

PETITION FOR DISSOLUTION, LEGAL SEPARATION OR NULLITY OF MARRIAGE

Dissolution

A dissolution of marriage (referred herein as a "dissolution") is the most common procedure used for ending a marriage. There are only two grounds used for obtaining a dissolution, either "irreconcilable differences" or "incurable insanity." Most dissolution cases request an end to the marriage based on irreconcilable differences which is defined as ". . . those grounds which are determined by the court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved" (Family Code Section 2311). A marriage may be dissolved on the grounds of incurable insanity ". . . only upon proof, including competent medical or psychiatric testimony, that the insane person was at the time the petition was filed, and remains incurably insane" (Family Code Section 2312).

To file for dissolution, either you or your spouse must meet California's residency requirements (Family Code Section 2320). Either you or your spouse must have lived in California for at least six (6) months prior to filing your case AND either you or your spouse must have lived in the county where you will be filing the dissolution case for at least three (3) months prior to filing your case. There can be situations where both parties reside in California for at least six (6) months but they lived in different counties for the last three (3) months. In this situation, a party can elect to file in either county. The court you file in is the court that handles your dissolution case unless both parties have moved from the county and have formally obtained a change in venue.

Legal Separation

You do not have to meet any of the above residency requirements to request either a legal separation or a nullity of marriage. Most parties choose dissolution rather than a legal separation. Dissolution divides property and debts; makes orders regarding child custody, child support and spousal support; and terminates the marriage (restoring the parties to the status of unmarried persons).

Parties may choose to formally separate their lives but remain married for religious or other personal reasons (i.e., maintain medical insurance, qualify for derivative social security benefits). Both parties must agree to a request for legal separation. If one party files documentation requesting a legal separation and the other party files documentation requesting dissolution, the judge will grant the dissolution.

If the marriage ends with the judge granting a Judgment for Legal Separation, either party may file a separate dissolution case to terminate the marital status to return both parties to the status of unmarried persons.

If you desire dissolution but neither you nor your spouse meet California's residency requirements (Family Code Section 2321), you may initiate a case requesting a legal separation. Once either party meets the residency requirements, you can amend the petition form to request a dissolution.

Nullity

A nullity of marriage (the third procedure) is rarely used. If the judge grants a nullity of marriage, it is as if the marriage never legally existed and restores the parties to the status of unmarried persons. Certain conditions must be met before the Court will find the marriage void (Family Code Sections 2200-2201) or voidable (Family Code Sections 2210) and grant a nullity of marriage.

Further, the conditions for nullity of marriage must have existed at the time of the marriage. There are time limits, which will prevent you from raising the issue of a voidable marriage. Time limits vary but are generally four years after the date of the marriage. Once these time limits have passed, you will need to end the marriage and resolve issues by requesting either a dissolution or legal separation. Even though the marriage is considered invalid, depending on the facts of the case, you may still be treated like a spouse for the purposes of property and debt division, custody, and support as if the marriage had been valid.

NOTICES

- Sections 24004 and 68082 of the Government Code prohibit the Clerk of the Court or any deputy clerks from giving legal advice. The clerk cannot give advice as to which legal forms to use or how to complete the forms. They are prohibited from advising how to proceed in the action for dissolution of marriage, legal separation, or nullity. In addition to this information sheet, further instructions are contained in the code sections listed in the lower right hand corner of most forms.
- If you wish to file your own dissolution and act as your own attorney or “In Pro Per”, you are assuming responsibility for the proper completion of the forms and other necessary steps that must be taken to obtain a dissolution of marriage. All forms must comply with all rules of court and laws of the State of California. These rules and laws are available for review at the Law Library located in the basement, Room B-7, of the Shasta County Courthouse. You may also view the rules at the Judicial Council Online Self-Help Center website www.courts.ca.gov. The California Rules of Court regarding domestic filings begin with Rule 2.100 and describe procedures and forms. The Family Law Code outlines the laws of the State and procedures necessary to complete a marriage dissolution, legal separation, or nullity.
- Pursuant to **Family Code §2024.5**, the petitioner or respondent may redact any social security number from any pleading, attachment, document, or other written material filed with the court pursuant to a petition for dissolution of marriage, nullity of marriage, or legal separation. An abstract of support judgment or any form required for the purpose of collecting child or spousal support payments may not be redacted.
- Pursuant to **Family Code §2024.6**, either party to a petition for dissolution of marriage, nullity of marriage, or legal separation, may request that the court order sealed the parties' financial assets and liabilities. The request may be made by ex parte application and must list parties' financial assets and liabilities and provide the location or identifying information about those assets and liabilities. Nothing sealed pursuant to this section may be unsealed except upon petition to the court and good cause shown.

STEP 1. COMPLETING THE PAPERWORK

The person filing the action is the “petitioner” and the spouse is the “respondent.” The petitioner’s name, address, and telephone number must be included in the upper left-hand corner of the forms where indicated.

STANDARD FORMS THAT ARE REQUIRED

Form FL-110, **Summons** (2 pages)

Form FL-100, **Petition** (2 pages)

Form FL-120, **Response** (2 pages)

(Leave this form blank – it is to be served on your spouse)

Form FL-117, **Notice and Acknowledgment of Receipt – Family Law** (1 page)

Form FL-115, **Proof of Service of Summons** (2 pages)

(This form is to be completed **after** the above documents are served on your spouse)

Form FL-140, **Declaration of Disclosure** (1 page)

Form FL-141, **Declaration Regarding Service of Declaration of Disclosure**

Compliance with Family Code Section 2100 must be made early in the process.

Refer to the Family Code for further information.

If minor children (those under age 18) are involved:

Form FL-105, **Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act**

(UCCJEA), (2 pages) ** (Use **only** if there are minor children involved)

**The forms can be typed or completed in
black ink, neatly and clearly.**

STEP 2. FILING THE FORMS

MAKE 2 COPIES OF THESE FORMS:

Form FL-110, **Summons** (2 pages)

Form FL-100, **Petition** (2 pages)

Form FL-105, **Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)** (2 pages) (Only if minor children are involved)

SUBMIT FORMS & FILING FEES TO THE CLERK:

Submit to the Clerk the original and 2 copies of each of the above forms.

Submit the First Filing Fee, unless you qualify for a “fee waiver.” (See Fee Waiver packet.)

The Clerk will file-stamp the forms.

The Clerk will keep the original of these forms and will **return the other 2 copies to you.**

If there are documents that cannot be returned to you right away, you will need to return later to pick them up, or leave a self-addressed stamped envelope with the clerk.

DO THIS WITH THE COPIES:

Keep one copy for your files.

Have one copy served on your spouse. (See Step 3 on next page.)

STEP 3. SERVING THE DOCUMENTS

SERVE THESE FORMS TO YOUR SPOUSE (The “Respondent”):

Have your spouse served with a **file-stamped copy of each of the following forms:**

Form FL-110, **Summons** (2 pages)

Form FL-100, **Petition** (2 pages)

Form FL-105, **Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)** (2 pages) (Only if minor children are involved)

Form FL-120, **Response** (2 pages) (This form is left blank.)

Have The Process Server Complete The “Proof Of Service” Form:

The person who serves the documents must complete and sign the **Proof of Service of Summons form**, listing every document that was served (including blank forms):

Form FL-115, **Proof of Service of Summons** (2 pages)

STEP 4: FILING THE PROOF OF SERVICE

Once all the documents have been served on the Respondent (your spouse), and the “Proof of Service” has been completed:

RETURN THE COMPLETED AND SIGNED FORM TO THE COURT FOR FILING:

Form FL-115, **Proof of Service of Summons** (2 pages)

INTRODUCTION TO THE SERVICES OF THE FAMILY LAW FACILITATOR

Services to the Family Law Facilitator's Office are FREE to all persons.

The Facilitator's name is Stacy Larson. She is an experienced attorney who works for the Shasta County Superior Court. Her work is to help persons who are not represented by legal counsel to represent themselves in their family support, family law, or parentage cases.

She cannot represent you, but she can help you understand what you need to do to represent yourself by:

- 1. Explaining the court procedures to you, including how to serve papers to the other party;**
- 2. Assisting you in selecting and filling out the proper forms to be used in your case;**
- 3. Mediating difference in opinion that may arise between you and the other party concerning child support and spousal support; and**
- 4. Helping you prepare in the proper form, court orders after hearings decided by the Court.**

The Facilitator is available to all unrepresented persons including the person on the other side of your case. For this reason, you will not have a confidential relationship with the Facilitator. This means that if you have any secrets, DO NOT tell them to the Facilitator because she can be called as a witness in your case and would testify about your conversation. It also means that the Facilitator cannot advise you on strategy concerning what is best for you in your case. She can tell you how to do something, but not what to do. If you need strategic advice, or you need to discuss something in confidence, you should retain the services of an attorney.

The Facilitator is not able to assist you with complicated legal problems such as extensive asset division and pension fund division. However, if you and your spouse agree, the Facilitator may meet with both of you to help you divide your property by agreement, and if you agree, assist you in preparing the proper documents to finalize the property division.

Also, the Facilitator cannot help you with child custody and visitation problems. If there is a dispute over this, you will be referred by the Court to Family Court Services for assistance.