

INCARCERATED PARENTS MANUAL: Chapter 4

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MANUAL ON DIVORCE ISSUES FOR PEOPLE IN CALIFORNIA PRISONS AND JAILS

This manual (updated in 2023) was created for California prisoners and advocacy groups. It is intended to provide basic information about California’s divorce laws, and basic instruction on how to obtain a divorce without an attorney. This manual is based on California law only and therefore is only intended to aid people filing for divorce (or responding to a divorce filed) in California.

The structure of the manual has two parts: “Basic Information,” and a Self-Help Guide on “How To Do Your Own Divorce.” The information section covers general topics that a divorce case can involve, such as child custody and property.

The “How-To” guide provides basic information and instructions on the procedure for completing a divorce in California without being represented by an attorney. It addresses both summary dissolutions and “regular” divorces. It is best to hire or at least consult with an attorney before moving forward with a divorce (or any legal matter). However, because most incarcerated people have little to no financial resources, this manual provides basic instructions on completing the process yourself. Any prisoner using this manual is encouraged to conduct their own research using the law library or by asking a family member or friend to help with research.

This manual provides some information about child custody and child and spousal support. For more detailed information about custody and support issues, we suggest that you contact your county’s Family Law Facilitator. You can also write to LSPC for a free copy of our “Family Court: Child Custody and Visiting Rights Manual for Incarcerated Parents” and/or our “Child Support Issues for Incarcerated Parents in California.”



Legal Services for Prisoners with Children (LSPC)

4400 Market Street, Oakland, CA 94608

Phone: (415) 255-7036 | Fax: (415) 552-3150

www.prisonerswithchildren.org

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Note to attorneys: Legal services providers and other attorneys may distribute this manual to incarcerated people, formerly incarcerated people, and/or their loved ones who contact them for legal assistance.

Disclaimer for non-attorneys: This manual is not intended to answer all of your legal questions or take the place of an attorney. Legal Services for Prisoners with Children (LSPC) does not provide direct legal representation. We have provided current information to the best of our ability. However, laws and procedures change frequently. It is your responsibility to check relevant legal cases, codes, court rules and forms when using this manual.

BASIC INFORMATION

Section 1: TYPES OF DIVORCES

There are actually four ways to end a marriage or domestic partnership in California: Dissolution (traditional divorce), Summary Dissolution, Annulment, and Legal Separation. This manual will mainly cover the first, and most common type, dissolution of marriage (divorce).

Dissolution (divorce)

A divorce is a civil legal proceeding that officially ends a marriage or domestic partnership. In California, the legal term is “dissolution of marriage.” This manual uses the words “divorce” and “dissolution” interchangeably; they mean the same thing. The spouse who files the petition for a divorce is called the petitioner. The spouse who is served with (given) this petition is called the respondent.¹

Besides ending the marriage, a divorcing couple must settle their other affairs. These include custody and visitation of children; financial support of children (child support orders); alimony (spousal support), if appropriate; and the division of the couple’s property and debts acquired during the marriage.

The couple may agree on some issues such as where their children will live, how their property will be divided, etc. This agreement can then be written up and made a part of the divorce judgment. The divorce court judge will generally approve any agreement the spouses make about settling their affairs. The only exception is child support. In some cases, and especially where one of the divorcing parents receives public assistance, the court will exercise independent judgment. Generally, a court will not approve an agreement where the parent with primary custody of the children gives up the right to child support or agrees to an amount the court thinks is too low. Also, if a child support agency is involved, the agency must approve the judgment.

A divorce action involves routine restraining orders against both spouses. The summons form for dissolution contains standard restraining orders that automatically prevent each spouse from:

- Removing a minor child from the state without the other party’s written consent;
- Making property transfers without the other party’s written consent;
- Making any major purchases without notifying the other party first;
- Taking certain actions that would affect insurance coverage for the benefit of the parties and their minor children.

The divorce court also has the option of issuing restraining orders against either spouse to protect that person and family from immediate violence or danger from the other spouse. Unlike the orders described above, domestic violence restraining orders do not automatically take effect when the divorce summons has been served, but must be specifically requested.

¹ All references in the manual to “spouse” include “domestic partner” and all references to marriage include domestic partnership.

Summary dissolution

A summary dissolution is a divorce that is granted for short marriages with no children and little property. Both spouses must agree on the issues and be able to work together to prepare and file the necessary paperwork. For more information about the requirements and how to get divorced this way, turn to Section 3: Instructions for a Summary Dissolution.

Nullity (annulment)

A nullity (commonly referred to as an annulment) is a court determination that the marriage was illegal from the beginning and therefore never existed. Both parties are then able to marry another person immediately. It is recognized in California only under rare circumstances.

Grounds for granting a nullity include:

- One party used fraud or deceit to induce the marriage
- One or both parties was still a minor when married and did not have the required consent of their parents
- Incest.

In a nullity case, the court has the same kind of power to make custody, child support, and spousal support orders and to divide property as it does in a divorce. If you are trying to get a nullity, this manual will not help you. You need to speak to an attorney, or a family law facilitator.

Legal separation

A legal separation is exactly like a dissolution, except that at the end of the proceeding you are **not** divorced and therefore **not** free to marry another person or enter into another registered domestic partnership. As in a dissolution, the court can make orders regarding child support/custody/visitation, spousal support and property division, and restraining orders if necessary. People get legal separations for various reasons, including religious and economic reasons. One important thing to remember is that property accumulated by each spouse **after** a legal separation is the separate property of that spouse.

Section 2: DIVORCE IN PRISON OR JAIL

Residency requirements

You can file for divorce while you are incarcerated in California, as long as you meet certain residency requirements. Either you or your spouse must have resided in California for at least six months and in the county where you plan to file your divorce for at least three months. If you have been residing in California for at least six months and have been incarcerated in the same county for the last 3 months, you can file for divorce in the county where that jail or prison is located. Attachment 1 lists the addresses of the family courts in each California county:

► ***California Family Court addresses – Attachment #1***

Grounds for divorce

California is commonly known as a “no fault” state. The most common ground for a divorce is irreconcilable differences. Irreconcilable differences means that you and your spouse have differences that you cannot resolve. It only takes one spouse to claim irreconcilable differences and those differences do not need to be specified. If your spouse is filing for divorce, they are most likely using the irreconcilable differences grounds, and there is little you can do to refute that.

The only other ground is incurable insanity. This requires medical proof that one spouse was insane when the divorce petition was signed, and remains incurably insane.

Timing issues

There are some reasons to wait until you are released before petitioning for a divorce:

- It is generally easier to pursue a case in court when you are out of custody. You will have better access to legal information and advice.
- Many property and financial interests may be better to take care of in person. For example, as a result of your marriage, you may be entitled to retirement or medical benefits that you may not know about. Unless you have someone on the outside working for you, it may be difficult to obtain this information yourself while you are incarcerated.
- As a prisoner you will not be able to be physically present in court unless it is absolutely necessary. You are more likely to be allowed to be present by telephone or video-conference, which you can request for any proceeding.
- If you have minor children and your spouse is providing you with good access to them (visits and calls), filing for divorce may jeopardize this working arrangement.

On the other hand, there may be benefits to petitioning for divorce while you are incarcerated:

- You or your spouse may be eager to move on emotionally, or even marry someone else.
- You may need to seek the court’s assistance to protect your financial interests in property.
- If you have minor children whom you have been unable to visit or be in contact with, you can seek a court order for visits and other contact with them as part of the divorce.

If you decide to petition now, this manual will get you started.

Court forms

You can get blank court forms on the website of the California Judicial Council: www.courts.ca.gov/forms.htm They should be available from your law library. Alternatively, you can write to your county’s Family Law Facilitator or Self-Help Center for the forms required by your county.² A list of the addresses of each county’s Family Law Facilitator offices is attached as Attachment 2.

► *California Family Law Facilitator addresses – Attachment #2*

² This manual uses the terms “Family Law Facilitator” and “Self-Help Center” interchangeably.

You can use this sample letter to write to the Family Law Facilitator:

► **Sample Letter to Family Law Facilitator (seeking legal forms and assistance) – Attachment #3**

Notification of a divorce

Assuming that your spouse knows where you are located, they are required to serve you with a summons (**FL-110**) and a copy of the divorce petition (**FL-100**). The summons is a document informing you that your spouse has filed for divorce, and that you have 30 days to respond (meaning to file a Response (**FL-120**) with the court. If you do not respond within 30 days, the court may enter a default judgment and proceed to rule on your spouse's requests without your input. It is therefore very important that you respond when you are served.

You will either be served personally (by someone such as a prison employee handing the documents to you) or by mail. If by mail, you will also receive a **Notice and Acknowledgment of Receipt (FL-117)**. This form asks you to waive your right to be personally served with the papers. If you agree to service by mail, you would sign this form and send it back to the person who sent it to you. If you do not agree, then your spouse will have to arrange to have someone serve you personally. To find out more about this procedure see **Step 3: Responding to a Petition** on page 21.

Attendance at court hearings

Whether the petitioner or the respondent in a divorce case, California prisoners **do not** have an absolute right to be transported to court for a divorce proceeding. However, you can ask the court to issue an order that you be transported to court and the court may grant it. [Cal. Penal Code § 2625(e).] You can make this request in either the petition or the response, or by filing a separate motion.

As a practical matter, if your appearance is necessary, the court is more likely to order your appearance by phone or video-conferencing. In many divorces, it is not necessary that either spouse physically appear in court, particularly where there is a settlement agreement or a default.

Section 3: ISSUES INVOLVING CHILDREN

Legal and physical custody

Many people have misconceptions about what child custody means, or are unclear about how it will affect their relationship with their children. In California there are two types of custody: *physical* and *legal*. Physical custody generally refers to who the children live with.³ Legal custody means the parent who has the authority to make decisions about the children's lives and development, such as where they will go to school, who they visit, what religious training they will receive, and medical care.

³ A parent with the right to physical custody can authorize another person (such as a relative) to serve as the physical custodian on a temporary, or even long term, basis. An incarcerated parent can make this kind of informal arrangement for the care of their child. This parent could formalize the arrangement by signing and getting notarized a Power of Attorney for Child Custody. However, such an arrangement can be challenged in court by another parent or a child protective services agency. If so, the court has the final say; its overriding concern is the best interest of the child.

Each of these types of custody can be given to one parent (*sole custody*) or both parents (*joint custody*). It is important to know that custody orders in California can be changed, based on a change of circumstances. *If you are released, you can petition to have the custody order changed.*

Incarceration scenarios

It is common for courts to give sole physical custody to the non-incarcerated parent, and often sole legal custody as well. The court uses *the best interest of the children* as the standard to determine what will happen to them.

Relevant factors in determining sole or joint *legal custody* in a divorce action include: the length and depth of your relationship (and your spouse's) with your child before and during your incarceration, how soon you will be released, whether you and your spouse have the willingness and ability to make decisions together in your child's best interest (whether you are "able to co-parent"), whether your spouse supports or opposes joint legal custody.

Sole or joint *physical custody* is rarely ordered to an incarcerated parent, but it is not technically prohibited. Generally, if you want to have physical custody of your children while you are incarcerated, you should be prepared to show the court why doing so would be in the best interest of the children. One scenario could be if your child is actually living with you in a mother-infant program or other similar facility.

If you do not want your spouse to have physical custody, you should be prepared to show the court two things: why that would not be in the best interest of the children and that there is a qualified alternative custodian available. One example of a reason the court may not grant custody to your spouse would be a history of abuse (against you, the children, or both). An alternative custodian could be a relative of yours or your spouse's, such as a grandparent or sibling. However, this approach could lead to your child's situation being referred to the juvenile dependency court. In dependency court, where both parents are unfit or unavailable, you risk the possibility of your parental rights being terminated. LSPC's juvenile dependency court manual has more information on this subject.

If both parents agree to joint legal and physical custody, and the child is living in a safe and secure home with both parents' consent, the divorce court would probably grant the request.

Reunification after release

Any custody order can be modified until the children become adults. However, once a custody order is made a parent will have to show very good reasons and/or a significant change in circumstances to modify (change) the current custody order. Getting out of prison or jail is not necessarily enough. One important way you can improve your chances of getting custody is to keep in contact with your children while incarcerated: write, call, and visit often, and keep records of these contacts.

Getting visiting while incarcerated

If the divorce petition does not specify that you will be allowed visitation with your children, make sure a visitation order is put in the judgment. You will need to check box 6c on the petition (**FL-100**) or the response (**FL-120**), and offer a plan for visitation. Ask for contact visits. Present to the court a specific and realistic plan that will allow your children to visit you during your incarceration. Be considerate of practical obstacles, such as long traveling distances between jail/prison and the child's

home. If transportation is a hardship, you can propose that an appropriate friend or family member bring the children to visit you.

The court keeps jurisdiction over custody and visitation issues until the children reach the age of 18 years. Either you or your spouse can ask for a change (modification) of orders based upon a substantial change of circumstances.

For more detailed information on how to secure visits and other contact with your children while you are incarcerated pending and after a divorce, including how to modify a custody and visiting order following your release, please refer to LSPC's manual child custody and visiting rights in family court.

Child support

Payment orders against prisoners: If the court is aware of your incarceration and lack of income, the court will probably not require you to make support payments while you are incarcerated. It is best to note your incarceration and inability to make support payments on the divorce petition (or response). Of course if you do have an income, or income-producing assets, the court will probably order you to make support payments.

If for some reason the judge does order you to make support payments, and you do not have any income, ask them to modify the order since you will be incarcerated and have no income. If the judge still orders payments please contact our office again and we can send you more detailed information about this. Even if you are not required to make monthly payments during your incarceration, any child support that you owe will be subject to interest charges.

If the court does not give physical custody to you or your spouse, then both parents will be liable for making support payments for the child.

For more detailed information about child support issues, please refer to LSPC's manual on child support.

Payment orders in favor of prisoner: Only the person with physical custody of the child is entitled to request and receive child support, and only the non-custodial parent can be required to make support payments. Therefore, while you are incarcerated, and likely do not have physical custody of the children, you cannot get child support.

Spousal support (alimony)

If you had a long marriage (over ten years), you were economically dependent on your spouse, and your spouse has a decent income, it would not be unreasonable to ask for a modest amount of spousal support. A few hundred dollars a month can make a difference in prison, given medical co-pays and high commissary charges.

Alternatively, and especially if you will be getting out fairly soon, you can ask the court to "reserve" the issue of spousal support. Once you are released and having to cover your living expenses, you can go back to court to seek spousal support to supplement your income.

However, if your spouse is supporting minor children without financial contribution from you, even modest spousal support could be a hardship.

Family support

Family support is a combination of spousal and child support. Sometimes, for tax reasons, the parties agree to structure support payments this way.

Section 4: PROPERTY DIVISION

Different kinds of property

In general, property is classified as either *real property* (real estate or land) or *personal property* (everything else). In a divorce, your property (both real and personal) will be classified as either *community* or *separate*.

Community property: In California, community property is property that is acquired during the marriage. This usually means property that is purchased from income that spouses earn from working, or bank accounts where earned income is deposited. California is known as a “community property state.” This means that when a couple divorces, most, if not all, property acquired during the marriage will be divided equally, even property that is held in only one spouse’s name.

The usual types of community property owned by a married couple include a house, an automobile, and household appliances acquired during the marriage. Cash in bank accounts and other investments acquired during the marriage would normally be community property as well. One very important (and often overlooked) kind of property you might have is an ownership interest in your spouse’s retirement or pension plan. Because your rights in your spouse’s pension plan can be very valuable, you should consult with a lawyer to protect them.

Quasi-community property is property, wherever located, that would have been treated as community property if the spouse who acquired the property had been living in California at the time it was acquired. [Cal. Fam. Code § 125.] For example if, during part of your marriage, you lived in a state that did not recognize a spouse’s salary as community property, any property purchased with that salary would be considered community property in a California divorce.

Separate property: In California, separate property is property that was acquired *before* the marriage, was given as a *gift* or *inheritance* (even during the marriage), or acquired *after* the couple separates. The date of separation is the date a spouse makes it clear that they want to end the marriage, for example by stating so or by moving out. The date of separation can be a contested issue in a divorce case because of its relevance to property ownership.

A spouse can acquire separate property during the marriage. For example, if you had separate funds in a bank account before marriage that remained separate during marriage, and you purchased an automobile with those funds, the automobile would be your separate property. Another example would be if someone died and left you or your spouse some property in a will. This would be separate property of the receiving spouse. Gifts given to one spouse are also the separate property of that spouse.

A spouse can acquire a community interest in the separate property of the other spouse. For example, mortgage payments on a separate property home from earnings during the marriage creates a community interest in the home.

How you and your spouse divide your property can be the most difficult part of a divorce. If you and your spouse have a lot of property, it would be best to consult with an attorney.

Debts

The law treats the division of debts in the same manner as community and separate property.

Community debts are all debts made or loans taken out by either spouse during the marriage, even if only one person's name is on the account. Community debts are usually divided equally between the spouses. This means that you may be responsible for a debt even if you did not know about it.

If your spouse took out a loan in their name alone and never told you about it, the judge might rule that this debt is not a community debt, but is separate to your spouse. It would be best to talk to a lawyer if this is your situation.

Duty of disclosure

California law requires divorcing spouses to exchange written statements that list their community and separate property, and their debts, and to report to the court that they did so. Full disclosure allows the spouses to work out a reasonable property settlement agreement. If no agreement is possible, the lists will assist the court in making a fair division of the property.

Property settlement agreements

You and your spouse can make agreements about how to divide your property, including property obtained before and after the marriage. The court will usually approve these agreements, provided they are in writing and signed by both parties. This can often be the best way to divide your property. For one reason, you have more flexibility in a bargaining situation. If you and your spouse own a house, speak to a lawyer about your rights before signing any agreement about a house.

Court decision

If you cannot agree on how your property is to be divided, then the court will decide. If there is a dispute, the judge will determine which property is community and which is separate. The judge will then divide the community property evenly between the spouses and award each spouse their separate property.

Family residence: If the house is community property and you or your spouse cannot agree on how it will be disposed of, the court has a couple of options, depending on whether or not children are involved.

- If there are no children, the court can order the house sold and the proceeds divided equally
- If there *are* children, the court will probably allow the spouse who has custody of the children to stay in the house for a while, after which the house will be sold and proceeds divided.

If the house is the separate property of one spouse, that spouse will generally receive the house. If community funds were used to pay the mortgage or make improvements, the other spouse will gain a community interest in the property.

The court will also divide the debts. They are not necessarily divided equally. The court can consider each spouses' income in deciding who should be responsible for debts.

Consultation with an attorney

The area of law dealing with community and separate property can become very complicated where a lot of property is involved. This is especially true where the property is held in various forms (pensions, houses, cars, investments, etc.). If you and your spouse have accumulated a lot of property, either before or during the marriage (or both), you should speak with a divorce lawyer.

Section 5: GENERAL ISSUES

Representing yourself

You may be able to complete the dissolution proceedings without an attorney. If the divorce is uncontested, the legal proceedings can be relatively simple and inexpensive. Or, you may qualify for a summary dissolution (see section I), which can be done without an attorney.

However, if you and your spouse cannot agree on the terms of the dissolution (child custody/visitation, division of property, support) it would be best to hire an attorney. It is strongly recommended that you consult an attorney if you can afford one.

If you cannot afford an attorney, this manual includes a "How To Do Your Own Divorce" section. This section can help guide you through the divorce process. **Please note that the "How To Do Your Own Divorce" section is not intended as a substitute for legal advice from an attorney.** It is only a compilation of instructions on how to proceed *pro per* (by yourself).

Marriage counseling

It can be difficult when one spouse wants to be divorced and the other does not. However, it takes two people to keep a marriage alive. That's why it takes only one spouse to declare the marriage over. Sometimes, counseling can help a married couple overcome their differences, but both parties must be willing to participate.

That you are incarcerated may be an obstacle to obtaining counseling if you want it. You can try to overcome this problem by asking your counselor to arrange telephone meetings or video-conferences with your spouse.

Spouse's location unknown

You cannot get a divorce unless your spouse is given notice of your petition for divorce. This is generally done by mail or personal service. However, if you cannot find your spouse, you may be able to serve them by *publication*. This means that the court will order that the dissolution summons be published for a period of time in the newspaper most likely to reach your spouse. You will have to pay the newspaper for publishing the notice. If you do not have the funds for the publication costs and have a fee waiver, you can ask to serve the documents by posting them at a special place at the courthouse.

Courts only use service by publication or posting as a last resort, so be prepared to show that you have exhausted all possible means of locating your spouse. Keep a record of your attempts to contact your spouse. Try serving your spouse by mail using their last known address. Ask relatives, friends, employers (past and present), and co-workers where your spouse can be contacted. Ask a friend to search for your spouse on social media or through a background check website. If you are unable to track down the whereabouts of your spouse, then you can ask the court to authorize service by publication or posting, using **FL-980** (Application for Order for Publication or Posting). The Self-Help Center in your county may have information about this process or a form that could help you.

Filing fees

The filing fee for the dissolution petition or the response varies from county to county, but is around \$450 each. If your income is low enough, you may request that the court allow you to file without paying court fees and costs. Ask for forms **FW-001** (Application for Waiver of Court Fees and Costs) and **FW-003** (Order on Application of Court Fees and Costs). File these forms along with your dissolution petition or your response. If approved by the court, you will not be required to pay for the filing of your divorce petition. There is no guarantee, however, that being incarcerated alone will mean you don't have to pay the filing fees. If you received public assistance before your incarceration, include proof of that with the waiver application; otherwise provide proof of your income now that you are incarcerated (a copy of your "inmate trust account").

Responding to a divorce petition

If you are served with a petition for divorce, read the documents very carefully. You need to know what your spouse is asking the court to order regarding your children and property. If you agree with everything your spouse is seeking, you can choose to do nothing – in which case your spouse will ask the court to take your "default," grant their requests and issue the divorce. (See below.)

If the divorce proceeding seems too complicated, or if you expect a dispute over child custody or division of property, you should consider hiring an attorney, or at least consulting with one. If you cannot afford an attorney, contact a legal services or legal aid office in the county where the divorce petition was filed. Most legal aid offices do not handle divorce cases. However, they may be able to refer you to legal resources in the community, such as a volunteer legal services program.

If no one can or will help you, and you disagree with your spouse's requests or have additional requests of your own, you can file a Response *pro per*, which means that you are representing yourself. You can consult our "How To Do Your Own Divorce" Self-Help Guide attached here.

Default dissolution

If you or your spouse fails to file a response to the divorce petition within thirty (30) days after receiving it, and the court has determined that it was properly served, the court can grant all requests made in the divorce petition. This is called a default judgment. If the court grants the requests, the non-responding party will not have an opportunity to appear and contest any part of the petition.

By *not* responding to the petition, the respondent is effectively telling the court that they agree with the requests made by the petitioner. If the respondent *does* agree with the terms of the petition, they may choose not to respond to it. However, if they disagree with any of the terms of the petition, it is very important to file a written response within the 30-day time limit. By filing a response, the

respondent will be included in the divorce proceedings and can make their own requests for a fair dissolution judgment.

If you are the respondent, even if you are absolutely clear about what your spouse is seeking in the divorce, and you agree to everything, it is a good idea to respond. Responding does not mean that you and your spouse still cannot enter into an agreement later.

If you are the petitioner and your spouse has not replied within the mandatory 30-day limit, see the “Default Dissolution” section under “How to Do Your Own Divorce.”

Timeframe

Once a divorce petition has been filed, a divorce cannot be final until at least six months after the respondent spouse has been served or filed a response. That is the minimum time; it can take longer, especially if there are **contested** matters and/or a lot of property is involved. Even so, the court can still make orders in areas such as child custody, child support, and visiting rights that take effect immediately.

Also, it is possible to separate (or bifurcate) the contested issues from the issue of the status of the marriage. In other words, after the six month period is up, a court upon request can order that spouses are divorced but postpone decision-making about contested issues. However, the court will not grant such a “status only” dissolution unless the parties have filed forms stating that they have exchanged income and property information, or there has been a default.

Domestic partnerships

In 2000, California recognized *registered* domestic partners. Domestic partners initially were either a same-sex couple or a couple where both parties were over the age of 62. The law evolved over the years. Effective January 1, 2020, all couples eligible to be married may register with the California Secretary of State as domestic partners.

The process to obtain a dissolution, annulment, or legal separation of a domestic partnership *from the court* is the same as for a marriage and uses the same court forms. Domestic partners who also got married can dissolve both the partnership and the marriage in the same court case, using the same petition form.

There is a simplified way to end certain domestic partnerships by filing a notice with the California Secretary of State, instead of going through the court system. The requirements are much like those required for a summary dissolution of marriage (that is, partnership under five years, no children, no real property, modest personal property, no support requested, signed settlement agreement, etc.). Both parties must read an information packet and sign and notarize a Notice of Termination document that is sent to the Secretary of State. For more details and forms, ask your Self-Help Center to send you the brochure called “Terminating a California Domestic Partnership” or access it here: dp.cdn.sos.ca.gov/forms/sf-dp2.pdf

SELF-HELP GUIDE: HOW TO DO YOUR OWN DIVORCE

Section 1: ASSISTANCE AND RESOURCES

This guide will provide you with basic instructions for proceeding with a divorce on your own. However, it cannot be stressed enough that, if you can afford an attorney, you should get one to help you with the divorce. This is especially true if you have a lot of property or expect a major disagreement about division of property and/or child custody and visitation.

Options for professional assistance

- You can hire an attorney to represent you.
- If you cannot afford an attorney but your spouse has resources and is using an attorney, you can ask the court to require your spouse to pay the cost of an attorney for you.
- You can hire a *consulting* attorney. A consulting attorney will give you advice but not represent you in court. This is usually less expensive than having an attorney represent you.
- You can hire a mediator to help you and your spouse come to an agreement about the terms of your divorce. A mediator can be much less expensive than an attorney or going to trial. Mediation can be a good option if you and your spouse have a decent relationship and are open to having a third party help you reach an agreement.
- You can hire a *collaborative* attorney. Similar to a mediator, a collaborative attorney works with both spouses to help you prepare a written settlement agreement to present to the court, but does not represent either spouse.

Under the last three options above, you would be representing yourself in the divorce case, but with professional assistance.

Other resources

- Write to the Self-Help Center at the county court where your case is or will be filed. The staff provide information and guidance with divorce, custody, and support issues. They do not represent either party in court. A complete list is provided at the back of this manual.

► **Family Law Facilitator addresses – Attachment #2**

- Contact your local legal services office asking for their help, and if they cannot assist you, ask them for a referral.
- Consult a current copy of the book *How to Do Your Own Divorce in California*, by Ed Sherman, available from Occidental Nolo Press in electronic form only. The cost of the 2023 version is about \$20. 1-800-454-5502. Reportedly, it works well on 10” tablets and is acceptable on 7” tablets. You can ask your law library to order it. nolotech.com/divorce-books/how-to-do-your-own-divorce-in-california/
- If you have access to a computer and the internet (or have a family member or friend who has access) go to selfhelp.courts.ca.gov/divorce-california where you will find clear and thorough directions to guide you through all steps of a divorce. It provides all the forms you will need and instructions on how to fill them out.
- If you know the court forms you need, you can find them on the Judicial Council website here: www.courts.ca.gov/forms.htm You can enter the form number or just search for the type of form, such as “divorce” or “fee waiver.” Forms can be filled out online and printed

out. Some forms come with additional instructions; other forms have separate information sheets.

- Two documents on the court website above are particularly useful:
 - Legal Steps for a Divorce or Legal Separation (**FL-107-INFO**)
 - Judgment Checklist (**FL-182**)
- There are commercial services that will assist you in doing your own uncontested divorce, basically by filling out the paperwork for you. They charge a fee, which is usually much less than you would pay an attorney.

If you do represent yourself, it will be to your advantage to have help on the outside, such as from a friend or relative.

Section 2: INSTRUCTIONS FOR A SUMMARY DISSOLUTION

A summary dissolution is a divorce that is granted for short marriages with no children and little property. Both spouses must agree on the issues and be able to work together to prepare and file the necessary paperwork. The procedures are much simpler than for traditional divorces.

Here are the requirements for a summary dissolution:

- You have been married for five years or less as of the date that the Joint Petition (or Notice of Termination of Domestic Partnership) is filed
- You have no children from the relationship that were born or adopted before or during the marriage/domestic partnership and neither party is pregnant
- Both of you agree to give up your right to spousal support
- Neither you nor your spouse owns a home or other real estate
- The combined value of your community property is no greater than \$47,000 (not including cars)
- Your combined debts are less than \$6,000 not counting vehicle loans
- The value of your separate property is no greater than \$47,000 (not including cars)
- You meet the residency requirements of California
- Both parties will sign an agreement that divides the property and debts.

If you meet these criteria, you and your spouse can have your marriage dissolved by summary dissolution. This avoids the need for a court hearing and a great deal of paperwork. However, just like a traditional divorce, a summary dissolution takes at least six months and a day for the divorce to be final.

Detailed information about this process and step-by-step instructions are provided in a 22 page Judicial Council booklet called "Summary Dissolution Information" (**FL-810**). It is available to view or for download at www.courts.ca.gov/documents/fl810.pdf. The Family Law Facilitator or superior court clerk may be willing to send it to you, as well as the forms that you will need. Pages 16 - 17 of this booklet are attached here as Attachment 4.

► **Summary Dissolution Information booklet, pages 16 - 17 – Attachment #4**

Here is a summary of the steps that you and your spouse must do:

- Fill out and exchange forms that provide detailed information about your assets, debts, income, and expenses:
 - Income and Expense Declaration (**FL-150**)
 - Schedule of Assets and Debts (**FL-142**) or Property Declaration (**FL-160**)
 - Declaration of Disclosure (**FL-140**)
- Prepare and sign a property settlement agreement if there is property to divide
- Prepare and sign a Joint Petition for Summary Dissolution (**FL-800**) together
- Prepare a Judgment of Dissolution and Notice of Entry of Judgment form (**FL-825**)
- File the Petition and Judgment forms at court
- Pay a filing fee (or obtain a fee waiver using Request to Waive Court Fees (**FW-001**) and Order on Court Fee Waiver (**FW-003**) forms)
- Wait six months from filing date
- The dissolution is final unless either spouse files a Notice of Revocation of Consent to Joint Petition (**FL-830**) before the six months are up.

You or your spouse may still want to consult with an attorney if you are not sure whether your marriage qualifies for summary dissolution, or if you do not understand the forms and procedures. Remember that this type of dissolution must be fully agreed to by both spouses. The non-incarcerated spouse can take care of most of the work, but both of you must agree to end the marriage and file a joint petition. If both of you agree to this procedure, the divorce can be simple and inexpensive.

If you are not eligible for a summary dissolution, you may proceed with a regular divorce – described in detail in the next section.

Section 3: INSTRUCTIONS FOR A REGULAR DIVORCE

What follows is a step-by-step guide for doing a regular divorce yourself. It is important to know that this guide only provides the basic procedures. For legal advice you should always consult an attorney, and if you have substantial property or debt, or expect a difficult battle over child custody, you should consult with an attorney.

Forms

The following forms are normally required for filing (or responding to) a Petition for Dissolution. Note that most divorce form numbers begin with **FL** (for family law). Certain forms may not be needed in your particular case. For instance, if there are no children of the marriage, you will not need to fill out the Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (**FL-105**). This manual describes some other forms not listed here.

Form Title	Form Number
Application for Waiver of Court Fees and Costs	FW-001
Order on Application for Waiver of Court Fees and Costs	FW-003
Petition (Marriage/Domestic Partnership)	FL-100
Declaration under Uniform Child Custody Act (UCCJEA)	FL-105/GC-120
Summons	FL-110
Proof of Service of Summons	FL-115
Notice and Acknowledgment of Receipt	FL-117
Response (Marriage/Domestic Partnership)	FL-120
Declaration of Disclosure	FL-140
Declaration Regarding Service of Declaration of Disclosure	FL-141
Schedule of Assets and Debts	FL-142
Income and Expense Declaration	FL-150
Financial Statement (Simplified) (Alternative to FW-150)	FL-155
Property Declaration	FL-160
Request to Enter Default	FL-165
Declaration for Default or Uncontested Dissolution or Legal Separation	FL-170
Judgment	FL-180
Notice of Entry of Judgment	FL-190
Request for Order	FL-300
Responsive Declaration to Request for Order	FL-320
Proof of Service by Mail	FL-335

Court forms are often updated, renumbered or changed. Some counties have special forms or somewhat different procedures. We recommend that you write to your county's Self-Help Center for the information and forms you need to file for a divorce in that county. Also, find out from your prison law library what information, forms, and services are available there. Courts will usually not accept out-of-date forms.

Filling out, filing and serving forms in general

The forms should be typed if at all possible. If you do not have access to a typewriter or computer, print all information clearly in BLUE or BLACK ink only. Do not use pencil.

At the top of each form is a group of blocks referred to as the caption. In the first block entitled "Attorney or Party Without an Attorney," print your name using capital letters. At the bottom of the block, after the words "Attorney For," print or type the words "In Pro Per." Be sure to fill out the caption on every form.

Don't forget to date and sign the forms where needed.

Filing: In most cases, you should make three copies of everything, including blank forms, before you send anything to the court. Send the court the originals and two copies and keep one copy for your records. The clerk of the court will return two copies to you after they have been “file-stamped” if you request it *and* include a self-addressed, stamped envelope. Attached is a sample letter to the court clerk for filing documents:

► **Sample letter to Court Clerk – Attachment #5**

Serving: Once you get the file-stamped copies back from the clerk, you can then have the paperwork served on the other party (one set of file-stamped copies goes to the other party and you keep the other set for yourself). See below for more information on serving.

STEP 1: FILING THE PETITION⁴

Required forms:

- FL-100** (Petition)
- FL-110** (Summons)
- FL-105/GC-120** (UCCJEA: required if you have children of the marriage)

Optional forms:

- FW-001** and **FW-003** (Fee waiver forms)
- FL-160** (Property Declaration: optional now, may be required later)
- FL-300** (Request for Order): to seek a temporary order

Complete the required forms and any optional forms, as needed. Be sure to read all instructions carefully. On these forms, you will be stating facts about your marriage and what you want the court to order, such as requests for child custody/visitation, child/spousal support, and division of property. It is very important that you clearly state what you are seeking in these areas.

Fee waiver: If you are applying for a fee waiver, include those forms with the petition.

Minor children: If you have minor children, you must fill out the **FL-105** form. This lists the locations where the children have lived, when and with whom. If you are seeking visiting rights and a visiting schedule that will start soon, you can file a motion for visiting and related court orders when you file the petition (**FL-300**).

Incarcerated parents who want to remain in contact with their children and maintain a parental relationship can use divorce proceedings to seek court orders that will facilitate contact and strengthen their bonds. This manual is not intended to give you in depth information about how to handle this situation. However, LSPC has an entire manual devoted to this topic. You can ask us to send you a copy of “child custody and visiting rights of incarcerated parents in family court.”

The **FL-160** (Property Declaration) form lists all of your property and how you want the court to divide it. If you choose to include the **FL-160** form(s), please see information about it on page 23. If you do not have a lot of property, you can just list it on the Petition itself.

⁴ If you are *responding* to a petition, see Step 3: Responding to a Petition.

You may have to fill out a **FL-160** form later.

Make three copies of these forms (you only need two copies for fee waiver forms). Send the original and two copies to the court where you are filing for divorce (send the original and only one copy of the fee waiver forms). Keep one set for your records.

You can either mail them in or have a trusted person file them for you. Enclose a self-addressed stamped envelope with the packet. The court will file the originals, file-stamp the copies and return the copies to you.

STEP 2: SERVING THE PETITION

Required forms:

One copy of each form you filed in Step 1 (except fee waiver forms)

Blank **FL-120** (Response)

Blank **FL-105** (Uniform Child Custody form) *if you filed one*

Blank **FL-160** (Property Declaration form) *if you filed one*

Blank **FL: 320** (Responsive Declaration to Request for Order): if you filed a **FL-300**

FL-115 (Proof of Service of Summons)

FL-117 (Notice and Acknowledgment of Receipt) *if you will be serving by mail*

Now you need to serve your spouse; this means that you have to arrange that the paperwork be delivered to them. Serving the paperwork starts the “clock.” Once served, your spouse has 30 days to file a response in court, or they will be subject to a default judgment (see page 12). This is a very important step and must be done properly.

Service methods: First, choose a service method and identify who will do it. There are two basic methods to serve your spouse with the initial divorce papers: handing the documents to your spouse (called “personal service”) or mailing the documents to them (called “service by mail and acknowledgment”). Either way, **you** cannot serve your spouse; rather, you must find **someone else** (at least age 18) to do this. Your process server must also be willing to sign a document that they served your spouse and send it to you.

Service by mail and acknowledgment: This is the easiest form of service, but it requires that your spouse cooperate – by signing the **FL-117** form in a timely fashion and mailing it back to the sender. That form states that they received the documents, and when. The sender could be another prisoner, a staff person, or a friend or relative on the outside.

Personal service: This requires someone to hand the documents to your spouse. (The **FL-115** itself explains it further.) You can have a friend or relative serve your spouse, hire a professional process server, or ask the Sheriff’s Department in the county where your spouse lives to do it. The Sheriff’s Department charges a fee, but you can ask the court to waive this fee when you first apply for a filing fee waiver.

Service packet: Once you know how you will serve your spouse, you can put the service packet together. The packet will include a file-stamped copy of all of the forms you filed (except the fee waiver forms) plus a blank Response (**FL-120**). If you filed a **FL-105** (Uniform Child Custody form), include a blank one for your spouse.

If you filed a **FL-300** (Request for Order), include a blank responding declaration form (**FL-320**) for your spouse.

Additional paperwork and instructions for your process server

For both forms of service: Fill out the **FL-115** (Proof of Service of Summons), identifying the case, court, case number, etc., and checking the boxes to show which documents are being served on your spouse. Make a copy for your records; give the original to your process server to complete after serving your spouse. Give your process server a self-addressed stamped envelope, if needed, to mail the completed **FL-115** back to you.

If service by mail and acknowledgment: You must *also* fill out (in part) the **FL-117** form (Notice and Acknowledgement of Receipt), showing your spouse's mailing address and the forms being mailed. Make two copies. Keep one for your records. Give the original and one copy to the sender. Also give the sender a stamped envelope addressed to the sender. Have the sender sign and date both **FL-117** forms on the date they mail the envelope to your spouse. Give or mail to your sender a large envelope addressed to your spouse and with sufficient postage.

The sender's job is to place inside that envelope:

- The service packet (described above)
- Two signed and dated **FL-117** forms
- Stamped envelope addressed to sender.

Then the sender must place the envelope in the U.S. mail.

When the sender receives back the **FL-117** signed by your spouse and acknowledging service, the sender must give or mail it to you, along with the completed **FL-115** form. The date your spouse signed the **FL-117** form is considered to be the date they were served.

If your spouse does not sign and return the **FL-117** form within 20 days from mailing, you can arrange for personal service for your spouse and request that your spouse be ordered to pay for its cost. You can give your spouse more time to respond.

If personal service: You need to give your process server all of the information you have about where to locate your spouse: home and work addresses, other possible locations, likely times to find them there, vehicle description and license plate, contact information for other people who might know how to find your spouse, etc. The Sheriff's Department may have a form for this. You also must provide your process server with a filled out **FL-115** form (Proof of Service of Summons) and a self-addressed stamped envelope. After serving your spouse, the process server will fill out and sign this form and mail it back to you.

Keep copies of forms: Remember to keep one copy of each form from Step 1 (**FL-100, FL-105, FL-110**) for your own records.

You will not be able to take action to complete the divorce until your spouse has been served, one way or the other, or has filed a Response.

STEP 3: RESPONDING TO A PETITION

Required forms:

- FL-120** (Response): if responding
- FL-105** (Uniform Child Custody form): if responding and minor children
- FL-320** (Declaration in Response to **FL-300**): if served one and are responding
- FL-117** (Notice and Acknowledgment of Receipt): if served by mail
- FL-335** (Proof of Service by Mail): if responding

Optional forms: **FW-001** and **FW-003** (fee waiver forms: there is a fee to file a Response)

Once you are served, you have to decide how you are going to respond. In general, here are your options:

- You can choose to not respond – which means that all of the issues will be determined without your involvement
- You can engage in settlement discussions with a goal of reaching a written agreement on all of the issues before a Response is required
- You can file a Response and still engage in settlement discussions
- You can file a Response and seek the court's assistance in resolving or deciding the issues.

It is important to remember that there is a deadline to file a Response, after which a default can be taken against you. The deadline depends on when and how you were served. The "clock" starts to run on the date you are personally served or you sign the **FL-117** form.

Personal service: If you were personally served with the divorce forms, then **you need to respond within 30 days of service.** Personal service means that someone at least age 18 and not your spouse handed you the divorce papers. If you do not respond within 30 days, you may be subject to a default judgment (see page 12).

Service by mail: If you were served with the divorce papers by mail from someone at least age 18 and not your spouse, your deadline for filing the response is 30 days *after you sign* the **FL-117**. That form should be included in the packet of forms you were mailed. Service by mail of the initial divorce papers is only valid if you sign and return a **FL-117** form to the sender stating that you received the divorce papers. This gives you some leeway. Your choices are:

- Immediately sign, date, and return the **FL-117** to the sender – if you are prepared to move forward.
- Wait a bit to sign, date and return the form – if you need some time to figure out how you want to proceed. This pushes back your deadline to file a Response (see above). However, if you don't return the form within 20 days, you may have to pay for later costs of serving you a different way.
- Don't sign the form at all – this will require your spouse to arrange personal service which you may have to pay for and which may hurt settlement negotiations.

Filing a response: A blank **FL-120** Response form should be included with the packet of forms you received when you were served. If it was not included, *technically* a default cannot be entered against you. However, the omission could be an oversight and your spouse could obtain a default judgment against you by incorrectly reporting to the court that you *were* provided with this form.

If you intend to file a Response, you should try to get one from the law library, or request that your spouse, the Self-Help Center, or someone else send one to you as soon as possible.

To file a response, fill out and sign the **FL-120** (Response form). Be sure to follow the instructions carefully, and be clear about what you want out of the divorce. Your response must reflect what you want regarding custody/visitation, support, and division of property. This form is similar to the petition filed by your spouse. You can compare what your spouse requested with what you want.

Property forms: You *may* also fill out an **FL-142** (Schedule of Assets and Debts) or **FL-160** (Property Declaration) and serve it and your recent tax returns on your spouse when you serve the Response (see Step 3 below for info on **FL-142** and **FL-160**). However, do **not** file these property documents with the court. Instead, **do** fill out **FL-141** (Declaration Regarding Service) and mail the original of that form to the court.

Minor children: If you were served with a filled-out and a blank **FL-105** (Uniform Child Custody form), you should fill one out also, even if you agree with the information in your spouse's **FL-105**. If you were also served with motion papers regarding a child or children, and have a court date, you should fill out responding forms (**FL-320**) as well. If *you* want to seek temporary custody or visiting orders, you can file additional forms for this purpose. LSPC's manual on child custody and visiting rights in family court has more information on visiting motions.

By filing a Response, a respondent who disagrees with the petitioner's proposal for custody and visiting can seek the assistance of court mediators to help reach agreement with their spouse on these issues.

Fee waiver: If you cannot afford a filing fee, fill out the fee waiver forms (**FW-001** and **FW-003**). You can ask the law library, the prison Litigation Office, the county's Self-Help Center, or a friend or relative on the outside to send them to you.

Service form: You will also need to fill out a Proof of Service form (**FL-335**) because you will have to mail a copy of these forms to your spouse's attorney (or them directly if in *pro per*). You will need to find someone else (another prisoner or a staff person) to actually mail the document(s) to your spouse and sign the **FL-335** form.

Copies: Make three copies of these forms (except you only need two copies of the fee waiver forms). Then:

Prepare a set for your spouse – a copy of all of the forms you have filled out except the fee waiver forms. Put them in an envelope addressed to your spouse and give the envelope to your sender to mail. Have your sender sign and date the original **FL-335** form.

Prepare a set for the court – all of the originals and one copy of each. Put them all in an envelope addressed to the court clerk. Include a self-addressed stamped envelope so that the court can send you back one file-stamped copy of each form.

Keep one complete set for yourself.

After you have filed a Response, you can seek to resolve the contested issues through negotiation or mediation. The earliest that you can obtain a judgment dissolving your marriage is six months and one day from the date you were served (by personal service or signed the **FL-117** form) or your Response was filed (whichever is earliest).

STEP 4: DISCLOSURE OF PROPERTY AND INCOME

Required forms:

FL-140 (Declaration of Disclosure)

FL-141 (Declaration Regarding Service)

FL-142 (Schedule of Assets and Debts) or **FL-160** (Property Declarations)

FL-150 (Income and Expense Declaration) or **FL-155** (Financial Statement Simplified)

The purpose of these forms is to list all property that you and your spouse have (both community and separate), to declare your income and expenses, to inform your spouse of these things, and to inform the court that you have done so. If you have a lot of property, this may be a difficult part of the divorce, but you should be sure to list everything. The court will decide any disagreements about what is community and what is separate property. (See discussion of these forms of property on page 9 of this manual. The income and expense form is used to resolve child support, spousal support, attorneys' fees or other financial matters that are at issue. You are also required to provide your spouse with copies of your tax returns filed in the previous two years.

Petitioner's duty

Prepare the documents: Within 60 days of filing the Petition, you must serve your spouse with the required disclosure forms. As noted, at this stage, you must fill out **FL-142** or **FL-160**, but not both (unless you already filled out and served your spouse with the **FL-160** form). If you opt to use **FL-160** instead of **FL-142**, please note that the **FL-160** form requires you to list your community property on one copy of the form and your separate property on another copy of the form. It also has a column for you to state how you want the property divided. **FL-160** is most appropriate where there is a lot of community and separate property. **FL-142** is simpler: it lists both community and separate property on one form and does not require you to propose a property division. However, you may be required to fill out a **FL-160** later.

Similarly, there are two income and expense forms (**FL-150** and **FL-155**), but only one is required. The second page of **FL-155** describes the qualifications for using this simpler form. If child support is not an issue, you do not need to complete page 4 of the **FL-150** form. Incarcerated people can submit a printout of their Inmate Trust Account instead of paychecks.

Then, fill out the **FL-140** (Declaration of Disclosure) form. Check the box that this is your *preliminary* disclosure and indicate what forms you are serving on your spouse. You can date and sign it yourself.

Make copies: Once you have filled out all of these forms, make two copies of each.⁵ Attach the property and income forms and any other attachments (such as tax returns) to the Declaration of Disclosure.

Serve your spouse: Once your spouse has been properly served with the summons and petition, later documents can be served on them through the regular mail. Within 60 days of filing the Petition, your spouse must be served with the Declaration of Disclosure and attachments. You will need someone else to mail these documents to your spouse. Keep a copy for yourself. Ask your server to fill out and sign a **FL-335** (Proof of Service by Mail) form and return it to you. You will only have to file this form with the court if there is a dispute whether or not you served your spouse with these disclosure forms.

Fill out and file the FL-141 form. This form notifies the court that the preliminary disclosures were sent to your spouse. Be sure to mark on the **FL-141** that it was your preliminary disclosure. Make two copies. Mail the original and one copy to the court with a self-addressed envelope. Keep one copy for yourself. **DO NOT SEND the FL-142 or FL-140 to the court.**

Respondent's duty

If you filed a response but have not already filled out these forms and served them on your spouse when you served them with your response, you will have to do so within 60 days of the filing of the response. Follow the instructions for the petitioner above.

If you do not intend to file a response, you do not need to fill these forms out. An exception could be that if you and your spouse are negotiating a settlement of the issues, you could agree to fill out one of these property forms and send it to your spouse.

Final disclosures

If you and your spouse reach a written agreement on all of your issues early enough in the proceedings, you will not be required to exchange updated copies of these forms and documents again. Instead, you can waive your rights to these final disclosures, either in your settlement agreement or on a separate form.

If the respondent filed a response and there is no written agreement, both parties will have to send each other their final property and income statements, with a new Declaration of (Final) Disclosure (**FL-140**), marking the boxes for "final" disclosure. After serving those documents on your spouse, send the Declaration Regarding Service of Declaration of Disclosure (Final) (**FL-142**) to the court.

STEP 5: SETTLEMENT

Almost all divorce cases are settled. There are many opportunities to reach a settlement. You and your spouse can try to work out the issues by writing to each other, or by speaking with each other over the phone or during an in-person or video-visit. You may be able to agree on some, but not all, issues. The Self-Help Center may have sample Marital Settlement Agreements to aid in this process.

⁵ Keep one set for yourself; save any extra copies because you might need them later to file in court.

You can seek the assistance of a third party mediator or a mediating attorney. If you have minor children, most courts require that parents attend court-provided mediation to resolve any disputes about child custody/visitation. The Self-Help Center should be able to give you information about mediation. A list of Family Law Facilitator/Self-Help Center offices is attached here as Attachment 2.

► **California Family Law Facilitator addresses – Attachment #2**

Settlement discussions can begin before or after the respondent is served. If those discussions are fruitful, the petitioner can agree to give the respondent extra time to file a response, in hopes that a settlement can be reached. If you reach an agreement before the respondent files a Response, the respondent's signature on the settlement agreement must be notarized.

Once a Response is filed, the mandatory property and financial document exchange may help in resolving those issues. If you include a waiver of the final exchange of documents in the written agreement, you can avoid having to do final disclosures.

Ultimately, if spouses are unable to reach a full agreement, the court will decide the unresolved issues.

STEP 6: FINISHING THE DIVORCE

There are four ways that a divorce can be finalized, depending on the circumstances of your case. Here are the four different situations:

- No response filed and no written agreement (true default)
- No response filed but written agreement (default with agreement)
- Response filed and written agreement (uncontested case)
- Response filed and no agreement (contested).

Each will be addressed here in the same order. The very final steps are identical in all four situations. They are outlined in **STEP 7**.

In most cases, you or your spouse will not need to go to a court hearing to finalize your divorce. If your paperwork is in order, the court can issue the divorce Judgment without your appearance.

No response filed and no written agreement (true default)

If you have successfully served your spouse with your petition and they did not respond within 30 days *and* they do not wish to sign any agreement or participate in the proceedings, then you can proceed to request a default judgment. Your spouse will not be able to file a response after you file your request to enter a default (**FL-165**) unless they get the court's permission.

Forms: You will need to file many forms with the court to finalize the divorce. Please note: when you fill in the forms stating what you want the court to order, make sure that they do not differ from what you have previously stated or asked for in your petition. Your spouse may have defaulted based on what your petition requested; the court may not order something different now.

In every case, you will have to fill out and file these forms:

- Proof of Service of Summons (**FL-115**) if not already filed
- Declaration Regarding Service of Declaration of Disclosure (**FL-141**) if not already filed
- Request to Enter Default (**FL-165**)
- Declaration for Default (**FL-170**)
- Judgment (**FL-180**)
- Notice of Entry of Judgment (**FL-190**).

You *may* need these forms:

- Income and Expense Declaration (**FL-150** or **FL-155**) if you are asking for child support, spousal support or attorney fees
- Spousal Support Order Attachment (**FL-343**): if seeking spousal support; attach to Judgment
- Spousal Support Declaration Attachment (**FL-157**): if seeking long-term spousal support
- Property declaration(s) (**FL-160**) if you need the court to divide property
- Property Order Attachment (**FL-345**): attach to Judgment.

You will *not* have to complete and file a final **FL-140** disclosure form.

If you have minor children: If there already is a custody and visiting order that you agree with, you should attach that order to the judgment. If you do not have a custody and visiting order, you should fill out and attach this form to the judgment, which tells the court what you want:

- Child Custody and Visitation Order Attachment (**FL-341**): attach to Judgment

You can also use that form if you want to modify a current custody and visiting order; however, the court may not be willing to do so without specific prior notice to the other parent.

Generally, in a true default, the court will most likely grant the petitioner's requests regarding children, as long as they appear reasonable. LSPC's manual on child custody and visiting rights in family court offers suggestions on the kinds of orders you can request to help you maintain a connection with your child.

Child support: An incarcerated parent generally is not required to pay child support so you may not need a child support order at this time. One exception would be if you have money available to pay child support. Another exception could be that your children are not in the custody of your spouse, and that parent/spouse is or should be subject to a child support order. If there already is an appropriate child support order, you should attach it to the judgment. Otherwise, here are the forms to request such an order and related issues, in addition to an Income and Expense Declaration (**FL-150** or **FL-155**) listed above:

- Child Support Information and Order Attachment (**FL 342**): attach to Judgment
- Child Support Case Registry form (**FL-191**): give to court but do not attach it
- Notice of Rights and Responsibilities (**FL-192**): attach to Judgment.

Spousal support: If you are asking for spousal support, in addition to the income and expense declaration listed above (**FL-150** or **FL-155**), fill out:

- Spousal Support Order Attachment (**FL-343**) and attach it to the judgment
- Spousal Support Declaration Attachment (**FL-157**): a lengthy form that is optional but needed for the court to decide about long-term support; attach it to the declaration for default (**FL-170**).

Spousal support can also be reserved. This means that no spousal support is ordered now (while you are incarcerated), but you will be allowed to seek it later.

Property division: If you need the court to divide your property, in addition to the **FL-160** form listed above, fill out this form and attach it to your judgment:

- Property Order Attachment to Judgment (**FL-345**).

Please go to **STEP 7** for your remaining instructions.

No response filed but written agreement (default with agreement)

The process is very similar to a true default situation, described above. The petitioner will have to file some of the same forms. The difference is that the judge will not have to make any decisions about the terms of your divorce because your written agreement has resolved the issues. You will attach your written agreement to the judgment (**FL-180**), instead of the forms suggested above. Remember: your spouse's signature must be notarized.

In every case, the petitioner will have to fill out and file these forms:

- Proof of Service of Summons (**FL-115**) if not already filed
- Declaration Regarding Service of Declaration of Preliminary Disclosure (**FL-141**) if not already filed
- Request to Enter Default (**FL-165**)
- Declaration for Default (**FL-170**)
- Judgment (**FL-180**) with written agreement attached
- Notice of Entry of Judgment (**FL-190**).

Regarding your final disclosure of property and income information, you must do one of the following:

- Fill out a new property declaration (**FL-142**) or (**FL-160**), a new income/expense declaration (**FL-150**) or (**FL-155**) and a Declaration of Disclosure (Final) (**FL-140**); serve them on your spouse; and fill out and file a new Declaration Regarding Service of Declaration of Disclosure (Final) (**FL-141**) or
- Both spouses waive final disclosures by signing and filing a Stipulation and Waiver of Final Declaration of Disclosure (**FL-144**) or
- Both spouses waive final disclosures in your written agreement.

Minor children: If you have minor children and you have agreed on a child support and custody/visiting orders, your written agreement attached to the Judgment may be adequate. Otherwise, you may need to attach to the Judgment:

- Stipulation to Establish or Modify Child Support and Order form (**FL-350**) or
- Child Support Information and Order Attachment form (**FL-342**)
- Child Custody and Visitation Order Attachment form (**FL-341**).

You will also have to fill out and submit these forms to the court:

- Child Support Case Registry Form (FL-191): give to court but do not attach it
- Notice of Rights and Responsibilities (FL-192): attach to judgment.

Please go to **STEP 7** for your remaining instructions.

Response filed and written agreement (uncontested case)

Once a response has been filed and you and your spouse have entered into a written agreement, *either spouse* can submit the paperwork to finalize the divorce.

First, these steps are necessary:

- Both spouses' filing fees have been paid (or fee waivers granted)
- Both spouses have exchanged financial information and filed their Declaration of Service Regarding Service of (Preliminary) Disclosure forms (**FL-141**)
- Both spouses have signed an Appearance, Stipulation, and Waiver form (**FL-130**).

In this scenario, the respondent would check box 1b (unless in the military) and the parties would commonly choose 2a, 2b, 2c, 2d, and 2e on **FL-130**.

Then, these additional forms must be filled out:

- Proof of Service of Summons (**FL-115**) if not already filed)
- Judgment (**FL-180**)
- Notice of Entry of Judgment (**FL-190**).

Your written agreement gets attached to the Judgment (**FL-180**).

Regarding your final disclosure of property and income information, you must do one of the following:

- Both spouses file a new Declaration Regarding Service of Declaration of Disclosure (Final) (**FL-141**), having filled out and served a new property declaration (**FL-142**) or (**FL-160**), a new income/expense declaration (**FL-150**) or (**FL-155**), and a new Declaration of Disclosure (Final) (**FL-140**) on the other spouse, or
- Both spouses waive final disclosures by checking the appropriate box on the Stipulation and Waiver of Final Declaration of Disclosure (**FL-144**) or
- Both spouses waive final disclosures in the written agreement.

Minor children: If you have minor children and you have agreed on a child support and custody/visiting orders, your written agreement attached to the Judgment may be adequate. Otherwise, you may need to attach to the Judgment:

- Stipulation to Establish or Modify Child Support and Order form (**FL-350**) or
- Child Support Information and Order Attachment form (**FL-342**)
- Child Custody and Visitation Order Attachment form (**FL-341**).

You will also have to fill out and submit these forms to the court:

- Child Support Case Registry Form (**FL-191**): give to court but do not attach it
- Notice of Rights and Responsibilities (**FL-192**): attach to Judgment.

Please go to **STEP 7** for your remaining instructions.

Response filed and no agreement (contested)

If the respondent has filed a response and the parties have been unable to reach an agreement on all of the issues in the divorce, the case will have to go to a judge for a decision on the contested issues. This could mean a trial. However, it could also mean a simple court hearing if the issues are limited.

Limited hearing: If you are unable to reach agreement on child custody/visiting, child support, and/or spousal support, or attorney fees, you or your spouse could request a hearing on just that issue(s). This involves filing a Request for Order (**FL-300**), paying a new filing fee (or obtaining a new fee waiver), getting a court date, serving the other spouse and attending the hearing. You probably cannot get a hearing on property division this way.

If your contested issue is child or spousal support, or attorney fees, you would also have to file and serve an Income and expense declaration (**FL-150** or **FL-155**).

If your contested issue is child custody/visiting, the court will refer both spouses to a court mediator for mediation before the hearing. The mediator can assist you in reaching a full or partial agreement. If no agreement is reached, the mediator will likely make a recommendation to the court. LSPC's manual entitled "Family Court: Child Custody and Visiting Rights Manual for Incarcerated Parents" has information on how to prepare for such a hearing.

Trial: If you and your spouse still have outstanding issues to be resolved, either of you can request a trial date. Counties have their own forms for this. You will both have to finish the final disclosures process (or waive final disclosures) at least 45 days before the first trial date. The court will also schedule a settlement conference. You may be required to prepare a written settlement conference statement, describing the contested and uncontested issues and your respective positions. Since you are incarcerated, the court should either order you to be transported to court or, more likely, order that you be given a video-conference or phone appearance. Most divorces are settled before or at the settlement conference.

If you still have outstanding issues, then the court will make decisions following a trial. This manual cannot provide detailed guidance on how to prepare for and represent yourself at trial. Basically, you may need to research legal issues in your case, gather exhibits, locate and prepare witnesses, prepare your own testimony, prepare cross-examination of your spouse and their witnesses, and write a trial brief. You may need to consult with an attorney, seek information from your law library, contact your county's self-help center, ask a friend or family member to seek out resources, etc.

Settlements and orders: Whether the issues in your divorce are ultimately resolved through a mediated or court-facilitated settlement or by court decision (at a limited hearing or trial), the written settlement or court order should be attached to your Judgment and submitted to the court with the other final forms, as described in the next section.

STEP 7: FINAL STEPS IN ALL SITUATIONS

Judgment checklist (FL-182): This manual can only cover the most common issues that incarcerated people may face in a divorce situation. It is a good idea to review this list to make sure no other forms might be helpful to you or that you have not forgotten something. Also, you can contact your county's Self-Help Center to find out if there are any other forms that your county requires.

Prepare envelopes:

- Two envelopes for the clerk to mail a copy of the filed Request for Entry of Default to you and your spouse. Address and stamp an envelope for each of you. Put the court's address as the return address.
- Two large envelopes for the clerk to mail back to you and your spouse a filed-stamped copy of the rest of the divorce papers, once the judge has approved and signed them. Be sure to put enough stamps on these envelopes.
- One large envelope addressed to the court, which you will use to send the originals and copies, plus the envelopes described above. Again, be sure to put enough stamps on this envelope.
- Some courts require separate stamped small envelopes for the Notice of Entry of Judgment addressed to both spouses. Your county's Self-Help Center can tell you if you need these.

Make copies and mail to court: Make three copies of each form – except the Judgment and its attachments for which you should make 6 copies. Send the original and two copies to the court (original and five copies of the Judgment); keep one set for yourself. Include the envelopes addressed to you and your spouse.

Forms returned to you: If your forms were in order, the judge will sign the judgment and your forms will be mailed back to you. If something was missing or wrong, you will receive your documents back, with instructions on what you need to do. In some instances, the judge may require you to appear in court. If so, the judge will issue an order that you be transported to court or, more likely, that you be given a video or phone appearance.

Date of dissolution: The Judgment will state the date your divorce is final. Regardless when the Judgment is signed or entered, the dissolution will not be final until at least six months and a day from the date that the respondent was served or filed a response, whichever happened first.

CONCLUSION

We hope that this information is helpful to you. Getting divorced is often emotional. The court system can be overwhelming. If need be, you can write to LSPC for additional information in your particular situation or if you need help getting court forms. Please be aware, though, that we receive many letters from incarcerated people every day and we have a limited capacity to respond. While we strive to respond to every letter, there is often a delay with specialized requests. The Self-Help Center in your county or the prison law library may be your best option for getting forms promptly.

We hope that you are able to reach a fair and amicable resolution of your dissolution issues. And, if you have children, that they are well-cared for and remain in your life.

ATTACHMENTS

Attachment 1: California Family Court addresses

Attachment 2: California Family Law Facilitators addresses

Attachment 3: Sample letter to Family Law Facilitator

Attachment 4: Summary Dissolution booklet, pages 16 and 17

Attachment 5: Sample letter to Court Clerk

California Family Court Addresses (Updated June 2023)

Alameda

24405 Amador St.
Hayward, CA 94544
510-690-2700

Alpine

14777 State Rte. 89
Markleeville, CA 96120
530-694-2113

Amador

500 Argonaut Ln.
Jackson, CA 95642
209-257-2600

Butte

1775 Concord Ave.
Chico, CA 95928
530-532-7002

Calaveras

400 Government Center Dr.
San Andreas, CA 95249
209-754-9800

Colusa

547 Market St.
Colusa, CA 95932
530-458-5149

Contra Costa

751 Pine St.
Martinez, CA 94553
925-608-1000

Del Norte

450 H St., Rm. 209
Crescent City, CA 95531
707-464-8115

El Dorado

1) 495 Main St.
Placerville, CA 95667
530-621-6426

2) 1354 Johnson Blvd.
South Lake Tahoe, CA 96150
530-573-3044

Fresno

1130 O St.
Fresno, CA 93721
559-457-2000

Glenn

821 E. South St.
Orland, CA 95963
530-865-1101

Humboldt

825 5th St.
Eureka, CA 95501
707-445-7256

Imperial

939 W. Main St.
El Centro, CA 92243
760-482-2200

Inyo

1) 301 W. Line St.
Bishop, CA 93514
760-872-3038

2) 168 N. Edwards St.
Independence, CA 93526
760-872-3038

Kern

1) 1122 Jefferson St.
Delano, CA 93215
661-720-5800

2) 325 Central Valley Hwy.
Shafter, CA 93263
661-746-7500

3) 1215 Truxtun Ave.
Bakersfield, CA 93301
661-868-5393

4) 1773 State Hwy. 58
Mojave, CA 93501
661-824-7100

5) 132 E. Coso Ave.
Ridgecrest, CA 93555
760-384-5900

Kings

1640 Kings County Dr.
Hanford, CA 93230
559-582-1010

Lake

1) 255 N. Forbes St.
Lakeport, CA 95453
707-263-2374

2) 7000-A S. Center Dr.
Clearlake, CA 95422
707-994-6598

Lassen

2610 Riverside Dr.
Susanville, CA 96130
530-251-8205

California Family Court Addresses (Updated June 2023)

Los Angeles

1) 111 North Hill St.
Los Angeles, CA 90012
213-830-0803

2) 600 S. Commonwealth Ave.
Los Angeles, CA 90005
213-351-7598

3) 9425 Penfield Ave.
Chatsworth, CA 91311
818-407-2200

4) 200 W. Compton Blvd.
Compton, CA 90220
310-761-4300

5) 42011 4th St. W.
Lancaster, CA 93534
661-483-5500

6) 275 Magnolia Ave.
Long Beach, CA 90802
562-256-3100

7) 300 E. Walnut St.
Pasadena, CA 91101
626-396-3300

8) 400 Civic Center Plaza
Pomona, CA 91766
909-802-1100

9) 1725 Main St.
Santa Monica, CA 90401
310-255-1840

10) 825 Maple Ave.
Torrance, CA 90503
310-787-3700

11) 6230 Sylmar Ave.
Van Nuys, CA 91401
818-901-4600

12) 7339 South Painter Ave.
Whittier, CA 90602
562-968-2699

Madera

200 S. G St.
Madera, CA 93637
559-416-5599

Marin

3501 Civic Center Dr.
San Rafael, CA 94903
415-444-7000

Mariposa

5088 Bullion St.
Mariposa, CA 95338
209-966-2005

Mendocino

1) 100 N. State St.
Ukiah, CA 95482-4416
707-468-2000

2) 700 S. Franklin St.
Fort Bragg, CA 95637
707-964-3192

Merced

2260 North St.
Merced, CA 95340
209-725-4100

Modoc

205 S. East St.
Alturas, CA 96101
530-233-6516

Mono

1) 100 Thompsons Wy.
Mammoth Lakes, CA 93546
760-924-5444

2) 278 Main St.
Bridgeport, CA 93517
760-932-5239

Monterey

1) 1200 Aguajito Rd.
Monterey, CA 93940
831-647-5800

2) 3180 Del Monte Blvd.
Marina, CA 93933
831-883-5300

Napa

825 Brown St.
Napa, CA 94559
707-299-1100

Nevada

1) 201 Church St.
Nevada City, CA 95959
530-362-4309

2) 10075 Levon Ave.
Truckee, CA 96161
530-362-4309

Orange

341 The City Dr. S.
Orange, CA 92868
657-622-6878

California Family Court Addresses (Updated June 2023)

Placer

1) 10820 Justice Center Dr.
Roseville, CA 95678
916-408-6000

2) 101 Maple St.
Auburn, CA 95603
916-408-6000

3) 2501 N. Lake Blvd.
Tahoe City, CA 96145
530-584-3460

Plumas

520 Main St., Rm. 104
Quincy, CA 95971
530-283-6305

Riverside

1) 265 N. Broadway
Blythe, CA 92225
760-775-8500

2) 880 N. State St.
Hemet, CA 92543
951-306-3561

3) 46200 Oasis St.
Indio, CA 92201
760-393-2617

4) 4175 Main St.
Riverside, CA 92501
951-777-3147

Sacramento

1) 3341 Power Inn Rd.
Sacramento, CA 95826
916-875-3400

2) 720 9th St.
Sacramento, CA 95814
916-874-5522

San Benito

450 4th St.
Hollister, CA 95023
831-636-4057

San Bernardino

1) 6527 White Feather Rd.
Joshua Tree, CA 92252
760-974-3047

2) 14455 Civic Dr.
Victorville, CA 92392
760-245-6215

3) 655 W. Second St.
San Bernardino, CA 92415
909-269-8789

4) 351 N. Arrowhead Ave.
San Bernardino, CA 92415
619-844-2700

San Diego

1) 1100 Union St.
San Diego, CA 92101
909-521-3136

2) 250 E. Main St.
El Cajon, CA 92020
619-456-4100

3) 325 S. Melrose Dr.
Vista, CA 92081
760-201-8600

4) 500 3rd Ave.
Chula Vista, CA 91910
619-746-6200

San Francisco

400 McAllister St.
San Francisco, CA 94102
415-551-4000

San Joaquin

180 E. Weber Ave., #413
Stockton, CA 95202
209-992-5555

San Luis Obispo

1) 1050 Monterey St.
San Luis Obispo, CA 93408
805-706-3600

3) 801 Grand Ave.
San Luis Obispo, CA 93401
805-706-3600

4) 901 Park St.
Paso Robles, CA 93446
805-706-3600

California Family Court Addresses (Updated June 2023)

San Mateo

1) 400 County Center
Redwood City, CA 94063
650-261-5100

2) 901 Park St.
Paso Robles, CA 93446
805-706-3600

Santa Barbara

1) 1100 Anacapa St.
Santa Barbara, CA 93101
805-882-4520

2) 312 E. Cook St.
Santa Maria, CA 93454
805-614-6414

Santa Clara

201 N. First St.
San Jose, CA 95113
408-792-4200

Santa Cruz

1 Second St.
Watsonville, CA 95076
831-786-7200

Shasta

1500 Court St.
Redding, CA 96001
530-245-6789

Sierra

100 Courthouse Sq.
Downieville, CA 95936
530-289-3698

Siskiyou

411 Fourth St.
Yreka, CA 96097
530-842-8182

Solano

600 Union St.
Fairfield, CA 94533
707-207-7355

Sonoma

1) 3055 Cleveland Ave.
Santa Rosa, CA 95403
707-521-6500

2) 600 Administration Dr.
Santa Rosa, CA 95403
707-521-6500

Stanislaus

800 11th St.
Modesto, CA 95354
209-530-3100

Sutter

1) 1175 Civic Center Blvd.
Yuba City, CA 95953
530-822-3300

2) 500 Argonaut Ln.
Jackson, CA 95642
209-257-2600

Tehama

1740 Walnut St.
Red Bluff, CA 96080
530-527-3563

Trinity

1) 11 Court St.
Weaverville, CA 96093
530-623-5641

2) 411 Fourth St.
Yreka, CA 96097
530-842-8182

Tulare

1) 300 E. Olive Ave.
Porterville, CA 93257
559-782-3700

2) 640 S. Alta Ave.
Dinuba, CA 93618
559-595-6400

3) 221 S. Mooney Blvd.
Visalia, CA 93291
559-730-5000

Tuolumne

12855 Justice Center Dr.
Sonora, CA 95370
209-533-5555

Ventura

800 S. Victoria Ave.
Ventura, CA 93009
805-289-8900

Yolo

1000 Main St.
Woodland, CA 95695
530-406-6700

Yuba

215 5th St., Ste. 200
Marysville, CA 95901
530-740-1800

California Family Law Facilitator Addresses (Updated June 2023)

Alameda

24405 Amador St.
Hayward, CA 94544
510-690-2700

Alpine

495 Main St.
Placerville, CA 95667
530-621-5098

Amador

500 Argonaut Ln.
Jackson, CA 95642
209-257-2627

Butte

1) One Court St.
Oroville, CA 95965
530-532-7002

2) 1775 Concord St.
Chico, CA 95928
530-532-7002

Calaveras

400 Government Center Dr.
San Andreas, CA 95249
209-754-1443

Colusa

Mailing

532 Oak St.
Colusa, CA 95932
530-458-0598

Office

547 Market St.
Courthouse Annex
Colusa, CA 95932
530-458-0598

Contra Costa

751 Pine St.
Martinez, CA 94553
925-608-1000

Del Norte

450 H St., Rm. 209
Crescent City, CA 95531
707-465-8634

El Dorado

1) 2850 Fairlane Ct., Ste. 120
Placerville, CA 95667
530-621-6426

2) 1354 Johnson Blvd.

South Lake Tahoe, CA 96150
530-573-3044

Fresno

1130 O St.
Fresno, CA 93721-2220
559-457-2143

Glenn

119 N. Butte St.
Willows, CA 95988
530-934-7304

Humboldt

825 5th St., Rm. 310
Eureka, CA 95501
707-445-7256

Imperial

939 W. Main St.
El Centro, CA 92243
760-482-2233

Inyo

301 W. Line St.
Bishop, CA 93514
760-872-6240

Kern

1) 1122 Jefferson St.
Delano, CA 93215
661-720-5800

2) 325 Central Valley Hwy.
Shafter, CA 93263
661-746-7500

Kings

1640 Kings County Dr.
Hanford, CA 93230
559-582-1010

Lake

7000-A S. Center Dr.
Clearlake, CA 95422
707-994-4612

Lassen

2610 Riverside Dr.
Susanville, CA 96130
530-251-3935

California Family Law Facilitator Addresses (Updated June 2023)

Los Angeles

1) 111 N. Hill St.
Fl. 4, Rm. 426F
Los Angeles, CA 90012

2) 9425 Penfield Ave.
Fl. 3, Rm. 3700
Chatsworth, CA 91311

3) 200 W. Compton Blvd.
Fl. 2 Rm. 200F
Compton, CA 90220

4) One Regent St.
Fl. 1, Rm. 107
Inglewood, CA 90301

5) 42011 4th St. W.
Fl. 3, Rm. 3700
Lancaster, CA 93534

6) 275 Magnolia Ave.
Fl. 3, Rm. 3101
Long Beach, CA 90802

7) 300 E. Walnut St.
Fl. 3, Rm. 300
Pasadena, CA 91101

8) 400 Civic Center Plz.
Fl. 7, Rm. 730
Pomona, CA 91766

9) 1725 Main St.
Fl. 2, Rm. 210
Santa Monica, CA 90401

10) 825 Maple Ave.
Fl. 1, Rm. 160
Torrance, CA 90503

11) 6230 Sylmar Ave.
Fl. 3, Rm. 350
Van Nuys, CA 91401

12) 7339 S. Painter Ave.
Fl. 3, Rm. 300
Whittier, CA 90603

Madera

200 S. G St.
Madera, CA 93637
559-416-5520

Marin

3501 Civic Center Dr., Rm. C-44
San Rafael, CA 94903
415-444-7130

Mariposa

5088 Bullion St.
Mariposa, CA 95338
209-742-5322

Mendocino

1) 100 N. State St., Rm. 304
Ukiah, CA 95482
707-468-2020

2) 700 S. Franklin St.
Fort Bragg, CA 95437
707-468-2020

Merced

2260 N St., Rm. 1400
Merced, CA 95340
209-725-4168

Modoc

205 S. East St.
Alturas, CA 96101
530-233-6516

Mono

100 Thompsons Wy.
Mammoth Lakes, CA 93546
760-923-2314

Monterey

1) 1200 Aguajito Rd., Fl. 1
Monterey, CA 93940
831-647-5800, ext. 3005

2) 118 W. Gabilan St.
Salinas, CA 93901
831-647-5800, ext. 3005

3) 250 Franciscan Wy.
King City, CA 93930
831-647-5800, ext. 3005

Napa

825 Brown St., Fl. 2
Napa, CA 94559
707-299-1137

Nevada

201 Church St., Fl. 1, Ste. 9
Nevada City, CA 95959
530-362-5328

Orange

341 The City Dr. S. Thompsons
Fl. 1, Rm. 101
Orange, CA 92868
657-622-5077

Placer

10820 Justice Center Dr.
Roseville, CA 95678
916-408-6446

Plumas

89 Court St.
Quincy, CA 95971
530-283-4792

California Family Law Facilitator Addresses (Updated June 2023)

Riverside

1) 265 N. Broadway
Blythe, CA 92225
760-775-8500

2) 880 N. State St.
Hemet, CA 92543
951-766-2525

3) 46200 Oasis St.
Indio, CA 92201
760-393-2617

4) 3535 10th St., Fl. 2
Riverside, CA 92501
951-274-4499

Sacramento

3341 Power Inn Dr.
Sacramento, CA 95826
916-875-3400

San Benito

450 4th St.
Hollister, CA 95023
831-636-4057

San Bernardino

351 N. Arrowhead Ave.
San Bernardino, CA 92415
909-269-8789

San Diego

1) 1100 Union St.
San Diego, CA 92101
619-844-2200

2) 325 S. Melrose Dr.
Vista, CA 92081
760-201-8200

3) 250 E. Main St.
El Cajon, CA 92020
619-844-2200

4) 500 3rd Ave.
Chula Vista, CA 91910
619-844-2200

San Francisco

400 McAllister St.
San Francisco, CA 94102
415-551-0605

San Joaquin

180 E. Weber Ave., Ste. 105
Stockton, CA 95202
209-992-5283

San Luis Obispo

1050 Monterey St.
San Luis Obispo, CA 93408
805-706-3617

San Mateo

400 County Center, Fl. 6
Redwood City, CA 94063
650-261-5100

Santa Barbara

1) 1100 Anacapa St.
Santa Barbara, CA 93101
805-882-4660

2) 312 E. Cook St.
Santa Maria, CA 93454
805-614-6442

Santa Clara

201 N. First St.
San Jose, CA 95113
408-882-2826

Santa Cruz

1 2nd St., Rm. 301
Watsonville, CA 95076
831-786-7200

Shasta

1655 Court St., Rm. 115
Redding, CA 96001
530-245-6900

Sierra

100 Courthouse Square
Downieville, CA 95936
530-289-3698

Siskiyou

311 4th St.
Yreka, CA 96097
530-842-8182

Solano

600 Union St.
Fairfield, CA 94533
707-207-7300

Sonoma

3055 Cleveland Ave.
Santa Rosa, CA 95403
707-521-6500

California Family Law Facilitator Addresses (Updated June 2023)

Stanislaus

800 11th St.
Modesto, CA 95354
209-530-3100

Sutter

1175 Civic Center Blvd.
Yuba City, CA 95993
530-822-3300

Tehama

1740 Walnut St.
Red Bluff, CA 96080
530-527-3563

Trinity

11 Court St.
Weaverville, CA 96093
530-623-5641

Tulare

1) 221 S. Mooney Blvd., Rm. 203
Visalia, CA 93291
559-737-5500

2) 300 E. Olive Ave.
Porterville, CA 93257

Tuolumne

12855 Justice Center Dr.
Sonora, CA 95370
209-533-6565

Ventura

1) 4353 E. Vineyard
Fl. 3, Rm. 30
Oxnard, CA 93036
805-289-8864

2) 800 S. Victoria Ave., Rm. 206
Ventura, CA 93009
805-289-8732

Yolo

1000 Main St., Fl. 2
Woodland, CA 95695
530-406-6794

Yuba

215 5th St.
Marysville, CA 95901
530-740-1850

SAMPLE LETTER TO THE FAMILY LAW FACILITATOR

(Your name)
(Your address)
(City, CA zip code)
(Date)

Office of the Family Law Facilitator
County of _____
(Address)
(City, CA zip code)

Re: Case name/number _____ or type of
case (dissolution of marriage)

Dear Family Law Facilitator office:

I am incarcerated and need help in a family court case. I do not have an attorney to assist me.

[Select requests relevant to your situation]:

I intend to file a _____ case [state the type of case, such as dissolution of marriage]. Please send me the forms I will need to file this case, including fee waiver forms. Please also send me information on how to file and serve these documents.

I am a party in the case listed above. I need a copy of the following documents filed in that case: _____ [list documents that you want, such as: petition, response, request for order, income and expense declaration, etc.]

I need the following blank court forms: _____ [list form numbers, such as **FL-105**, **FL-300**, **FL-330**, **FW-001**, **FW-003**, etc., or name of forms you need.]

Please send me information about how I can appear in court while I am incarcerated.

Please send me any other information you think might be helpful for me.

If I mail you a copy of my forms filled out, would you be able to review them and let me know if I have filled them out properly?

Once I have finished my forms and have made copies, should I send them to your office for filing, or should I send them directly to the court clerk's office?

Thank you for your attention and assistance.

Sincerely,

(Your signature)
Your printed name

IX. WHAT STEPS DO YOU HAVE TO TAKE TO GET A SUMMARY DISSOLUTION?

If after reviewing the information in this booklet, you feel your marriage or your domestic partnership will qualify for a summary dissolution, you should carefully go through the following 15 steps. You can fill out the forms, worksheets, and agreements in the summary dissolution section

- online, for free, at www.courts.ca.gov/selfhelp;
- with a typewriter; or
- with neat printing.

1. _____ Complete and give your spouse or domestic partner a list of community and separate property assets and obligations. This information is needed to comply with the requirement to exchange a preliminary declaration of disclosure in summary dissolution cases. Use the forms listed below in 1a or 1b for this purpose.
 - a. _____ A *Declaration of Disclosure* (form FL-140) and a *Schedule of Assets and Debts* (form FL-142) (or a *Property Declaration* (form FL-160)). These forms are not included in this booklet. You may find them online at www.courts.ca.gov/forms.htm. Give one copy to your spouse or domestic partner and keep one for your records; or
 - b. _____ The worksheets in this booklet on pages 7, 9, and 11.
 - (1) _____ Turn to page 7 and complete the Worksheet for Determining Value of Separate Property. See page 6 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or domestic partner and keep one for your records.
 - (2) _____ Turn to page 9 and complete the Worksheet for Determining Value and Division of Community Property. See page 8 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or domestic partner and keep one for your records.
 - (3) _____ Turn to page 11 and complete the Worksheet for Determining Community Obligations and Their Division. See page 10 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or domestic partner and keep one for your records.
2. _____ Along with the documents listed in 1, give your spouse or domestic partner all tax returns you filed in the last two years. Give one copy to your spouse or domestic partner and keep one copy for your records.
3. _____ Fill out an *Income and Expense Declaration* (form FL-150). You each need to fill out this form and give it to your spouse or domestic partner before you sign your property settlement agreement or complete your divorce. Make one extra copy of your form after it has been completed. Give one copy to your spouse or partner and keep one for your records.
4. _____ Complete a written statement about business and investments opportunities and give it to your spouse or domestic partner before you sign a property settlement agreement or complete your divorce. Keep a copy for your records.

Note: The written statement must describe any investment opportunity, business opportunity, or other income-producing opportunity that developed since the date you separated which was based on any investment made, significant business done, or other income-producing opportunity that was presented to you between the date you married or became domestic partners and the date you separated (there is no specific form for this purpose).
5. _____ Type or print your property settlement agreement if you have any property or debts to divide. Both of you must date and sign it. Make two extra copies. See pages 12–15 for an example and instructions. You can also find a version that you can fill in online at www.courts.ca.gov/selfhelp in the information on summary dissolution at selfhelp.courts.ca.gov/divorce-california/summary-dissolution.
6. _____ Fill out a *Joint Petition for Summary Dissolution* (form FL-800). Both of you must sign and date this petition. Make two extra copies of this form. (This is the form you need to **START** the process.)

Note: When signing your joint petition and your property settlement agreement, you are signing these documents under penalty of perjury under the laws of the State of California, which is the same as being sworn to testify in court.

You may not sign each other's name.

7. _____ Make three sets of forms that include copies of your property settlement agreement and a copy of your *Joint Petition for Summary Dissolution* (form FL-800). Staple each set together.
8. _____ Fill out the top portion of the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) and make three copies of it.
9. _____ Make one extra copy of a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) so each of you has one, and hold on to it. This is the form you would need to **STOP** the process. You may wish to use it during the waiting period if you change your mind and want to stop the process. You should keep one copy. See page 18 for more information.
10. _____ Take your *Joint Petition for Summary Dissolution* (form FL-800), *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825), and all of your copies to the superior court clerk's office together with two self-addressed, stamped envelopes (one addressed to each spouse or domestic partner). The location of your superior court clerk's office can be found in the phone book or online at www.courts.ca.gov/find-my-court.htm. The clerk will stamp the date on all copies, will keep one copy of each document, and will return the other two to you. One copy is for each spouse or domestic partner.
11. _____ Pay the superior court clerk's filing fee. If you cannot afford to pay the filing fee, you may qualify for a fee waiver based on your income. If one of you qualifies for a fee waiver but the other one does not, the one who does not qualify will have to pay the filing fee. To request a fee waiver, see *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO). You will need to prepare a *Request to Waive Court Fees* (form FW-001) and an *Order on Court Fee Waiver* (form FW-003).
12. _____ The clerk will file your joint petition and return the copies to you and your spouse or partner. The court may also process the *Judgment of Dissolution* at that time, in the next few weeks, or after the six-month waiting period has expired and give or mail it to you and your spouse or domestic partner. The *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) will have a date on which the dissolution ending your marriage, domestic partnership, or both will be final. That is the effective date of your dissolution and it will be six months from the date you file your joint petition. The six-month waiting period is mandated by law.
13. _____ Put your copies of all documents in a safe place.
14. _____ Wait for six months. If either one of you wants to stop the summary dissolution case, fill out and file a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) before the six months run out.
15. _____ On the day that appears on your *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) as the effective date of your dissolution:
 - a. Your marriage or domestic partnership (or both) is ended;
 - b. The agreements you made in your property settlement agreement are binding—you will then own the property assigned to you, and you will have to pay the bills assigned to you;
 - c. Except for those agreements, you and your spouse or domestic partner have no further obligations to each other; and
 - d. You are legally free to remarry or register a new domestic partnership.

REMEMBER: Either of you can stop the process by filling out a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) and bringing it to the superior court clerk during the six-month waiting period before the date your dissolution is effective according to the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) that you received from the court.

FL-810
9.1.21 version

SAMPLE LETTER TO THE COURT CLERK

(Your name)
(Your address)
(City, CA zip code)
(Date)

Superior Court Clerk's Office
County of _____
(Address)
(City, CA zip code)

Re: Case name/number _____ or
type of case (petition to establish parental
relationship, divorce, etc.)

Dear Superior Court Clerk:

I am incarcerated and do not have an attorney to assist me with these documents which I have prepared for filing.

Enclosed please find:

1. One original and two copies of the following:
List the documents you are sending [for example: Petition, Response, Request for Hearing, UCCJEA declaration, etc. or use their form numbers]
2. One original and two copies of the following:
List the documents you are sending [for example: Petition, Response, Request for Hearing, UCCJEA declaration, etc. or use their form numbers]
3. A self-addressed stamped envelope.

Please file the originals, stamp the copies, and return the copies to me in the envelope enclosed with this letter.

[I am also requesting that you provide me with a hearing date on this matter at least six weeks after the date of this letter – **only include this type of request if your documents are requesting a hearing date.**]

Thank you for your attention and assistance.

Sincerely,

(Your signature)
Your printed name

[Note: Keep a copy of this letter until you receive the stamped copies back.]