

STATE OF LOUISIANA

DIVORCE PACKAGE

ADULT CHILDREN

With or Without Property

Control Number LA-004-D

This packet contains the following:

1. Information about Divorce
2. Form List
3. Form Explanations
4. Instructions and Steps
5. Checklist
6. Access to Law Summary

You and your spouse must agree to all terms of the divorce to use this packet.

The forms must be printed on bond paper.

INFORMATION ABOUT DIVORCE

1. **WHO CAN USE THESE FORMS:** You may use this petition form for divorce only when all of the following facts are true;
 - (a) There are no minor children of said marriage, and the wife is not now pregnant. All children of the marriage are over the age of twenty-one (21) and emancipated.
 - (b) You and your spouse agree on all terms of the divorce.
 - (c) You and/or your spouse are a resident of the State of Louisiana.

2. **THE BASICS:** In a typical divorce, there are basic two requirements that must be met before you can file for a divorce. Those requirements are below:
 - (a) You must satisfy the **residency** requirements.
 - (b) You must satisfy ***the no-fault procedures***, in that you and your spouse must have lived separate and apart for one hundred-eighty days prior to the filing of the divorce action based upon La. CC Art. 103, or, you and your spouse must live separate and apart for one hundred eighty days after the filing of the divorce action based upon La. CC Art. 102.

3. **RESIDENCY REQUIREMENTS:** Louisiana law requires that in an action for divorce one or both of the spouses must be domiciled in the state at the time of filing. In an action for divorce, if a spouse has established and maintained a residence in a parish of this state for a period of six months, there shall be a rebuttable presumption that he has a domicile in this state in the parish of such residence.

4. **GROUND FOR DIVORCE:** Under Louisiana law, a divorce shall be granted:
 - A. Upon motion of a spouse when either spouse has filed a petition for divorce and upon proof that one hundred eighty days have elapsed from the service of the petition, or from the execution of written waiver of the service, and that the spouses have lived separate and apart continuously for at least one hundred eighty days prior to the filing of the rule to show cause (The motion shall be a rule to show cause filed after all such delays have elapsed), or; **La. CC Art. 102**
 - B. On the petition of a spouse upon proof that:
 - i. The spouses have been living separate and apart continuously for a period of six months or more on the date the petition is filed;
 - ii. The other spouse has committed adultery; or

- iii. The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor. **La. CC Art. 103**

5. **WAITING PERIOD:** Under the provisions of this divorce package, the parties must have remained separated for a period of one hundred-eighty days from the filing of the petition before the court will grant a judgment of dissolution of marriage in a 102 divorce action, or remained separated one hundred-eighty days immediately prior to the filing of the petition. In addition, the law requires that two days (exclusive of holidays) elapse from the entry of the judgment of default before a default judgment may be confirmed.

6. **ALIMONY/SUPPORT:** Since this is an agreed divorce you will decide issues of alimony. The forms assume that no alimony will be paid and is waived but you may add provisions for alimony if you desire. In a contested case, the court may award interim periodic support to a party or may award final periodic support to a party free from fault prior to the filing of a proceeding to terminate the marriage, based on the needs of that party and the ability of the other party to pay, in accordance with the following factors:

- a. The needs of the parties.
- b. The income and means of the parties, including the liquidity of such means.
- c. The financial obligations of the parties.
- d. The earning capacity of the parties.
- e. The effect of custody of children upon a party's earning capacity.
- f. The time necessary for the claimant to acquire appropriate education, training, or employment.
- g. The health and age of the parties.
- h. The duration of the marriage.
- i. The tax consequences to either or both parties.

7. **DISTRIBUTION OF PROPERTY:** Since this is an agreed divorce the parties will agreed to property distributions. Louisiana is a community property state. In a contested case, this means that the court will divide the marital property between the parties as it deems equitable and just, after setting aside to each spouse the separate property of each.

8. **NAME CHANGE:** A spouse may petition the court requesting that upon divorce the court restore the party to the use of a former or maiden name.

9. **LEGAL SEPARATION:** The grounds for legal separation (separation from bed and board) are the same as those for a covenant marriage with the addition of habitual

drunkenness. They are: (1) that the spouses have been living separate and apart for a period of 2 years or more on the date of filing the petition; (2) that the other spouse has committed adultery; (3) that the other spouse has committed a felony and has been sentenced to death or imprisonment with hard labor; (4) physical or sexual abuse of a spouse or child; (5) abandonment for 1 year or more; and (6) living separate and apart for 1 year or more after a legal separation. A spouse may petition the court for spousal and/or child support and restitution of separate property during a marriage. This is intended to provide support or maintenance for those spouses who desire to live apart, but who are not filing for divorce. Art. 9

For more information, see the Louisiana Divorce Law Summary.

FORMS LIST

The forms included in this package are as follows.

You must print these out on 8½ X 14 legal size paper.

1. Petition for Divorce (102) **LA-810D**
2. Petition for Divorce (103) **LA-811D**
3. Marital Settlement Agreement **LA-812D**
4. Waiver **LA-819D**
5. Petitioner's Affidavit (102) **LA-814D**
6. Petitioner's Affidavit (103) **LA-815D**
7. Rule to Show Cause (102) with Order **LA-816D**
8. Rule to Show Cause (103) with Order **LA-817D**
9. Judgment of Divorce **LA-818D**

Order of documents used for a 102 divorce:

Petition for Divorce (102) (Form 1)
Marital Settlement Agreement (Form 3)
Acceptance of Service, Waiver and Consent (Form 4)
Affidavit (Form 5)
Rule to Show Cause (102) with Order (Form 6)
Judgment of Divorce (Form 7)

Order of documents for a 103 divorce:

Petition for Divorce (103) (Form 2)
Marital Settlement Agreement (Form 3)
Acceptance of Service, Waiver and Consent (Form 4)
Judgment of Divorce (Form 7)

FORM EXPLANATIONS

All forms included in this package are identified below.

1. **Petition for Divorce (LA-810D)** - The Petition for Divorce is the document is the document is which you are asking the court to grant your divorce along with any other relief requested. Form 1 is for use in obtaining a divorce based upon **La. CC Art. 102**, when the Petitioner files the Petition for Divorce and then the parties remain separated for a period of one hundred eighty days.
2. **Petition for Divorce (LA-811D)** - The Petition for Divorce is the document is the document is which you are asking the court to grant your divorce along with any other relief requested. Form 2 is for use in obtaining a divorce based upon **La. CC Art. 103**, when the parties have been separated for a period of at least one hundred eighty days prior to the Petitioner's filing of the Petition for Divorce.
3. **Marital Settlement Agreement (LA-812D)** – This document provides for the final distribution of any assets and debts of the parties, provides for support of any children of the marriage and any other agreements reached between the parties.
4. **Waiver (LA-819D)** – This document is used by the Defendant to acknowledge receipt of the Petition and to enter an appearance. It is further used to request that the Court grant a Judgment of Divorce pursuant to the terms of Petitioner's Petition and the Marital Settlement Agreement at any time and without further notice to Defendant.
5. **Affidavit (LA-814D)** - This document is used in a divorce based upon **La. CC Art. 102** to state that the allegations contained in the Petition are true, and that a judgment may be entered according to the information stated in the Petition, Marital Settlement Agreement and Judgment.
6. **Affidavit (LA-815D)** - This document is used in a divorce based upon **La. CC Art. 103** to state that the allegations contained in the Petition are true, and that a judgment may be entered according to the information stated in the Petition, Marital Settlement Agreement and Judgment.
7. **Rule to Show Cause and Order (LA-816D)** – This document is used to notify the Court that a Petition for divorce based upon **La. CC Art. 102** has been filed, the Defendant has been served with a copy of said Petition and all legal delays have elapsed and requests that the Court set a date for final hearing on the divorce.
8. **Rule to Show Cause and Order (LA-817D)** – This document is used to notify the Court that a Petition for divorce based upon **La. CC Art. 103** have been filed, the Defendant has been served with a copy of said Petition and all legal delays have elapsed and requests that the Court set a date for final hearing on the divorce.

9. **Judgment of Divorce (LA-818D)** – This document grants the divorce and any other relief requested.

INSTRUCTIONS AND STEPS

Note: If a form contains a space for the signature of a Notary Public, it must be signed by you (and if necessary by your spouse) in front of a Notary Public, who must notarize the document. Prepare an original and several copies of each of your completed documents. Your spouse should have a copy of everything you file, stamped “filed” by the clerk. You should keep copies and the court must have originals.

CC ARTICLE 102 DIVORCE ACTION

- STEP 1:** The filing party should complete the *Petition for Divorce (Form 1)*. **(LA-810D)**
- STEP 2:** Both parties should complete the *Marital Settlement Agreement (Form 3)*, making certain to agree to all of the terms contained therein. **(LA-812D)**
- STEP 3:** Petitioner then files *Petition* and *Marital Settlement Agreement (Forms 1 and 3)*. A filing fee is paid. **(LA-810D), (LA-812D)**
- STEP 4:** Next, complete and file the *Waiver (Form 4)* after signed by the Defendant. **(LA-819D)**
- STEP 5:** After the required waiting period of one hundred-eighty days have elapsed, the Petitioner should complete and file the *Rule to Show Cause and Order (Form 7)* **(LA-816D)** along with the completed *Affidavit (Form 5)* **(LA-814D)**. The Judge will sign the order setting the hearing date. The Order is attached to the rule.
- STEP 6:** Attend Hearing where the *Judgment of Divorce (Form 9)* will be submitted at hearing for Judge’s signature. **(LA-818D)**

CC ARTICLE 103 DIVORCE ACTION

- STEP 1:** The filing party should complete the *Petition for Divorce (Form 2)*. **(LA-811D)**
- STEP 2:** Both parties should complete the *Marital Settlement Agreement (Form 3)*, making certain to agree to all of the terms contained therein. **(LA-812D)**
- STEP 3:** The Petitioner should file the *Petition for Divorce* and *Marital Settlement Agreement (Forms 2 and 3)*. **(LA-811D), (LA-812D)**
- STEP 4:** The *Waiver (Form 4)* is then completed and filed after signed by the Defendant. **(LA-819D)**
- STEP 5:** Petitioner should complete and file the *Rule to Show Cause and Order (Form 8)* **(LA-817D)** along with the completed *Affidavit (Form 6)* **(LA-815D)**. The Judge

will sign the order setting the hearing date. The Order is attached to the rule.

STEP 6: Attend Hearing where the *Judgment of Divorce (Form 9) (LA-818D)* will be submitted at hearing for Judge's signature.

Notes: When presenting Pleadings to the Clerk make sure you have at least 4 copies for the Clerk. The Clerk will return the copies to you that the Court does not need.

If a Certificate of Mailing is on any form, a copy of the form should be mailed to the person indicated.

CHECKLIST

CC ARTICLE 102 DIVORCE ACTION

- ☐ *Petition (Form 1)* completed
- ☐ *Marital Settlement Agreement (Form 3)* completed by the parties.
- ☐ Petitioner files *Petition* and *Marital Settlement Agreement (Forms 1 and 3)*.
Filing Fee Paid.
- ☐ *Waiver (Form 4)* completed, signed by Defendant and filed.
- ☐ One hundred eighty days elapse from the date of the filing of Defendant's *Waiver (Form 4)*.
- ☐ Petitioner completes and files *Rule to Show Cause (Form 7)* along with the completed *Affidavit in Support of Petition for Divorce (Form 5)*.
- ☐ Hearing date obtained.
- ☐ *Judgment (Form 9)* presented to Court at hearing for signature.
- ☐ *Judgement (Form 9)* signed and divorce entered.

CC ARTICLE 103 DIVORCE ACTION

- ☐ *Petition (Form 2)* completed
- ☐ *Marital Settlement Agreement (Form 3)* completed by the parties.
- ☐ Petitioner files *Petition* and *Marital Settlement Agreement (Forms 2 and 3)*.
Filing Fee Paid.
- ☐ *Waiver (Form 4)* completed, signed by Defendant and filed.
- ☐ Petitioner completes and files *Rule to Show Cause (Form 8)* along with the completed *Affidavit in Support of Petition for Divorce (Form 6)*.
- ☐ Hearing date obtained.
- ☐ *Judgment (Form 9)* presented to Court at hearing for signature.
- ☐ *Judgement (Form 9)* signed and divorce entered.

NOTE ABOUT COMPLETING THE FORMS

The forms in this packet contain “form fields” created using Microsoft Word. “Form fields” facilitate completion of the forms using your computer. They do not limit your ability to print the form “in blank” and complete with a typewriter or by hand.

If you do not see the gray shaded form fields, go to the View menu, click on Toolbars, and then select Forms. This will open the forms toolbar. Look for the button on the forms toolbar that resembles a shaded letter “a”. Click in this button and the form fields will be visible.

The forms are locked which means that the content of the forms cannot be changed. You can only fill in the information in the fields.

If you need to make any changes in the body of the form, it is necessary for you “unlock” or “unprotect” the form. **IF YOU INTEND TO MAKE CHANGES TO THE CONTENT, DO SO BEFORE YOU BEGIN TO FILL IN THE FIELDS. IF YOU UNLOCK THE DOCUMENT AFTER YOU HAVE BEGUN TO COMPLETE THE FIELDS, WHEN YOU RELOCK, ALL INFORMATION YOU ENTERED WILL BE LOST.** To unlock click on “Tools” in the Menu bar and then selecting “unprotect document”. You may then be prompted to enter a password. If so, the password is “uslf”. That is uslf **in lower case letters without the quotation marks**. After you make the changes relock the document before you begin to complete the fields.

After any required changes and re-protecting the document, click on the first form field and enter the required information. You will be able to navigate through the document from form field to form field using your tab key. Tab to a form field and insert your data. If you experience problems, please let us know.

LAW SUMMARY

You may access the law summary for your State by using the link below:

<http://secure.uslegalforms.com/lawsummary/LA/LA-004-D.htm>

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