

SELF-REPRESENTED LITIGANT
PETITION FOR DIVORCE UNDER ARTICLE
103 [with children]

This form is intended for litigants who:

v' Have children and wish to ask the court for a divorce under Louisiana Civil Code Article 103.

Information you will Need:

1. The exact date and location (parish) where you were married.
2. The location (parish) where you and your spouse last lived together.
3. The exact date when you and your spouse began living in separate homes.
4. The exact current address of your spouse.
5. The names and dates of birth of all children born of the marriage.

These instructions are meant to guide you through the process of **asking the court for a divorce**. There are multiple types of divorce in Louisiana and these forms address Article 103 only.

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

1. Be sure you have the correct form.
2. Read all instructions before you begin.
3. Fill in the blanks with 100% accurate information. *Any false statement made in court or written in a court document may constitute perjury.*
4. Check all options that pertain to your situation.
5. If you have trouble reading, writing, or understanding what is in this motion, seek help at the 21st Judicial District Court at 20300 Government Blvd. in Livingston (for Livingston Parish); 369 Sitman Street in Greensburg (for St. Helena Parish); and 110 N. Bay Street in Amite (for Tangipahoa Parish). The offices are open 8am-4pm (closed between 12pm-1pm). For more information, including fees, you can call (225) 686-2216 (Livingston); (225) 222-4514 (Greensburg); and (985) 748-4146 (Amite).

INSTRUCTIONS FOR FILING PETITION FOR ARTICLE 103 DIVORCE WITH CHILDREN

These instructions are meant to guide you through the process of asking the court for a divorce under Article 103 of the Louisiana Civil Code.

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

YOU MUST MEET ALL OF THE FOLLOWING CONDITIONS TO USE THESE FORMS.

- You want to divorce your spouse with whom you have children (born or adopted).
- You must live separate and apart from your spouse for at least three hundred sixty five (365) days before filing for divorce.
- You or your spouse must have lived in Louisiana for at least six months and/or lived in Louisiana together when you decided to divorce.
- You must **not** have entered into a covenant marriage.
- You nor your spouse are active members of the United States armed forces.

You will be filing your divorce In Proper Person, which means without any attorney representing you. As the person suing for divorce you will be called the **Petitioner** and your spouse will be called the **Defendant**. All the forms you need to file for a divorce are attached.

HOW TO COMPLETE THE FORMS

PLEASE PRINT ALL INFORMATION CLEARLY! Make sure all of the blanks are filled in on all pages.

- A. The first form is titled "**PETITION FOR DIVORCE**". The Petition for Divorce includes an area titled "**VERIFICATION**". You must sign this Verification in front of a Notary Public.
- B. Bring your original **Petition for Divorce and Verification**, along with one photocopy, to the Clerk of Court in the parish where you live. Go to the Civil Department and tell the clerk you do not have a lawyer, and that you want to file for divorce. Ask the clerk to **stamp the date** on the copy of the petition you brought to keep for yourself.
- C. In order to proceed, your spouse needs to be given a copy of the petition. You can deliver it yourself if your spouse signs the **Acceptance of Service** **OR** you can have the Sheriff deliver (or "serve") your spouse. If your spouse cannot or will not sign the Acceptance of Service document, you will need to ask the sheriff to serve him/her.

If you are going to have the Sheriff serve your spouse, let the Clerk's Office

know that you need for your spouse to be personally served by a Sheriff's deputy. You need to give the clerk an address (home or work) where the sheriff can find your spouse to deliver the divorce papers. If the address is hard to find, give the clerk directions. You will need to check back with the Clerk's Office to see if your spouse has been served. You may have to pay for this service and the amount varies by location.

- D.** If your spouse signed the **Acceptance of Service**, you should bring the signed form along with a ~~MOTION FOR PRELIMINARY DEFAULT~~ to the Clerk's Office.

If your spouse has been served by the sheriff, he/she is allowed fifteen (15) days from the date he/she was served to answer the suit. After 15 days, you will need to check with the Clerk's office to make sure your spouse has not filed an answer or other pleading. If your spouse has filed an answer or other pleading in opposition to the divorce, these forms are no longer applicable and you will need to come to Court.

~~If your spouse has NOT filed anything in response to the petition you filed, OR if your spouse has signed the **Acceptance of Service**, take the form titled **MOTION FOR PRELIMINARY DEFAULT** to the Clerk's office. Be sure to bring two (2) copies of the Motion for Preliminary Default along with the original. Ask the Clerk to give you a copy stamped with the date for you to keep, and to file the original. Ask to have the other copy of the Motion for Preliminary Default, which is marked with the date that the Judge signed it, sent to you.~~

- E.** You will receive a copy of the Preliminary Default in the mail. It should show the date the Preliminary Default was signed by the Judge. Now complete the form titled **AFFIDAVIT OF FACTS**. You must sign this form in the presence of a Notary Public. Bring the Affidavit of Facts and the **JUDGMENT OF DIVORCE** to the Clerk's office. Ask the Clerk to have a Judge sign them. Once the Judge has signed your **JUDGMENT OF DIVORCE**, the Clerk's office will send you a certified copy of it. You are divorced as of the date of the Judge's signature at the bottom of the Judgment of Divorce. Keep this certified copy for your records.

(Petitioner)

JUDICIAL DISTRICT COURT

VERSUS

DOCKET NUMBER: _____

(Defendant)

PARISH, LOUISIANA

FILED: _____

DEPUTY CLERK _____

PETITION FOR DIVORCE UNDER CIVIL CODE ARTICLE 103

WITH MINOR CHILDREN

The petition of _____ (print your name), a major domiciled in _____ (Parish where you permanently reside) Parish with respect represents:

1.

Made defendant is _____ (print your spouse's name) a major currently domiciled in _____ Parish/County, State of _____ (Parish/State where your spouse permanently resides).

2.

The parties were married on the _____ day of _____, _____ (date of marriage) in _____ Parish/County, State of _____ (location of marriage). The parties last lived together in _____ Parish/County, State of _____ (where you last lived together as husband and wife).

3.

Petitioner and defendant physically separated on the _____ day of _____ (month), _____ (year), and have continued to live separate and apart with the intent to divorce since that time.

4.

Neither party is an active member of the United States armed forces.

5.

The parties did not contract a covenant marriage.

6.

_____[NUMBER] children were born, adopted, or legitimated between the Petitioner and Defendant during the course of their marriage.

_____[NUMBER] of children are minors, namely:

Name	DOB
Name	DOB
Name	DOB
Name	DOB

_____[NUMBER] children are of the full age of majority, namely:

Name	DOB
Name	DOB
Name	DOB
Name	DOB

7.

Petitioner requests and is entitled to a divorce under the provisions of Louisiana Civil Code Article 103(1), based on the parties having lived separate and apart for more than three hundred sixty five (365) days without reconciliation.

8.

Petitioner believes it is in the best interest of the child(ren) that the custody order be set as follows: (please select **one** of the following)

____ Petitioner requests that the parties be awarded joint custody, with

_____ designated as domiciliary parent, and with custodial periods awarded to _____ as follows: _____

_____ Petitioner requests that the parties be awarded joint custody, with _____ designated as domiciliary parent, and with the parties sharing equal time with the minor child(ren) as follows: _____

_____ Petitioner requests that Petitioner be awarded sole custody subject to one of the following by the Respondent: *(please select an additional one of the following)*

_____ Petitioner requests that the Respondent be awarded reasonable visitation as follows: _____

_____ Petitioner requests that the Respondent be awarded supervised visitation as follows: _____

_____ Petitioner requests that the Respondent be not be awarded any visitation.

9.

(Please select one of the following.)

_____ Petitioner and Defendant have not acquired community property during the marriage.

_____ Petitioner and Defendant have acquired community property during the marriage.

Petitioner is entitled to a partition of the community property, by order of this court, existing between the parties and Petitioner does hereby reserve Petitioner's right to a partition of the community property.

_____ Petitioner and defendant own property that is part of the community of acquets and gains, consisting principally of _____

Irreparable injury, loss or damage may otherwise result to petitioner since defendant will dispose of, encumber, or conceal such items of community property and it is thus necessary that a temporary restraining order issue, without bond and without prior notice, and then an injunction issue after hearing, enjoining the defendant from alienating, encumbering, donating, wasting, concealing, or destroying, any items of community property belonging to and in the name of _____ or _____

_____Petitioner/Defendant [circle one] keep the maiden name/married name [circle one] of _____ (Note: The wife must request or agree to any name change.)

11.

(please select **one** of the following)

_____ Petitioner does not have the ability to pre-pay the court costs or to pay the costs as they accrue, and requests that Petitioner be allowed to file *in forma pauperis* under the Code of Civil Procedure Articles 5185-5188. Uniform IFP form provided by the Clerk of Court should be included with the petition.

_____ Petitioner is able to pay and will pay the court costs in addition to any service charge and tax.

_____ Petitioner requests that the Defendant be cast with all costs for said reasons:

_____ Petitioner requests that Defendant share equally in the court costs.

WHEREFORE, petitioner prays that after all legal delays and due proceedings, there be judgment granting petitioner a divorce in accordance with the provisions of Louisiana Civil Code Article 103.

Respectfully submitted,

(SIGNATURE)

(PRINTED FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

CLERK OF COURT:

_____ DEFENDANT TO ACCEPT SERVICE (AND SIGN "ACCEPTANCE OF SERVICE")

OR

_____ PLEASE SERVE:

(DEFENDANT'S FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

SAMPLE

(Petitioner)

VERSUS

(Defendant)

FILED: _____

JUDICIAL DISTRICT COURT

DOCKET NUMBER: _____

PARISH, LOUISIANA

DEPUTY CLERK _____

VERIFICATION

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned Notary Public, personally came and appeared:

who, after being duly sworn, did depose and say that he/she is the petitioner in the above entitled matter, and all of the allegations contained in the petition are true and correct to the best of his/her knowledge, information and belief. Furthermore, that there are no existing prior custody decrees involving the mentioned child(ren) in this state or any other state.

AFFIANT

SWORN TO AND SUBSCRIBED before me, this _____ day of _____, 20____.

NOTARY PUBLIC

(Petitioner)

JUDICIAL DISTRICT COURT

VERSUS

DOCKET NUMBER: _____

(Defendant)

PARISH, LOUISIANA

FILED: _____

DEPUTY CLERK _____

ACCEPTANCE OF SERVICE AND WAIVER OF CITATION AND ALL DELAYS

STATE OF _____ [STATE WHERE SIGNED AND NOTARIZED]

PARISH OF _____ [PARISH WHERE SIGNED AND NOTARIZED]

BEFORE ME, the undersigned notary public, personally came and appeared:

_____, (Defendant) who, after being duly sworn, did
state that:

Defendant acknowledges receipt of a certified copy of the above-captioned "PETITION
FOR DIVORCE UNDER CIVIL CODE ARTICLE 103" entitled

_____, v. _____ (Party Names), filed
_____ (Filing Date) with the docket number _____ (Case Number) on the
docket of _____ Court for the Parish of _____, State of
Louisiana.

Defendant expressly and formally acknowledges and accepts service of a
certified copy of the petition and waives the issuance of formal citation and service of
process.

Defendant further waives all legal delays allowed by law, particularly those
delays allowed for answering and/or excepting to the pleadings provided in Louisiana
Code of Civil Procedure Articles 928, 1001, and 1002.

Defendant further waives notice of trial, and waives Defendant's appearance at
trial of this matter.

Defendant acknowledges that by signing here Petitioner will be allowed to go

forward with this lawsuit in Defendant's absence, and Defendant understands that
Petitioner intends to do so.

Defendant acknowledges that Defendant may be cast with some or all of the
court costs in this proceeding.

Respectfully submitted,

BY:

(Signature)

IN PROPER PERSON

Address

City

State

Zip

Telephone Number

SWORN TO AND SUBSCRIBED

before me, on this ____ day of _____, 20____.

NOTARY PUBLIC, No.:

Printed Name:

My Commission Expires:

APPENDIX 28.1B: LA. C.C.P. ART. 1702(F) DIVORCE CHECKLIST

LOUISIANA CIVIL CODE ARTICLE 103(1) OR ARTICLE 103(5) DIVORCE
Certification for Default Judgment under Louisiana Code of Civil Procedure Article 1702(F)

Note: Must be completed by Petitioner or his/her attorney and submitted/filed with the Judgment of Divorce.

Petitioner
Versus

Defendant

DOCKET NUMBER: _____

PARISH OF _____

A. Dates

1. Petition for Divorce: _____ Date Petition Filed
2. Parties physically separated: _____ Date of Separation
3. Service of the Petition:
 - a. If Sheriff's return is in the record, indicate date and type of service:
Personal/Domiciliary (Circle one) _____ Date of Service
If Domiciliary, then name of person served _____ and the relationship? _____
 - OR
 - b. If a Waiver of Service is filed into the record, provide date of execution and filing: _____ Date Waiver Executed
_____ Date Waiver Filed

B. Delays (choose applicable paragraph)

1. Twenty-one days elapsed since the service of citation upon the defendant. ☐Yes ☐No
2. A discovery request was filed with the petition and thirty days have elapsed since service of citation and service of the discovery request on the defendant. ☐Yes ☐No
3. The demand is for divorce under Civil Code Article 103(1) and two days, exclusive of holidays, have elapsed since the filing of a sworn affidavit by the defendant acknowledging receipt of a certified copy of the petition, waiving formal citation, service of process, all legal delays, notice of trial, and appearance at trial? ☐Yes ☐No

C. Pleadings

1. Is the Petition for Divorce in the record? ☐Yes ☐No
2. Are proper jurisdiction and venue expressly alleged in the Petition? ☐Yes ☐No
3. Does the petitioner's Affidavit submitted or filed with the Judgment specifically attest to the facts sufficient to obtain a divorce or will testimony be offered in lieu thereof? ☐Yes ☐No
4. Are the original and at least one copy of the proposed final judgment attached or filed in the record? ☐Yes ☐No

D. Grounds for Divorce (La. C.C. Art. 103/C.C.P. Art. 1702(F))

1. The parties have minor children, and have been living separate and apart **365 days or more** without reconciliation. ☐Yes ☐No
OR
2. The parties have no minor children and have been living separate and apart **180 days or more** without reconciliation. ☐Yes ☐No
OR
3. On ____/____/20____, after a contradictory hearing, or consent decree, a protective order or an injunction was issued during the marriage in accordance with law, against the defendant in order to protect the petitioner who seeks the divorce or a child of one of the spouses from abuse. ☐Yes ☐No
4. Is a certified copy of this protective order or injunction attached and introduced into evidence? ☐Yes ☐No

PETITIONER'S/ATTORNEY'S CERTIFICATION

I hereby certify that I have examined the record or conformed copies of all pleadings in the above-captioned case, and the information provided herein is true and correct based upon my personal knowledge, information, and belief.

Date of Record Examination

Signed by Petitioner/Attorney for Petitioner

Attorney's Bar Number

Date of Certification

Address

Telephone Number

CLERK'S CERTIFICATION

I hereby certify that I have examined the record of this case and no answer or other pleading has been filed.

Date

Signature of Minute Clerk

HEARING OFFICER RECOMMENDATION

Considering the record in this case, the submission of the petitioner/mover's counsel, it being the finding of the hearing officer that all legal requirements for granting a divorce under Louisiana Civil Code Article 103(1) or Article 103(5) have been met, **IT IS HEREBY RECOMMENDED** that the attached Judgment of Divorce be made the Order of this Court, no objection having been made by either party.

_____, Louisiana, this ____ day of _____, 20 ____.

Hearing Officer

Save Form

Print

(Petitioner)

JUDICIAL DISTRICT COURT

VERSUS

DOCKET NUMBER: _____

(Defendant)

PARISH, LOUISIANA

FILED: _____

DEPUTY CLERK _____

JUDGMENT OF DIVORCE

This matter was considered pursuant to the provisions of Louisiana Civil Code Article 103(1) and Code of Civil Procedure Article 1702(E). The Court having considered the entire record of this matter and petitioner's affidavit of facts and the law and evidence in favor thereof, renders as follows:

IT IS HEREBY ORDERED ADJUDGED AND DECREED that the preliminary default previously entered herein on the ____ day of _____, 20__, be now confirmed.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there be a judgment in favor of petitioner _____, and against defendant _____, decreeing a divorce between the parties on the basis of the parties having lived separate and apart continuously and without reconciliation for a period of three hundred and sixty five days or more as per Civil Code Article 103(1). It should be **further ordered, adjudged and decreed** that Petitioner/Defendant (circle one) keep the maiden name/married name [circle one] of _____.

JUDGMENT RENDERED AND SIGNED, this ____ day of _____, 20__, at _____, Louisiana.

DISTRICT JUDGE