

# LA. C.C. ART. 103 (5) DIVORCE FORM PACKET

## INSTRUCTIONS

If you have questions or need assistance filling out these forms, please visit the

### **SELF-HELP RESOURCE CENTER**

Nineteenth Judicial District  
Courthouse, Fourth Floor  
300 North Boulevard  
Baton Rouge, LA  
Tues. & Thurs. 10 am – 2 pm

You can also find forms and other resources online at [www.familycourt.org](http://www.familycourt.org)

These instructions are to help you through the process of getting a divorce under Louisiana Civil Code article 103 (5). This law allows you to get divorced if a court issued a protective order or injunction during your marriage against your spouse to protect you or one of your children from abuse.

These forms are not legal advice and cannot take the place of the advice that a lawyer can give you. It is always best to speak with a lawyer before taking any legal action.

**If you represent yourself in court, you must follow all of the proper procedures and the law. It is your responsibility to see your case through the whole process.**

## STEP ONE: THE PETITION

This will guide you through the Petition paragraph by paragraph. Read everything carefully, double check the information you fill in, and make sure you fill out the forms clearly and completely.

- The top part of this form is for your case information. Fill in your name in the first blank on the left because you are the petitioner. Your spouse is the defendant, so write his/her name underneath. For now, leave the blanks on the right empty. When you file this form in the Clerk of Court's office, they will give you the docket number and the division that is assigned to you.
- The beginning paragraph asks you to fill in your name and domicile. Your domicile is the parish/county and state where your permanent address is currently.
- Paragraph 1 asks you to fill in your spouse's name and domicile. Your spouse's domicile is the parish/county and state where his/her permanent address is currently.
- Paragraph 2 asks you the date and place you were married. It also asks you to fill in the last place that you and your spouse lived as husband and wife.
- You don't have to provide any information in paragraphs 3 and 4, but make sure the statements are true in your case. If you or your spouse is in the armed forces or if you entered into a covenant marriage when you applied for your marriage license, you may not be able to get a divorce using these forms.
- Paragraph 5 is about your children. Check the correct statement that applies to you. Check the first blank if you do not have any children that are under 18 from your marriage. Check the second blank, if you do have children that are under 18 from your marriage and write their names and dates of birth in the blank lines.
- Paragraph 6 is about your domestic violence protective order or injunction. To fill this part out, it is a good idea to have a copy of the order with you. If you do not have a copy, you can get one from the Clerk of Court's office in the parish where the judgment was done.
  - Write the date of the order in the first blank space, then the case title in the next two blank spaces. This is usually listed at the top of your order, and looks something like "John Doe v. Jane Roe."

- In the next blank space, write the docket number of the order or injunction. Finally, write in the name of the court that gave the order and the city where the court gave the order.
- Paragraph 7 says why the law allows you to get divorced in this case. No information is needed.
- The paragraph after is a summary of everything you're asking the court to do. It also deals with the costs of coming to court for this divorce. Select the option that you are asking the court to do.
- Then, sign and print your name along with your address and telephone number under where it says "respectfully submitted" so the court knows who filed it and how to contact you.
- The very last part has to do with service on your spouse. You have two options at this point:
  - The first option is if your spouse will accept a copy of the petition from you. After you file your petition, you will get a certified copy and give it to your spouse. Your spouse will also have to fill out a form and get it notarized. Check the first option if this is what you want to do. Step 2 will give you the instructions on how to do this.
  - If your spouse will not accept a copy from you, you will have to request service by the Sheriff's Office. Check the second option and fill in your spouse's name and information if this is what you want to do. There is a cost for having the sheriff serve your spouse.

Along with your petition, you will also have to sign the Verification form, which states that you are swearing that everything in your petition is true. This step requires you to go to a notary. Free notary services are available at the Self-Help Resource Center for you. You must have a picture ID to get the form notarized. Make sure you fill out this form in the presence of the notary.

## STEP TWO: FILING

To file your papers, you must go to Clerk of Court's Suit Accounting office, located on the Third Floor of the Nineteenth Judicial District Courthouse, 300 North Boulevard, Baton Rouge, Louisiana. If you want to make other arrangements for filing, you should contact that office at (225) 389-3982.

You must file the original forms that you filled out. It's also a good idea to make 2 copies of your forms and bring them with you. When you file the originals, ask the Clerk of Court's office to stamp your copies for your records.

- If you have come to court before with your spouse, let the Clerk of Court's office know so they can look up your information and put the right case number on your paperwork.
- If this is the first time coming to court with your spouse, the Clerk of Court's office will assign a case number to you and write it at the top of your filed pleadings. They will also assign you to one of court divisions (A, B, C, or D). Make sure you keep this information it because you will need it to check the status of your case.

Anytime you file something with the Clerk of Court's office, you will have to pay a filing fee. There are different fees for different documents. The Clerk of Court's office can tell you how much the fees are. If you cannot afford to pre-pay the costs, you may request to file as a pauper by checking the second box. You also have to fill out and file a separate pauper form, which you can get from the Self-Help Resource Center or the Clerk of Court's office. \*IMPORTANT- Pauper status does not make filing free, but only lets you go without paying in advance. You may have to pay court costs after the case is over.

## STEP THREE: SERVICE / WAIVER

The next step is to give your spouse notice of your divorce by serving the petition on him/her. You have two options: 1) you can either get the Sheriff's office to make service on your spouse, or 2) you can send your petition to your spouse and get him/her to sign a waiver of service.

**OPTION 1: Service:** To have the Sheriff's office make service, you have to request it in your Petition for Divorce. Make sure that you have the service information filled out at the end of your Petition. NOTE: If your spouse lives outside of Louisiana, you will have to get "long arm" service. Please visit the Self-Help Resource Center for more information on how to do this.

**OPTION 2: Waiver:** Instead of having the Sheriff's office make service, you can get your spouse to sign a waiver of service. You must send or give your spouse a certified copy of your Petition, which you can get from the Clerk of Court's office after you file with them.

- You must make sure that the waiver is filled out and signed after the petition is filed with the Clerk of Court's office.
- You will also have to send or give your spouse the form called the Acceptance of Service and Waiver of Citation. This form says that your spouse received a certified copy of the petition and that he/she does not need service by the sheriff.
- Fill out all of the case information at the top of the document. Do not fill in the rest. Your spouse will have to fill out the form with a notary. You cannot fill it out for your spouse.

Once your spouse fills out the form, ask him/her to send it back to you so that you can file it. You will file it with the Clerk of Court's office, where you filed your petition before. Ask the Clerk of Court's office to provide you with a stamped copy of the waiver for your records. If your spouse does not agree to sign this form, you will need to request service in Option 1.

## STEP FOUR: CHECK ON YOUR CASE

To check on your case status, you will have to call the Clerk of Court's office at (225) 389-3936 or visit in person on the Third Floor of the courthouse.

If you asked the Sheriff's office to serve your spouse, you need to make sure the service return from the Sheriff's office is in the record and that it states that the Sheriff was able to serve your spouse either domiciliary or personally. If the service was "due and diligent", it means that the Sheriff's office was not able to make service on your spouse. You will have to request service again or visit the Self-Help Resource Center for more information on what to do.

If you had your spouse fill out a waiver of service form, you need to make sure the waiver form has been filed into the record with the Clerk of Court's office.

Finally, check to see if your spouse filed a written answer into the record about your divorce. You will need this information for the next step.

## STEP FIVE: MOTIONS

Depending on the information you found out in Step 4, you may have to file a Motion and Order for Preliminary Default or a Motion and Order to Set Trial. You only need to do one of the following options.

**OPTION 1: PRELIMINARY DEFAULT:** You can use this option if you have already completed Steps 1 through 4 and if your spouse has not filed a written answer with the Clerk of Court's office. If your spouse did file a written answer, you cannot use this option. You have to use Option 2.

- Fill out the top part of the form completely with your case information. Put your name where it says Petitioner and your spouse's name where it says Defendant. Fill in your docket number and division on the top right.
- Under paragraph 1, fill in the date that you filed your original Petition for Divorce.
- Paragraph 2 asks you to choose between two options for service. Select the first option if you had the Sheriff's office serve your spouse. Select the second option if you had your spouse fill out the waiver form. You will also need to fill in the dates of the service or waiver. If you are unsure of the dates, call the Clerk of Court's office to find out this information. Do not leave this blank.
- Then, sign and write your name, address, and telephone number under where it says "respectfully submitted" so the court knows who filed it and how to contact you.
- The bottom part is for the court to fill out. Do not write anything in this paragraph.

After you've filled out the form completely and checked that all the information is correct, you have to file it. Go to the Clerk of Court's office to file this paperwork. Again, it's a good idea to bring 2 copies and get them stamped by the Clerk's office. You will have to pay a filing fee, unless you were granted pauper status. The Clerk of Court's office can tell you how much the fees will be.

After you file the preliminary default with the Clerk of Court's office, it will take some time for it to get to the judge's office. Once the judge signs it, it is ready to be put on the docket for you to come to court to finalize the divorce. Call the judge's office 7 to 10 days after you file your preliminary default to check on your case status. When you call, have your case number and information ready. The Family Court divisions and their telephone numbers are listed below:

- Division A, Judge Baker's office, (225) 389-4676
- Division B, Judge Woodruff-White's office, (225) 389-7657
- Division C, Judge Day's office, (225) 389-4673
- Division D, Judge Greene's office, (225) 389-4678

**OPTION 2: SET TRIAL:** You must use this option if you have already completed Steps 1 through 4 and your spouse has filed a written answer with the Clerk of Court's office. If your spouse did not file a written answer, it's faster to use Option 1.

- Fill out the top part of the form completely with your case information. Put your name where it says Petitioner and your spouse's name where it says Defendant. Fill in your docket number and division on the top right.
- The first paragraph asks you to fill in two dates. The first blank space is for the date that you filed your petition with the Clerk of Court's office. The second blank space is for the date that your spouse filed his/her written answer in the Clerk's office. If you are unsure of the dates, call the Clerk of Court's office to find out this information. Do not leave this blank.
- Next, sign and fill in your name, address and telephone number under where it says "Respectfully submitted."
- The next part is for the court to fill out. Do not write anything in this paragraph.

- Finally, write your spouse's name, address, and telephone number under where it says "Please serve." The Sheriff's office will use this information to make service on your spouse and let him/her know about your court date.

After you've filled out the form completely and checked that all the information is correct, you have to file it. Go to the Clerk of Court's office to file this paperwork. Again, it's a good idea to bring 2 copies and get them stamped by the Clerk's office. You will have to pay a filing fee, unless you were granted pauper status. The Clerk of Court's office can tell you how much the fees will be.

After you file the motion with the Clerk of Court's office, it will take some time for it to get to the judge's office. Once the judge signs it, it is ready to be put on the docket for you to come to court to finalize the divorce. Call the judge's office 7 to 10 days after you file your preliminary default to check on your case status. When you call, have your case number and information ready. The Family Court divisions and their telephone numbers are listed below:

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## STEP SIX: COMING TO COURT

Once you have your court date scheduled, prepare your judgment of divorce. Fill out the case information at the top of the paper like you did for your other pleadings. Also, make sure to fill in the service information for you and your spouse at the bottom of the page. The Clerk of Court's office will use this information to mail out your official certified copies of the divorce judgment later.

You will have to file your judgment of divorce with the Clerk of Court's office the morning of your hearing before you go into the courtroom. Once you file it, ask the Clerk of Court's office to let you walk it upstairs into the courtroom.

Make sure you are present in the courtroom on the day and time that you were given by the court. Get to court early to allow time for traffic, parking, walking to the courthouse, getting through security, and stopping by the Clerk of Court's office to file the judgment.

Go to the courtroom and wait quietly until your case is called. When your case is called, stand up and go forward. The judge will ask you some questions under oath to make sure everything is correct. If everything is in order, the judge will grant the divorce and sign the judgment. The court will keep the signed judgment so that it can be processed. You will get a copy of the judgment of divorce in the mail later. Make sure you and your spouse's mailing addresses are written correctly at the bottom of the judgment.