

**California Courts Self-Help Center**  
**Instructions for *Petition (Family Law)*, Form FL-100**  
<http://www.courtinfo.ca.gov/selfhelp/>

**Top Part of Form**

Put your name, current address, and daytime phone number at the top of the form.

If you don't have a lawyer, write "in pro per" after "Attorney for."

Fill in the court name and address. You may also need to fill in the court branch where you will file your petition.

If you are the person starting the court case, you are the "Petitioner." Your spouse is the "Respondent."

The court clerk will give you a case number when you file the first set of forms. Use this case number on all your forms.

**Date of Separation (number 2b)**

This is the date when you and your spouse knew your marriage was over, even if you were still living together. **You may need to talk to a family law lawyer to decide what the "date of separation" was, especially if you and your spouse lived apart or had "trial separations" in the past.**

**ALERT! The date between the date of your marriage and date of separation will define the length of your marriage. The "Length of Marriage" can seriously affect the division of property and debts and payment of spousal support!**

**Minor Children (number 3)**

List the children you and your spouse had or adopted who are now under 18. Fill out and file a *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act* (form FL-105).

This form tells the judge:

- Where your child has been living,
- Who your child has been living with, and
- If there have been any other court cases about custody of your child (including juvenile, guardianship, or domestic violence cases).

**List Property and Debts (numbers 4 and 5)**

List what you *own* (money or property) and what you *owe* (loans or debts). Say whether these things are owned by both of you (community property) or only one of you (separate property).

**ALERT! The property and debts part of the divorce is often so complicated and the cost of making a mistake is so high that it is a good idea to talk to a lawyer before you file your papers.**

If you leave this section blank, you are saying there is no property or debt to consider. Check the box that is appropriate for your case.

If you need more room to list assets or debts, attach another page and label it "Attachment 5 to Petition." Give as much information as possible.

Don't forget to list pension and retirement benefits, IRA accounts, 401(k) plans, life insurance policies, security deposits, and promissory notes. When you list debts, include unpaid taxes, medical bills, credit card accounts, and other loans or mortgages.

You do not have to list things like clothing, pots and pans, books, and other smaller items.

### **Community property**

Generally, everything you bought while you were married is "community property," even if only one of you earned or spent the money. You may have more community property than you realize. (See below.) Examples of community property might be an interest in your spouse's pension or profit-sharing plan. You may also have more community debts than you realize. Most debts incurred by either party during the marriage are community debts, even if a credit card was in the name of one spouse only. Community property and community debts are usually divided equally.

**ALERT! Community property does not become separate property (even if you and your spouse have agreed on how to divide it) until the judge signs the final court order.**

### **Separate property**

As a married person, your separate property includes:

- All property you owned before the marriage;
  - All property given to you as a gift or inheritance -- even if the gift or inheritance occurred during the marriage;
  - The rents, profits, or other money earned from your separate property; and
  - Property you got after the date of separation.
- Also, if you or your spouse has spent any of your separate property on assets that are community property, you may be entitled to a reimbursement of your separate property.

The division of property can be very complicated and you should see a lawyer!

When you list separate property and debts, say if each listed item belongs to the petitioner or the respondent.

### **Mixed community and separate property**

*Sometimes things are part separate property and part community property.* For example, you or your spouse might have a pension or retirement benefit from a job held before *and* during the marriage. So, it would be separate property (earned before the date of marriage) and then community property (earned between the date of marriage and the date of separation) and back to separate property again (earned after the date of separation). Exactly how the pension would be divided is complicated. Another example might be where your spouse owned a house before the date of your marriage (their separate property), but after the marriage payments on the house were made from community property. The community property interest in the house would have to be determined -- and it is quite complicated to do. If you believe you have issues of mixed property, you should see a lawyer.

**ALERT! If you signed a property agreement before or during the marriage, talk to a lawyer to see how this affects your case before you file your papers with the court.**

### **Grounds for Divorce or Separation (boxes 6a and 6b)**

If you want a dissolution (divorce) or a legal separation, check box 6a or 6b.

Then, check the box that best explains why you want the divorce (box 6a(1) or 6a(2)) or legal separation (box 6b(1) or 6b(2)).

Most people check “irreconcilable differences” (box 6a(1) or 6b(1)). This means you and your spouse just could not make your marriage work. You do not need to say whose fault it is. In fact, the court will not consider who is at fault in deciding the issues of your case.

### **Grounds for Annulment (Nullity of Marriage) (boxes 6c(1)–(2) and 6d(1)–(6))**

If you ask the judge to annul your marriage, you will have to go to court and prove that at the time of the marriage:

- You were closely related to your spouse (incest);
- One of you was under 18, still married to someone else, or mentally ill;
- You were tricked or forced to marry; or
- One of you was not physically able to be married.

### **Child Custody and Visitation and Spousal Support (number 7)**

If you listed any children under age 18 on the petition, you **must** check the boxes to say what kind of custody and visitation you want.

#### **Legal custody (box 7a)**

Legal custody means who can make decisions about the child’s health, education, and welfare. It does not mean where the child lives.

Usually, under *joint legal custody*, both parents work together to make these decisions. Unless there is a legal custody order that lists the circumstances where both parents have to agree, either parent alone can make these decisions. A parent with *sole legal custody* can make all parenting decisions by themselves.

**Physical custody (box 7b)**

Physical custody means where the child lives. With *joint physical custody*, the child spends a lot of time (but maybe not equal time) living with each parent. When one parent has *sole physical custody*, the child lives with that parent and has visitation with the other parent.

**Child visitation (box 7c)**

Your visitation plan can be general or detailed. Usually, detailed plans work best. Your plan can say:

- When and where the child will be picked up and dropped off, and
- Where the child will spend holidays, vacations, and birthdays.

A detailed plan can help avoid arguments and confusion. But if you and your spouse can still cooperate about plans for your child, a general plan may work.

A general plan can say:

- Where your child will live during the school year and summer, and
- How often each parent will usually visit the child.

Sometimes, parents ask the judge to order visits only when another responsible adult is there (box 7c(1)). This is called *supervised visitation*.

Sometimes a parent thinks there is a good reason that the other parent should not have visitation with the children. If you are requesting *no visitation*, check box 7c(2).

**Determination of parentage of children born before the date of the marriage (box 7d)**

If you and your spouse have any children who were born prior to the date of your marriage, you should check this box. The marriage will only determine the parentage of children born during the actual marriage. If you have children born prior to the date of marriage, this action will be able to establish parentage and protect their rights.

**Spousal support (box 7e)**

Spousal support is another name for "alimony" or "maintenance" in California. It is money that one spouse pays to help support the other after they separate. If you disagree about support, a judge or family law commissioner will decide who pays what, and how long support will last.

The judge will consider::

- The length of the marriage;
- What each person needs, earns or can earn, pays or can pay;

- Whether having a job will make it too hard to take care of the child(ren);
- The age and health of both people;
- Debts and property;
- Whether one spouse helped the other get an education, training, career, or professional license;
- Whether one spouse's career was impacted by being unemployed to care for children or the home;
- Tax impact of spousal support; and
- Whether there was domestic violence in the marriage.

Either spouse can ask the court not to order spousal support or to decide when support will end.

If you think you may want to ask for spousal support, you must check the box that asks the court to order it. Also, check the box that says if spousal support should be paid to the petitioner or respondent (box 7e). If you do not wish to receive spousal support, then leave the boxes in 7e blank.

**If you do not want to pay spousal support, check the “terminate jurisdiction to Respondent” (box 7g).**

**ALERT! Spousal support is a difficult legal issue. It can represent a valuable legal right or obligation. See a lawyer or a family law facilitator in your county. They can tell you about how much spousal support may be ordered, how long it may last, and how it might affect your taxes. Usually, spousal support is tax-deductible for the paying spouse and taxable income for the supported spouse.**

#### **Attorney Fees and Costs (box 7f)**

If you think you will be using an attorney to represent you and want your spouse to pay for the attorney and for your costs related to this case, check this box.

#### **Property Rights to Be Determined (box 7h)**

If you have any separate or community property or debt to divide, you need to check this box. If you have listed any property in items 4 or 5 of this petition, you should check this box.

#### **Restoration of Former Name (box 7i)**

Either spouse may ask to have his or her name changed back to the one he or she used before the marriage.

To do this, check box 7i on the petition and then write or type in the former name.

#### **Child Support (number 8)**

You do not need to check any boxes to ask for child support for minor children listed on the petition.