

FL-107-INFO Legal Steps for a Divorce or Legal Separation

STEP 1. File Forms

- The **petitioner** (the person who files the first divorce or legal separation forms with the court) fills out and files with the court clerk at least a *Petition–Marriage* (form FL-100) and a *Summons* (form FL-110) and, if there are children of the marriage, form FL-105. If you are in a same sex marriage or are registered domestic partners, read the top of page 2.
- The forms needed to start your case and information about filing fees and fee waivers are available at “Filing Your Case,” at <http://courts.ca.gov/1229.htm> (click on Step 2).
- The court clerk will stamp and return copies of the filed forms to the petitioner.



STEP 2. Serve the Forms

- **Someone 18 or older**—not the petitioner—serves the spouse (called *the respondent*) with all the forms from Step 1 plus a blank *Response–Marriage* (form FL-120) and files with the court a proof-of-service form, such as *Proof of Service of Summons* (form FL-115), telling when and how the respondent was served. (To *serve* means “to give in the proper legal way.”) For more information, see “Serving Your First Set of Court Forms” at <http://courts.ca.gov/1229.htm> (click on Step 3).
- The **respondent** has 30 days to file and serve a *Response*. Therefore, **petitioner** must wait 30 days before starting Step 4.



STEP 3. Disclose Financial Information

- At the same time as Step 1 or within 60 days of filing the *Petition*, **petitioner** must fill out and have these documents served on the **respondent**: *Declaration of Disclosure* (form FL-140), *Income and Expense Declaration* (form FL-150), *Schedule of Assets and Debts* (form FL-142), or *Property Declaration* (form FL-160), and all tax returns filed by the party in the two years before serving the disclosure documents. These disclosure documents must not be filed with the court.
- If **respondent** files a *Response*, he or she must also complete and serve the same disclosure documents on the petitioner within 60 days of filing the *Response*.
- The 60-day time frame for serving the disclosures may be changed by written agreement between the parties or by court order.
- The **petitioner** and **respondent** each file a *Declaration Regarding Service* (form FL-141) with the court saying disclosures were served. If respondent does not serve disclosures, petitioner can still finish the case without them. For more information, see “Fill Out Your Financial Declaration of Disclosure Forms” at <http://courts.ca.gov/1229.htm> (click on Step 4).



STEP 4. Finish the Divorce or Legal Separation Case in One of Four Ways



Respondent does not file a *Response* (called “default”)



No *Response* and NO written agreement:
Petitioner waits 30 days after step 2 is complete and prepares a proposed *Judgment* (Form FL-180), together with all other needed forms. See “True Default Case” at <http://courts.ca.gov/8409.htm>.

No *Response* BUT written agreement: Petitioner attaches the signed and notarized agreement to the proposed *Judgment* (form FL-180), together with all other needed forms. See “Default Case with Written Agreement” at <http://courts.ca.gov/8410.htm>.

Respondent files a *Response*



***Response* AND written agreement:** Either party files *Appearance, Stipulations, and Waivers* (FL-130) and the proposed *Judgment* with written agreement attached and other needed forms. See “Uncontested Case” at <http://courts.ca.gov/8411.htm>.

***Response* and NO agreement:** For divorces, parties must go to trial to have a judge resolve the issues. See “Contested Case” at <http://courts.ca.gov/1238.htm>. For legal separations, see page 2 of this form.

IMPORTANT NOTICES

- The earliest you can be divorced is six months and one day from the date the respondent (1) was served with the summons and petition, (2) filed a *Response*, or (3) filed an *Appearance, Stipulations, and Waivers*. Legal separation has no waiting period. You **MUST** complete Step 4 for both types of cases. You are **NOT** divorced or legally separated until the court enters a *Judgment* in your case.
- If you need court orders for child support, custody, parenting time (visitation), spousal or partner support, restraining orders, or other issues before the case is final, you can file a *Request for Order* (form FL-300) asking for temporary orders. See “Request for Order Information” at <http://courts.ca.gov/selfhelp-divorcerequests.htm> for more information.
- After you file your first paper with the court, you must keep the court and the other party informed of any change in your mailing address or other contact information. To comply, you may file and have a *Notice of Change of Address or Other Contact Information* (form MC-040) served on the other party or his or her attorney.



Do you have a same-sex marriage or a registered domestic partnership? The process for a divorce or legal separation of a same-sex marriage, domestic partnership, or both is the same as on page 1, except **petitioner** files form FL-103 to start the case, instead of FL-100. **Petitioner** must also serve **respondent** with a blank form FL-123, instead of a blank FL-120. (Note: a **petitioner** seeking a divorce or legal separation of only a same-sex marriage may file FL-100 to start the case, if he or she meets the residency requirements listed on that form). There may also be differences in taxes and other issues for same-sex marriages or domestic partnerships. For more information, see <http://courts.ca.gov/1229.htm> (click on the topic that describes your situation).

What if you want a legal separation? The process on page 1 is the same, except you will **NOT** get a *Judgment* for legal separation unless both parties agree to a legal separation OR if **respondent** has not filed a *Response*. If both parties agree to be legally separated but do not agree on other issues, the parties must go to trial to have a judge resolve those issues. You are **NOT** legally separated until you receive a *Judgment* signed by the court. For more information, see “Legal Separation” at <http://courts.ca.gov/1224.htm>. AFTER the court enters a judgment for legal separation, if you decide you want a divorce, you must start a new case to request a divorce and pay another filing fee.

Ways to resolve divorce or legal separation cases out of court

You may prefer to resolve some or all of the issues in your divorce or legal separation case without having the court decide for you. You and your spouse or domestic partner can put your agreement in writing and file it in your case. But your agreement must follow all legal requirements. There are several ways you can get help.

Court Services (free):

- **Family Court Services.** Provide mandatory mediation or child custody recommending counseling to parents who are unable to agree on child custody and parenting issues. They cannot help with financial issues.
- **Family Law Facilitators and Self-Help Centers** Can provide samples of agreements and other information and, in some cases, help with mediation.
- **Settlement Conferences.** An informal process in which a judge or an experienced lawyer meets with the parties and their lawyers to discuss the case and their positions and suggests a resolution. The parties can either agree to the suggestions or use the suggestions to help in further settlement discussions.

Private services (which you can hire to help you resolve your case):

- **Lawyers.** A professional who can help work out agreements between the parties and represent you at court hearings and trials.
- **Collaborative Lawyers.** Lawyers who represent each party but do not go to court. They try to reach an agreement. If court is necessary, the parties must hire new lawyers.
- **Mediators.** A lawyer or counselor who helps the parties communicate to explore options and reach a mutually acceptable resolution.

For more information about court and private services, see www.courts.ca.gov/selfhelp-adr.htm.

Where can I get help?

This information sheet gives you only basic information on the divorce or legal separation and is not legal advice. If you want legal advice, ask a lawyer for help. You may also:

- Contact the family law facilitator or self-help center in your court for information, court forms, and referrals to local legal resources.
- Find a lawyer through a certified lawyer referral service on the State Bar of California's website: <http://calbar.ca.gov/LRS> or by calling 866-442-2529 (toll-free).
- Hire a private mediator. Contact your local bar association or court Alternative Dispute Resolution (ADR) program for more information.
- Find information on the California Courts Online Self-Help Center website: www.courts.ca.gov/selfhelp
- Find free and low-cost legal help (if you qualify) at www.lawhelpcalifornia.org.
- Find information at your local law library or public library.

What if there is domestic violence restraining order?

If there is domestic violence or a protective or restraining order, talk to a lawyer, counselor, or mediator before making agreements.

For domestic violence help, call the National Domestic Violence Hotline: 800-799-7233; TDD: 800-787-3224; or 211 (if available in your area).