



ACCESS CENTER DISSO A-Z

HOW TO START A DIVORCE

Q: What steps do I need to take for a divorce?

A: Please visit <https://www.courts.ca.gov/documents/fl107info.pdf> for an overview.

Q: Do I need to hire an attorney, or can I do this myself?

A: Most people can file and finish their case on their own without having to hire a private attorney, especially when both parties work well together. However, if you have a complex situation, you may need to hire a private attorney to assist you with your case. You can contact the San Francisco Bar Association at (415)989-1616 to be referred to a private attorney.

Keep in mind that the ACCESS Center can only provide you with legal information. We cannot provide you with legal advice.

Q: What legal information do I need to know before I complete my forms?

A: You should have a basic understanding regarding the following topics: child custody and visitation, child support, spousal support and property division. For more information about these topics, visit <https://www.sfsuperiorcourt.org/self-help>.

Q: What is date of separation?

A: The date of separation is the date that there is a complete and final break in the marital relationship. This is determined by two factors: First, a spouse must express to the other spouse the intent to end the marriage; second, the conduct of the spouse is consistent with the intent to end the marriage. The date of separation is important because anything acquired by either spouse after date of separation is generally considered separate property rather than community property.

Q: What kind of property do I have to list in the Petition (FL-100)?

A: It is important you list ALL property. Property means both assets and debts. You should gather all your property information (list of all assets and debts) before starting your case.

If your spouse fails to respond to your Petition, you can ask the Court to find your spouse in default, which means that you can ask the Court to make orders you requested without input from your spouse. When your spouse is in default, the Court cannot make any orders regarding property that was not listed in your Petition, which is why it is important to list ALL property in your Petition.

Q: What is separate property?

A: Separate property is generally any asset and/or debt that either party acquired before date of marriage or after date of separation. Separate property is generally not divided in a divorce.

Q: What is community property?

A: Community property is any asset and/or debt that parties acquired during the marriage, starting from the date of marriage to the date of separation. Community assets and community debts are usually divided equitably in a divorce. Determining whether something is community property and separate property can be complex. For more information about community and separate property, visit

<https://www.courts.ca.gov/1039.htm>.

Q: Are there any exceptions to community property?

A: Yes. Some common exceptions are student loans, gifts, or an inheritance. Regardless of when these assets or debts were acquired, they are generally considered separate property of that spouse, so long as the community did not benefit from it. You may want to consult with a private attorney to determine if something is an exception to community property.

Q: What happens if we mixed our assets and/or debts from before marriage, during marriage, and/or after separation?

A: This is called commingling. This can be complicated because it may require tracing how much of the property belongs to the individual person versus how much of the property belongs to the community. You may want to consult with a private attorney if you have any assets and/or debts like this.

Q: Do I need to list all my assets and debts even though my spouse and I have an agreement?

A: Yes, it is best practice to list all property in your Petition, even if you have an agreement with your spouse. This generally includes but is not limited to: real property (land/building/houses), bank accounts, stock accounts, businesses, retirement accounts, life insurance policies with cash surrender or loan value, cars, jewelry, credit card debts, mortgage loans, car loans, student loans, etc., regardless of whose name it is under.

Q: What forms do I need to file in San Francisco County to start my case?

A: You will need the following forms:

- Form FL-100 Petition
- Form FL-110 Summons
- Form SFUFC 11.17 (local form)

If you have minor child(ren), you also need:

- Form FL-105 UCCJEA (attached to FL 100)
- Form FL-311 Child Custody and Visitation (Parenting Time) Application Attachment (attached to FL 100)

Q: Where can I get these forms?

A: Visit <https://www.courts.ca.gov/forms.htm> for judicial council (FL) forms.

For San Francisco local forms visit: <https://sfsuperiorcourt.org/forms-filing/forms>

You can also purchase forms in Room 103 on the 1st Floor Public Viewing Room at the Civic Center Courthouse, 400 McAllister Street, Room 402 San Francisco, CA 94102.

Please check court's website for most updated office hours.

Q: How do I complete the forms?

A: Visit <https://www.courts.ca.gov/1230.htm> for instructions on completing the forms.

The forms are available in other languages but must be submitted to the court in English.

Q: Does San Francisco County have any local rule(s) I need to be aware of?

A: Yes, San Francisco has many local rules, the link to which is provided below. Two important local rules include the following:

- If you are planning to use a P.O. Box address on your forms, you should file form SFUFC 11.9A (P.O. Box).
- If you do not finish your case within 18 months from when you filed your case, (no judgment), the Court will mail you a letter with a court date for a hearing. This is called the Family Centered Case Resolution (FCCR) calendar. The purpose of this hearing is to make sure cases are moving along in a timely manner.

For more information regarding local rules pertaining to family law, please review Rule 11 of the Uniform Local Rules of Court.

https://sfsuperiorcourt.org/sites/default/files/images/Uniform%20Local%20Rules%20of%20Court_Effective%20January%201%202020%20%28FINAL%29_1.pdf?1586498131817.

Q: Why would I need to use a P.O. Box address?

A: You may not want to use your physical address on court forms for the following reasons: domestic violence or safety concerns, living situation where mail gets lost easily, homelessness, etc. You are not required to put your residential address on your court forms. You are only required to list a mailing address. In addition, any information you provide on your court forms, once filed, will become public record. It is important for you to provide the Court with a secure mailing address because the Court uses this address to mail you court documents.

Q: What do I do after I've completed all the forms?

A: Please review the contents on your forms very carefully and date and sign all your forms. You are signing under the penalty of perjury that everything you filled out is true and correct. Any errors or inaccuracies can delay your divorce and have other consequences.

Once all your forms are completed, make two photocopies of each form. You will need to double hole-punch the top of all original forms. Put the two copies behind the original.

Q: Where do I file my forms to start my case and how much does it cost?

A: File all your forms in the Family Law Clerk's Office located at the Civic Center Courthouse, 400 McAllister Street, Room 402 San Francisco, CA 94102. The filing fee is \$450. If you are low income and cannot afford the filing fee, you can file a fee waiver request with the Court.

Q: How do I apply for a fee waiver?

A: You must fill out form FW-001, Request to Waive Court Fees and form FW-003, Order on Court Fee Waiver. Forms can be obtained at:
<https://www.courts.ca.gov/forms.htm>

Q: How do I know if my fee waiver request was granted or denied?

A: The clerk will either return to you a stamped copy of the FW-003 the same day you file, or they will mail it to you later. The stamped form FW-003 will let you know if your request has been granted or denied. If your fee waiver is denied, you have ten days to pay the filing fee or ask for a hearing on your waiver by completing form FW-006, Request for Hearing About Court Fee Waiver Order. Failure to do either will result in the court striking (cancel) your divorce filing.

Q: What do I need to do after I file my forms?

A: When the clerk files your forms, they will stamp the original form and keep it in your court file. The clerk will stamp your two copies and return them to you. One set of the stamped copies is for your own records. You must have someone serve your spouse with the other set of stamped copies, along with a blank form FL-120, Response.

Q: What does it mean to serve my spouse?

A: There are different ways to serve your spouse. The most common and preferred way is personal service. Personal service means someone else (NOT YOU) at least 18 years old must personally hand-deliver a filed copy of your court forms to your spouse. This person is your server. For more information regarding service, visit <https://www.courts.ca.gov/1229.htm#panel8760>.

Q: Does the server need to do anything to show proof that my spouse was served?

A: Yes. The server will have to complete the form FL-115, Proof of Service of Summons. Submit your original FL-115 and one copy to Room 402. The clerk will return a stamped copy for your records.

Q: What if I do not know where my spouse is and cannot find him or her?

A: Depending on your situation, you may apply for service by posting and mailing or service by publication. For more information on service by posting and mailing, see <https://www.courts.ca.gov/selfhelp-serving.htm#postingcourt>. For more information on service by publication, see <https://www.courts.ca.gov/selfhelp-serving.htm#publication>.

Q: What if my spouse is located outside the United States?

A: This can be a complex issue. You may not be able to use the above service options to serve your spouse if they are out of the country. You will need to speak to an ACCESS staff attorney or a private attorney to discuss your options.

**Q: Do I need to wait until my divorce is finalized for the court to make orders?
What if I need orders now?**

A: You do not need to wait until your divorce is finalized before you can ask the court to make orders. You can ask the court to make pendente lite (temporary) orders once you file your case. Visit <https://www.sfsuperiorcourt.org/self-help> for information on requesting child custody and visitation, spousal support and/or child support orders.

**Q: I filed for a divorce, but I have changed my mind and want to cancel the case.
What should I do?**

A: If you are the one who filed for divorce, you can dismiss your case only if other party has not filed a Response and the court has not made any orders in your case. If there is a Response on file, both parties must agree to dismiss the case. To dismiss your case, complete and file Form CIV-110, Request for Dismissal available at <https://www.courts.ca.gov/forms.htm>

If the court made orders in your case, you will need to go to court to ask for permission to dismiss your case.

If you want to continue your divorce after your case is dismissed, you will have to file a new case and pay the filing fee again.