk of Court