



## Essential First Steps When Filing for Divorce

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In this day and age, the sanctity of marriage seems to not hold. The Census Bureau cites that there are a 40-50% proportion of marriages that will eventually divorce. According to the National Center for Health Statistics, it is reported that wedded or unwedded couples are over within fifteen years, for first marriages. The statistic for divorce or separation is greater as people enter their second or third marriage.

It's a terrifying statistic to even look at. The process is difficult especially when great amount of investment exists and kids are involved.

Want to know a brief breakdown of the divorce process? You're in the right place.

- What kind of case are you dealing with? Contested or uncontested
- Do you want a divorce or legal separation?
- The 4 simple steps to file for divorce/separation.

1) The first step towards having a clear mind about the divorce process, is figuring out where you and your spouse are at in terms of the marriage. Majority of the time, having a spouse that can come to terms of agreement then the process goes by a bit smoother. When you are able to agree on the terms of your divorce and not file any court forms in disagreement then it is called an "uncontested case". Through agreements anything is made simpler in life, you may not even have to see the judge this way because this type of case can be handled by mail or brief court meetings.

Most the time reaching an agreement is very difficult, when it comes to a point where this is no agreement on one or more of the issues then you have a "contested case". This process takes several court meetings to reach an agreement. Yet, with court services such as mediation or negotiation your case may revolve into a uncontested case making it efficient and simpler for both sides involved.

2) So, where is your relationship heading, is it turning into a divorce or legal separation? A divorce is called dissolution of marriage, filing for divorce ends your relationship and you are able to enter another union. Through the process of a divorce you have the right to ask for: child support, spousal support, partner support, custody/visitation, domestic violence restraining orders, and division of property amongst much more if need be.

A legal separation has a big difference than filing for a divorce. Through a legal separation you have not ended your marriage with your spouse and you are not able to marry or enter into a union with someone else until you are divorced. This decision is geared for couples who don't want a divorce, but want to live apart while at the same time deciding on money, property, and parenting issues. Through this process you are able to ask for the same orders one would in a divorce listed above. A legal separation does not require for your to meet CA's residency requirement, and if need be later on you are able to file an "amended petition" to ask the court for a divorce once you meet the residency requirements.

You should be set now, and ready to begin the actual court process for filing either a divorce or legal separation.

3) The first step to file for a divorce is to fill out the below forms:

A) Form FL-100: Petition- Marriage (Family Law)

On this you are to provide the court with basic information as well as for the orders you want the court to make.

B) Form FL-110: Summons (Family Law)

This is important form, read it very carefully because it contains "standard restraining orders limiting what you can do with your property, money, and other assets or debts, as well as moving out of state with your children." For more room fill out: Form FL-160, Property Declaration (Family Law).

C) Form FL-105: Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act

If you have children involved and need to make orders on custody and visitation you fill out this form as well "Form FL-311 Child Custody and Visitation Application Attachment" to make sure you have stated everything the court should know about. It is important you state everything in order to help your case.

**REVIEW FORMS:** So now that you have your forms, and you are sure you have them filled out completely you can have them reviewed at your court's family law facilitator or self-help center. A facilitator or self-help center can assist you when filing out the forms, answer questions, and make sure you have filled out the correct forms correctly.

**MAKE 2 COPIES:** Your forms are filled out and reviewed, make sure you make two copies before taking them to your clerk's office because one copy will be used to serve your spouse while the original is for the court.

Step two consists of turning in your forms to the clerk's office, paying a filing fee (unless you asked for a fee waiver) and then returning within 24 hours to the court clerk's office to pick up your forms. Then you will find out if your forms have been approved or rejected. If approved you are on your way to the next step.

You are now set to serve your spouse the divorce forms. This is mandatory if you want your case to go forward. Your spouse needs to be well aware that you have started the legal process for a divorce or legal separation or annulment. You are NOT able to serve your spouse the papers, only a friend, relative, county sheriff or process server has this ability and they must be over the age of 18. Make sure you serve the forms to your spouse in the time frame the court has mentioned in your forms; even a day late can extend your case to a later date. Whomever you decide to have serve your forms must serve the following:

**\*\*A copy of ALL the court papers you filed, Form FL-120 (blank response), and if children are involved include a blank Declaration Form FL-105/GC-120. The person must also fill out a "Proof of Service" Form FL-115 to verify the documents have been served for court purposes and then file it with the court clerk like you did your first forms after completing them.**

Step three is the waiting phase. You have to wait at least 30 days after you serve the forms to see if your spouse responds. In this time period, you are able to file for "temporary court orders for child custody, visitation, and/or support". Keep in mind your marriage is not legal over until at least 6 months after the case is filed and the forms have been served to your spouse.

The last step consists of filling out more forms! Now you have to file your financial disclosures, keep in mind you can do this the same time you file your petition! Fill out the first disclosure, "preliminary declaration of disclosure". This form HAS to be served to your spouse, but does NOT have to be filed with the court.

The below are forms you NEED to fill out for your Preliminary Declaration of Disclosure: Form FL-140 Declaration of Disclosure

Form FL0142 Schedule of Assets and Debts

Form FL- 150 Income and Expense Declaration OR Form FL-155 or Form FL-150.

Make one copy of ALL your forms have someone stated above serve it for you and file with your court Form FL-141 "Declaration Regarding Service of Declaration of Disclosure" telling the court you served your spouse with the preliminary disclosure. Doing this makes it clear to you and your spouse how you will divide your property, debts, and reach an agreement on support.

Now everything depends on whether your spouse responds to your petitions or not making it clear whether if there's a mutual agreement on both sides.

Keep in mind to be very detailed when filling out these forms. Doing so will significantly help your case!

Good luck!

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