

**INSTRUCTIONS FOR FINDINGS OF FACT,
CONCLUSIONS OF LAW AND JUDGMENT OF ANNULMENT
(WITH MINOR CHILDREN)**

Within 30 days of the annulment trial, one of the parties must prepare the document entitled “Findings of Fact, Conclusions of Law and Judgment of Annulment” for the judge’s signature. Usually the party who started the annulment is responsible for preparing this document. If the parties were joint petitioners, they can prepare the Findings together or decide which party will prepare the Findings. The attached form is to be used in preparing the Findings of Fact, Conclusions of Law and Judgment of Annulment in cases where there are minor children.

Read and fill out the form. Type or print neatly. Please review carefully the following instructions. The numbers on the instructions below correspond to the numbers on the form.

CAPTION

Print the names of the parties as they appear on other documents. Fill in the case number and the branch where your annulment was granted.

SECTION LABELED “TRIAL”

Print the judge’s name after “Honorable”.

Fill in the date of the annulment trial.

After “Appearances”, list the names of the parties who appeared at the trial. If both you and your former spouse were there, then list both of your names.

After “Others”, list the names of any attorneys who appeared at the trial, such as a guardian ad litem or a child support attorney.

SECTION LABELED “FINDINGS OF FACT AND CONCLUSIONS OF LAW”

2. Fill in the information requested as to the wife.
3. Fill in the information requested as to the husband.
4. Fill in the date on which you were married and the place (city, county, state) where you were married.
5. List the names and birthdates of the minor children who were born to or adopted by you and your former spouse.
6. Fill in the number of children who were emancipated by you and your former spouse.

7. If the wife is pregnant, cross off the word “not”.
8. If any children were born to the wife during the marriage and the husband is not the father, list those children here together with their birthdates. If all children born to the wife during the marriage are children of the husband, print “none” here.
9. If another action for divorce, legal separation or annulment affecting this marriage was commenced earlier, state in the space provided who filed the case, in what county and when.
10. If either of you was previously married to someone else, state in the space provided which party was previously married, to whom and the date the marriage ended.
11. Circle the option that indicates the grounds for the annulment.
12. If any of the parties’ financial forms were not updated on the record or marked as exhibits at the time of trial, explain in the space provided.
13. Indicate which parent(s) will provide health insurance for the children by checking the appropriate box(es).
14. If you did not have a Marital Settlement Agreement, cross out Number 14 and state in the space provided what the judge ordered. If you had a Marital Settlement Agreement, included here any changes (amendments) made by the judge and what the judge ordered concerning property division and debts. Be as specific as you can as to what the judge ordered. Please add additional pages if necessary. If the judge made his or her decision in writing, you may attach the judge’s decision to the form.
15. If the judge awarded joint legal custody of the children, circle “both parties jointly”. If the judge awarded sole legal custody to one of the parents, fill in the name of the parent who was awarded sole legal custody.
16. In the space provided, state the placement schedule ordered by the judge. If the schedule is lengthy and is outlined in a Marital Settlement Agreement or a written decision of the judge, state “placement is as outlined in the attached document” and attach the document to the Findings.
19. If neither of you was awarded maintenance, check the box indicating that maintenance was denied. If one of you was awarded maintenance, check the second box and include the amount of maintenance to be paid, which party is to pay it and which party is to receive it. Circle either “per month” or “biweekly” to indicate how often maintenance is to be paid. After the word “commencing”, indicate when the payments are to begin.
20. Check the first box if the judge ordered one of the parents to pay child support. After the “\$” sign, state what specific dollar amount or what percentage of gross income is to be paid. Circle “per month” or “biweekly” to indicate how often payments are to be made. Print the name of the parent who will pay child support after “payable by”. Print the name of the parent to receive child support after “to”. After “commencing”, state what

date payments are to start. Check the second box if the judge did not order anyone to pay child support. Check the third box if the parents were ordered to share variable expenses. In the space provided, state what expenses are to be shared and what percentage of the expense each parent is to pay.

21. If the judge ordered that arrears for maintenance as of the date of trial are to be set in the amount reflected on the records of the Wisconsin Support Collection Trust Fund, check the first box. If the judge found that the arrears were at a different amount, check the second box and fill in the amount after the "\$" sign. If there are no arrears, check the third box.
22. If there are arrears, explain how they will be paid in the space provided.

SECTION LABELED "JUDGMENT OF ANNULMENT"

30. Print the names of the parties in the spaces provided.
31. If you did not have a Marital Settlement Agreement, cross out Number 31 and state in the space provided what the judge ordered. If you had a Marital Settlement Agreement, included here any changes (amendments) made by the judge and what the judge ordered concerning property division and debts. Be as specific as you can as to what the judge ordered. Please add additional pages if necessary. If the judge made his or her decision in writing, you may attach the judge's decision to the form.
32. If either party wants to take back a name he or she previously used, print the name as it appears in the caption on the first line and the name he or she wants to take back on the second line.

If the judge requires your signature, sign on the bottom of the last page of the form.

After you prepare the Findings of Fact, Conclusions of Law and Judgment of Annulment, send the original and three copies to the judge who granted your annulment. A copy of any Marital Settlement Agreement must be attached to each copy of the Findings of Fact, Conclusions of Law and Judgment of Annulment.

After the judge holds the documents for five days to see if the other side objects to anything stated in them, the judge will sign the Findings and send a copy to each party.

In re the marriage of:

_____,
Joint Petitioner/Petitioner,

and

_____,
Joint Petitioner/Respondent.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND JUDGMENT OF
ANNULMENT
(with minor children)**

Case No. _____

TRIAL

Presiding: Honorable _____

Place: Dane County Courthouse
215 S. Hamilton Street
Madison, Wisconsin 53703

Date: _____

Appearances: Joint Petitioner/Petitioner, _____, appeared
in person and pro se. Joint Petitioner/Respondent, _____,
appeared in person and pro se / did not appear.

Others: _____

I, the Judge before whom this action was tried, do hereby make these Findings of Fact
and Conclusions of Law, and Judgment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The residence requirements of Ch. 767, Wis. Stats., have been met.
2. Wife's legal name: _____
Residence: _____
Birthdate: _____
Occupation: _____
Income: Gross: \$ _____/month; Net: \$ _____/month
3. Husband's legal name: _____
Residence: _____
Birthdate: _____
Occupation: _____
Income: Gross: \$ _____/month; Net: \$ _____/month

4. The parties were married on _____, _____ at _____.

5. The following minor child(ren) has/have been born to or adopted by the parties:

| <u>Name</u> | <u>Birthdate</u> |
|-------------|------------------|
|-------------|------------------|

6. There are _____ emancipated child(ren) of this marriage.

7. The wife is (not) pregnant.

8. No other minor child(ren) were born to the wife during this marriage. (Except:

9. Neither party has begun any other action for divorce, legal separation, or annulment regarding this marriage anywhere. (Except:

10. Neither party has been previously married. (Except:

11. Indicate the grounds for the annulment by **circling** one of the choices below:

- a. A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of age, mental incapacity or infirmity, or the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into the marriage by force or duress, or by fraud involving the essentials of marriage.
- b. A party lacks the physical capacity to consummate the marriage by sexual intercourse, and at the time the marriage was solemnized the other party did not know of the incapacity.
- c. A party was 16 or 17 years of age and did not have the consent of his or her parent or guardian or judicial approval, or a party was under 16 years of age.
- d. The marriage is prohibited by the laws of this state.

12. The parties have filed forms disclosing their incomes, assets and liabilities, and these forms have been entered into evidence. The assets of the parties, their interests therein, the values thereof, and their encumbrances and debts are found to be as set forth in the financial form(s) of the parties, which were updated as required by statute on the record and marked as exhibits at the time of trial. (Except for the following:

13. Health insurance for the minor child(ren) will be provided by:

- Mother
- Father

14. The parties have entered into a Marital Settlement Agreement. The Court specifically finds that the custody arrangement is in the best interests of the child(ren). The parties' agreement is found to be fair and reasonable, is approved in its entirety, and is incorporated by attachment as the judgment of this Court. (Except as it was amended at the time of trial, as part of the Court's judgment:

Custody of Minor Child(ren)

15. Legal custody is awarded to _____ / (both parties jointly), based on the attached agreement.

16. The placement schedule for the minor child(ren) shall be as follows:

17. A person who is awarded periods of physical placement, a child of such a person, a person with visitation rights or a person with physical custody of a child may notify the family court commissioner of any problem he or she has relating to any of these matters. Upon notification, the family court commissioner may refer any person involved in the matter to the director of family court counseling services for assistance in resolving the problem. § 767.405(5)(c) Wis. Stats.

18. Notice is hereby given of the provisions of ch. 767, Wis. Stats.:

§ 767.481 MOVING THE CHILD'S RESIDENCE WITHIN OR OUTSIDE THE STATE.

(1) NOTICE TO OTHER PARENT.

- (a) If the court grants periods of physical placement to more than one parent, it shall order a parent with legal custody of and physical placement rights to a child to provide not less than 60 days written notice to the other parent, with a copy to the court, of his or her intent to:
 - 1. Establish his or her legal residence with the child at any location outside the state.
 - 2. Establish his or her legal residence with the child at any location within this state that is at a distance of 150 miles or more from the other parent.
 - 3. Remove the child from this state for more than 90 consecutive days.
- (b) The parent shall send notice under par. (a) by certified mail. The notice shall state the parent's proposed action, including the specific date and location of the move or specific beginning and ending dates and location of the removal, and that the other parent may object within the time specified in sub. (2)(a).

(2) OBJECTION; PROHIBITION; MEDIATION.

- (a) Within 15 days after receiving the notice under sub. (1), the other parent may send to the parent proposing the move or removal, with a copy to the court, a written notice of objection to the proposed action.
- (b) If the parent who is proposing the move or removal receives a notice of objection under par. (a) within 20 days after sending a notice under sub. (1)(a), the parent may not move with or remove the child pending resolution of the dispute, or final order of the court under sub. (3), unless the parent obtains a temporary order to do so under s. 767.225(1)(bm).
- (c) Upon receipt of a copy of a notice of objection under par. (a), the court or circuit court commissioner shall promptly refer the parents for mediation or other family court services under s. 767.405 and may appoint a guardian ad litem. Unless the parents agree to extend the time period, if mediation or counseling services do not resolve the dispute within 30 days after referral, the matter shall proceed under subs. (3) to (5).

(3) STANDARDS FOR MODIFICATION OR PROHIBITION IF MOVE OR REMOVAL CONTESTED.

- (a) 1. Except as provided under par. (b), if the parent proposing the move or removal has sole legal or joint legal custody of the child and the child resides with that parent for the greater period of time, the parent objecting to the move or removal may file a petition, motion or order to show cause for modification of the legal custody or physical placement order affecting the child. The court may modify the legal custody or physical placement order if, after considering the factors under sub. (5), the court finds all of the following:
 - a. The modification is in the best interest of the child.
 - b. The move or removal will result in a substantial change of circumstances since the entry of the last order affecting legal custody or the last order substantially affecting physical placement.
- 2. With respect to subd. 1:
 - a. There is a rebuttable presumption that continuing the current allocation of decision making under a legal custody order or continuing the child's physical placement with the parent with whom the child resides for the greater period of time is in the best interest of the child. This presumption may be overcome by a showing that the move or removal is unreasonable and not in the best interest of the child.
 - b. A change in the economic circumstances or marital status of either party is not sufficient to meet the standards for modification under that subdivision.
- 3. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.
- (b) 1. If the parents have joint legal custody and substantially equal periods of physical placement with the child, either parent may file a petition, motion or order to show cause for modification of the legal custody or physical placement order. The court may modify an order of legal custody or physical placement if, after considering the factors under sub. (5), the court finds all of the following:
 - a. Circumstances make it impractical for the parties to continue to have substantially equal periods of physical placement.
 - b. The modification is in the best interest of the child.

2. Under this paragraph, the burden of proof is on the parent filing the petition, motion or order to show cause.

(c) 1. If the parent proposing the move or removal has sole legal or joint legal custody of the child and the child resides with that parent for the greater period of time or the parents have substantially equal periods of physical placement with the child, as an alternative to the petition, motion or order to show cause under par. (a) or (b), the parent objecting to the move or removal may file a petition, motion or order to show cause for an order prohibiting the move or removal. The court may prohibit the move or removal if, after considering the factors under sub. (5), the court finds that the prohibition is in the best interest of the child.

2. Under this paragraph, the burden of proof is on the parent objecting to the move or removal.

(4) GUARDIAN AD LITEM; PROMPT HEARING.

After a petition, motion or order to show cause is filed under sub. (3), the court shall appoint a guardian ad litem, unless s. 767.407(1)(am) applies, and shall hold a hearing as soon as possible.

(5) FACTORS IN COURT'S DETERMINATION.

In making its determination under sub. (3), the court shall consider all of the following factors:

- (a) Whether the purpose of the proposed action is reasonable.
- (b) The nature and extent of the child's relationship with the other parent and the disruption to that relationship which the proposed action may cause.
- (c) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent.

(5m) OTHER FACTORS.

In making a determination under sub. (3):

- (a) the court may consider the child's adjustment to the home, school, religion and community
- (b) the court may not use the availability of electronic communication as a factor in support of a modification of a physical placement order or in support of a refusal to prohibit a move.

(6) NOTICE REQUIRED FOR OTHER REMOVALS.

- (a) Unless the parents agree otherwise, a parent with legal custody and physical placement rights shall notify the other parent before removing the child from his or her primary residence for a period of not less than 14 days.
- (b) Notwithstanding par. (a), if notice is required under sub. (1), a parent shall comply with sub. (1).
- (c) Except as provided in par. (b), subs. (1) to (5) do not apply to a notice provided under par. (a).

§ 948.31 INTERFERENCE WITH CUSTODY BY PARENT OR OTHERS.

(1) (a) In this subsection, "legal custodian of a child" means:

- 1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.
- 2. The department of health and family services or the department of corrections or any person, county department under s. 46.215, 46.22 or 46.23 or licensed child welfare

agency, if custody of the child has been transferred under ch. 48 or 938 to that department, person or agency.

- (b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class F felony. This paragraph is not applicable if the court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.
- (2) Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child's parents or, in the case of a nonmarital child whose parents do not subsequently intermarry under s. 767.803, from the child's mother or, if he has been granted legal custody, the child's father, without the consent of the parents, the mother or the father with legal custody, is guilty of a Class I felony. This subsection is not applicable if legal custody has been granted by court order to the person taking or withholding the child.
- (3) Any parent, or any person acting pursuant to directions from the parent, who does any of the following is guilty of a Class F felony:
 - (a) Intentionally conceals a child from the child's other parent.
 - (b) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining child custody rights, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in s. 822.02(14).
 - (c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period.
- (4) (a) It is an affirmative defense to prosecution for violation of this section if the action:
 - 1. Is taken by a parent or by a person authorized by a parent to protect his or her child in a situation in which the parent or authorized person reasonably believes that there is a threat of physical harm or sexual assault to the child;
 - 2. Is taken by a parent fleeing in a situation in which the parent reasonably believes that there is a threat of physical harm or sexual assault to himself or herself;
 - 3. Is consented to by the other parent or any other person or agency having legal custody of the child; or
 - 4. Is otherwise authorized by law.(b) A defendant who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.
- (5) The venue of an action under this section is prescribed in s. 971.19(8).
- (6) In addition to any other penalties provided for violation of this section, a court may order a violator to pay restitution, regardless of whether the violator is placed on probation under s. 973.09, to provide reimbursement for any reasonable expenses incurred by any person or any governmental entity in locating and returning the child. Any such amounts paid by the violator shall be paid to the person or governmental entity which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.

Support Payments

19. Check one:

- Maintenance to both parties is denied.
- Maintenance of \$_____ per month/biweekly payable by _____
to _____ commencing _____.

20. The following child support order was entered at trial (check one):

- Child support of \$_____ per month/biweekly payable by _____
to _____ commencing _____.
- No child support was ordered to be paid.
- Parents are to share the following variable expenses:

21. The arrears of record for maintenance as of the date of trial are (check one):

- as shown on the records of the Wisconsin Support Collection Trust Fund.
- established at \$_____.
- none.

22. The outstanding arrearage in support as found above shall be paid as follows:

23. All maintenance/family/child support payments provided herein shall be paid to the Wisconsin Support Collection Trust Fund (WI-SCTF) at P.O. Box 74200, Milwaukee, WI 53274-0200.

24. Interest on unpaid child support is charged at the rate of 1% per month, commencing the first day of the second month after the month in which the amount was due.

25. Support payer shall pay an annual sum of \$35.00 pursuant to § 767.57(1e)(a) Wis. Stats. The annual fee shall be paid at the time of, and in addition to, the first payment to the WI-SCTF in each year for which payments are ordered.

26. Whenever an order for support is entered, each party shall provide to the county child support agency his or her social security number, residential and mailing addresses, telephone number, operator's license number, and the name, address and telephone number of his or her employer. A party shall advise the county child support agency of any change in the information provided under this subsection within 10 business days of the change.

27. Payer shall notify the county child support agency within 10 business days of any change of employer and of any substantial change in the amount of his or her income such that his or her ability to pay child support, family support or maintenance is affected. Notification of any substantial change in the amount of the payer's income will not automatically result in a change of the support order unless a revision of the order is sought and granted.

28. This support order constitutes an income withholding assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in installments and other money due or to be due in the future to the county child support agency where the action is filed.
29. The court shall provide notice of the assignment by regular mail addressed to the payer's current employer or to the person from whom the payer receives or will receive money. The assignment shall be for an amount sufficient to ensure payment of current amounts imposed by the court for the support of the spouse and/or minor children, and to defray any arrearages in payments due.

JUDGMENT OF ANNULMENT

30. The marriage between _____ and _____ is annulled effective immediately.
31. The terms and conditions of the annulment shall be identical to the terms and conditions of the Marital Settlement Agreement of the parties, a copy of which is attached, and it is incorporated as if fully set forth herein, and is made the judgment of the court. (Except as it was amended at the time of trial, as part of the court's judgment:
32. _____ shall be restored to the use of former name _____ (at any time).
33. Disobedience of these court orders is punishable under Ch. 785, Wis. Stats., by commitment to the county jail or house of correction until such judgment is complied with and the costs and expenses of the proceedings are paid or until the party committed is otherwise discharged, according to law.

JUDGMENT IS HEREBY RENDERED EFFECTIVE AS OF THE DATE OF TRIAL AND THE CLERK IS ORDERED TO ENTER THIS JUDGMENT.

Dated at _____, Wisconsin, this _____ day of _____, 200__.

BY THE COURT:

Circuit Court Judge