

HOW TO START A DIVORCE OR LEGAL SEPARATION IN SOLANO COURT

READ THIS FIRST!

You must be a resident of California for six months and of Solano County for three months to file for divorce here. These residency requirements do not apply in Legal Separation cases.

The court uses the word “dissolution” to mean divorce.

Consult with a private family law attorney or the staff at the Legal Access Center if you do not know the difference between divorce and legal separation. If you need to divide pension plans or other retirement benefits, you should be consulting with a private family law attorney, not using our services. We cannot help with these issues.

If you own property that is held in joint tenancy or as community property with right of survivorship you should immediately ask a private family law attorney for legal advice about whether to sever or terminate or leave title as it is now. We cannot help you with this issue.

If you are unsure about any important issue in your case you should consult with a private family law attorney.

DOMESTIC PARTNERSHIPS: these instructions apply to the dissolution of domestic partnership, too. Instead of using the Petition-Marriage/FL-100 form and the Response-Marriage/FL-120 form as set forth below, domestic partners should use the **Petition-Domestic Partnership/FL-103** form and the **Response-Domestic Partnership/FL-123** form. Use all the other forms as indicated below. Talk to us if you are not sure if you are in a domestic partnership.

SAME-SEX MARRIAGES FROM 2008: these instructions apply to dissolutions or legal separations for parties to the valid same-sex marriages of 2008.

HELP: the best thing to do is to come to the Legal Access Center for assistance in completing your forms and to get instructions and other information. While you may have to wait for our help, it usually pays off. If this is not possible, see below for information on starting your divorce or legal separation. If you do come to our office keep in mind that that we take a limited number of customers everyday. The earlier you come, the more likely it is that we will be able to help you. We are open every weekday except Wednesday from 8:15 AM to 3 PM.

ABOUT LEGAL FORMS: Almost every form discussed in these instructions can be found at www.courtinfo.ca.gov/forms in the “family law” section. The Fee

Waiver forms can be found in the “fee waiver” section of the site. You can fill out the forms online and print them out from your computer. These forms are also available at our office. You can also fill out these forms by hand in blue or black ink. Forms must be filled out in English.

A. FILL OUT FORMS

Remember that you are the “Petitioner” if you are the first to file. You will always be the Petitioner in this case. Your spouse is the “Respondent”. Always put your name where the forms say “Petitioner”. Put your spouse’s name where the forms say “Respondent”. You also should put your name and address at the top left of the first page of all these forms (except the Summons and the Meet and Confer Orders) where it says “Attorney or Party without Attorney”. That’s YOU.

You must fill out and file the following forms to start a divorce or legal separation:

Petition-Marriage/FL-100: If you don’t know what the terms “community property” and “separate property” and “spousal support” mean, consult with the Legal Access Center staff or a family law lawyer before you complete this form. You should also talk to us if children are involved and you have questions about their paternity. Sign and date this form.

Summons/FL-110: This form tells the other party that they have 30 days to respond to your Petition. When you file a Summons, automatic restraining orders go into effect against you. The restraining orders go into effect against the other parent when you get the Summons served on him/her. These orders are found on the second page of the Summons. Read them before you file your papers.

Declaration Under the UCCJEA/FL-105: Complete this form only if you and your spouse have minor children together. Sign and date this form.

Income and Expense Declaration/FL-150: Answer every question on this form, even if your answer is \$0.00 or “does not apply”. Sign and date this form.

Schedule of Assets and Debts/FL-142: Complete this form. Make sure you sign and date it.

You will also need the following forms:

blank **Response-Marriage/FL-120:** This is for your spouse, the Respondent. Don’t fill it out.

blank **Declaration Under the UCCJEA/FL-105:** you will fill out this form for yourself, but you need a blank copy for the other party if you and your spouse have minor children together. Don’t fill it out.

blank Income and Expense Declaration/FL-150: you will fill out this form for yourself, but you need a blank copy for the other party. Don't fill it out.

blank Schedule of Assets and Debts/FL-142: you will fill out this form for yourself, but you need a blank copy for the other party. Don't fill it out.

Proof of Service of Summons/FL-115: This should be signed and dated by your server after service occurs – see below.

You may also need these forms:

Application for Waiver of Court Fees and Costs/FW-001: This is a request to the court to waive the filing fee (see below).

Order on Application for Waiver of Court Fees and Costs/FW-003: This is for the judge to sign if she approves your request for fee waiver.

B. FILE YOUR FORMS

When you have completed your forms, take them to the Legal Access Center to be reviewed. Then do the following:

1. Make two copies of each form you completed. Staple the multi-page forms together.
2. Bring your FL-100, FL-110 and FL-105 (if there are minor children) and their copies to the Family Law Clerk's office at the Fairfield courthouse or to the Clerk's office at the Vallejo courthouse. If you intend to ask for a fee waiver, also bring a completed FW-001 and FW-003. Hand your forms to the clerk.

You can also file your forms by mail. Mail the FL-100, the FL-110 and the FL-105 [if there are minor children] and the copies to: Family Law Clerk, Superior Court, 600 Union Avenue, Fairfield, California, 94533. Include a self addressed stamped envelope with enough postage on it so that the clerk can mail your copies back to you. Include a check made out to "Solano Superior Court" in the amount of your filing fee [see below] or include a completed fee waiver as described above.

3. The clerk will charge you a filing fee to file your papers. This fee is currently \$350, but is subject to change. If you feel you cannot afford the fee, you can submit an application for a fee waiver as described above. Fee waivers are usually only approved for persons with very low or no income. The clerk will file your original forms and return your copies to you stamped with a case number. If you applied for a fee waiver, your request may be approved on the spot by the clerk or may be sent to a judge for a decision. If it is sent to a judge, you will be notified by letter if your fee waiver has been denied. At that point you will either

have to pay the fee or ask for a court hearing on the issue of your request for a waiver.

C. SERVE YOUR FORMS

1. Take one set of your filed forms and add the blank forms – the FL-120, the blank FL-142, the blank FL-150, and the blank FL-105 (if children are involved) AND one copy each of the other forms that you filled out but didn't file – the FL-150 and the FL-142. All of these forms together are your "service packet"

2. Have another adult (the "server") hand the service packet to the other party. If the other party refuses to accept the service packet it is OK for the server to leave the service packet on the ground next to the other party.

If the other party does not live in California, you can try to serve him or her by having your server mail the service packet to the other party using Return Receipt Requested mail. It is usually better to try to get the other party personally served.

3. Make sure your server fills out and signs the Proof of Service of Summons/FL-115 form. Make sure that the form clearly indicates every form that is served on the other party, including the blank forms. If your server mailed the service packet to an out-of-state address, attach the green Return Receipt signature card to the form. It's a really good idea to show us your completed FL-115 form before you file it.

4. File the FL-115 at one of the clerk's offices.

C. WHAT NOW?

YOU ARE NOT DIVORCED. You have completed the first part of your divorce. Your goal is a final Judgment that settles all issues in your marriage. To get to such a final judgment, you will need to do one of the following:

- Reach an agreement with the other party that settles every issue in your marriage. There are different ways to do this. We can assist you with this. Putting your own agreement together by yourself or even with our help can be difficult in complicated cases. You may wish to consult with a private family law attorney if your case is complicated.
- Take the other party's default and proceed to judgment. If your spouse does not file and serve a Response form within 30 days of service, you may be able take his/her default. This means that you proceed without your spouse on the basis of the information you provided in your Petition. We can assist you with this. Complicated cases are sometimes not suitable to be resolved with a default judgment.

- Have a judge make decisions in your case. If there is no agreement, a judge will make your decisions for you. This means a trial. We may be able to assist you with some aspects of this. If you are going to trial, you may wish to hire a lawyer to represent you.
- Some combination of agreement and trial. You may be able to agree on some issues, but need the judge to decide others. We may be able to assist you with some aspects of this

IF YOU NEED ORDERS NOW

If you need the court to make temporary orders right now, before you get to an agreement, default judgment or a trial, you must complete and file at least 3 other forms: the Order to Show Cause /FL-300, the Meet and Confer Orders form and the Application for Order and Supporting Declaration/FL-310. The Meet and Confer Orders form is not available at the forms website listed above. It is a local Solano County form and can be obtained at <http://www.solanocourts.com/pdf/forms/family/Form010.pdf>. If you are asking for spousal support or child support or other orders involving money you will also need to complete and file and serve an Income and Expense Declaration /FL-150. These forms can be filed at the same time as your other papers and served at the same time. Service can be recorded on the same FL-115 form you use to show service of the other papers. If you do this, be sure to also serve a blank FL-320 form on the other party. Service of these particular forms must occur at least 16 court days before the hearing date.

If these forms are filed correctly, you will get a hearing date to ask the judge for temporary orders. Examples of typical temporary orders include child support orders, spousal support orders (people sometimes call this alimony), and child custody and visitation orders. We can help you complete these forms. We can also email you more information on how to ask for temporary orders.

WHEN WILL YOU BE SINGLE?

In a divorce action the earliest your marital status can be terminated is 6 months from the date the court acquires jurisdiction over the Respondent. This usually means 6 months from the date the other party is served. There is no way to terminate your marital status in less than 6 months from this date. However, your marital status will not terminate automatically after 6 months have past. You must complete the necessary steps to end your marriage. Note that a Legal Separation judgment is effective when the judge signs it and is not subject to the 6 month rule. Also note that a Legal Separation judgment will not terminate your marital status. This means you will still be married at the end of your Legal Separation case.

