

Title	Family Law: Miscellaneous Forms (revise forms FL-105/GC-120, FL-315; adopt forms FL-105(3C)/GC-120(3C), FL-316, FL-347, FL-348, FL-351, FL-910 and FL-915; and approve form FL-318-INFO)
Summary	The proposed new and revised forms would promote compliance with statutory mandates and policies and facilitate judicial consistency relating to (1) the Uniform Child Custody Jurisdiction and Enforcement Act, (2) separate trials on terminating marital status, (3) family law stipulations and orders, and (4) a minor’s request to marry.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs
Staff	Gabrielle D. Selden, 415-865-8085, gabrielle.selden@jud.ca.gov
Discussion	<p><i>Two forms relating to the Uniform Child Custody Jurisdiction and Enforcement Act</i></p> <p>The committee proposes four revisions to the <i>Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)</i> (form FL-105/GC-120) and recommends that the Judicial Council adopt a new form to serve as an Attachment 3 to form FL-105/GC-120.</p> <p><i>Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)</i> (form FL-105/GC-120) was adopted to help parties comply with the requirements of the UCCJEA in family law and guardianship cases. The form outlines all the information the parties must provide about the children involved in the legal action, including their names, ages, birth dates, and addresses for the preceding five years, and the names of the persons with whom the children have been living. Form FL-105/GC-120 provides space for the parties to list this information for two children. For additional children, item 3c requires parties to create an Attachment 3c and provide all requested information for each additional child.</p> <p>The first revision to form FL-105/GC-120 would expand the case title caption to include a heading in cases where a third party is involved in the family law action. Specifically, the case title would be expanded to read “Petitioner,” “Respondent,” and “Other Party.” The second revision would include a caption for guardianship cases. As indicated above, this form was adopted for use in family law and guardianship cases; however, the form’s caption only provides a space to indicate</p>

the names of the petitioner and respondent in family law cases. The proposed revision would add a heading for guardianship cases and provide a space for the name of the minor child. The third proposed revision would be to item 3c. This item would be revised to advise users that they may use a new proposed attachment (further described below) to list information about additional children.

Finally, the committee proposes that form FL-105/GC-120 be changed from optional to mandatory use. This change would more accurately reflect the instructions in the initial case filings for parentage actions and actions for dissolution, legal separation, or nullity of a marriage or domestic partnership that require each party to complete and attach form FL-105/GC-120 if there are minor children of that relationship.

The committee proposes creating a new form, *Attachment 3. Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form 105(3C)/GC-120(3C)), to serve as the Attachment 3c. referenced in the *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105/GC-120).

In the absence of an Attachment 3c approved by the Judicial Council, parties or their attorneys have used the Attachment 3c created by electronic legal forms vendors. Alternatively, parties have created their own attachments on legal pleading or other paper. The proposed new form would help standardize the manner in which the information about additional children is presented to the court. The proposed new form would also promote the presentation of complete information about the children involved in a family law or guardianship case.

Five forms relating to a separate trial to terminate marital status

Assembly Bill 861 (Stats. 2007, chap. 141), which became effective January 1, 2008, made major modifications to Family Code section 2337 concerning bifurcation of the status of marriage from other issues in a dissolution, including provisions requiring that all pension plans be joined before the termination of marital status and that orders be made by the court regarding the distribution of those pension funds. It also added optional conditions to protect the nonmoving spouse from adverse probate ramifications as a result of the termination of the marriage.

These changes require that *Application for Separate Trial* (form FL-315) be revised. That form has been expanded to note the requirements of the statute and includes a notice to the moving party about the orders that the court must make regarding retirement plan benefits as well as other orders that may be made as conditions to terminating the parties' marital status.

In addition, new form, *Response to Application for Separate Trial (Family Law)* (form FL-316), was developed to assist a party to respond to an application for separate trial on the issue of terminating marital status. The check boxes in this form allow a party to specify the conditions that he or she wants the court to include in the judgment granting a dissolution of the status of the marriage that preserve claims in retirement benefit plans.

Proposed new *Retirement Plan Joinder—Information Sheet* (form FL-318-INFO) was developed to help litigants determine whether their retirement benefit plan must be joined before filing a separate trial to terminate marital status. The information sheet is a table which lists various types of retirement plans, provides examples of such plans, and then states whether or not the plan requires a joinder.

Given the large number of specific conditions that are identified in Family Code 2337 for bifurcation of the status of marriage, a new form, *Bifurcation of Status of Marriage—Attachment to Findings and Order After Hearing* (form FL-347), has been developed as a check box attachment to the order after hearing to assist the judge in determining which of the provisions should be ordered in these matters.

Pension Benefits—Attachment to Judgment (form FL-348) sets out the orders that a court must make upon severance of the status of marriage. The language in Family Code section 2337(d)(2)(C) provides for a provisional division of the pension benefits acquired by the parties during the course of the marriage. It is, in effect, a temporary qualified domestic relations order. This is to be attached to the status-only judgment and then served on the plan. It can also be attached to a judgment to allow the parties time to prepare a qualified domestic relations order.

Cover Sheet for Family Law Stipulation and Order (form FL-351)

In developing the California Court Case Management System, a

number of courts have suggested that a common cover sheet be developed for stipulations that would allow information about the legal issues covered in the stipulation to be identified for easy entry by the clerk into the system and for the judge to be able to quickly identify all past orders in a case. *Cover Sheet for Family Law Stipulation and Order* (form FL-351) has been designed for that purpose.

Currently, stipulations are submitted to the court in a variety of formats, and it is unreasonable for clerks to have to read the stipulations and determine which issues they address. It is also not the best use of a judge's time in preparing for a hearing to review all past stipulations in a case if they do not cover the issue being considered by the court at a later hearing. This cover sheet would also provide a framework for self-represented litigants to prepare and present agreements to the court in a manner that complies with the rules of court.

Two forms relating to marriage of minors

Assembly Bill 1102 (Stats. 2006, ch. 816), which became effective January 1, 2008, amended Family Code sections 302 and 303 to require the initiation of a case when a minor or minors requests the court's permission to marry. It appears that few courts have filed these requests in the past and the *Request to Marry* (form FL-910) and *Order on Request to Marry* (form FL-915) have been developed to assist the minors to prepare the paperwork necessary to establish a court file.

The proposed amended forms are attached at pages 5–21. A copy of the relevant Family Code sections is attached at pages 22–26.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> <p style="text-align: center;">TELEPHONE NO.: FAX NO. <i>(Optional):</i></p> <p>E-MAIL ADDRESS <i>(Optional):</i></p> <p>ATTORNEY FOR <i>(Name):</i></p>	FOR COURT USE ONLY DRAFT 4 02/28/08 mc Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARTY:	
GUARDIANSHIP OF <i>(Name):</i> Minor	CASE NUMBER:
DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)	

1. **I am a party** to this proceeding to determine custody of a child.
2. My present address is not disclosed. It is confidential under Family Code section 3429. I have listed the address of the children presently residing with me as confidential.
3. *(Number):* _____ minor children are subject to this proceeding as follows:
(Insert the information requested below. The residence information must be given for the last FIVE years.)

a. Child's name	Place of birth	Date of birth	Sex
Period of residence	Address	Person child lived with <i>(name and present address)</i>	Relationship
to present	<input type="checkbox"/> Confidential		
to			
to			
to			

b. Child's name	Place of birth	Date of birth	Sex
<input type="checkbox"/> Residence information is the same as given above for child a. <i>(If NOT the same, provide the information below.)</i>			
Period of residence	Address	Person child lived with <i>(name and present address)</i>	Relationship
to present	<input type="checkbox"/> Confidential		
to			
to			
to			

c. Additional children are listed on Attachment 3. *(Provide all requested information for additional children. You may use form FL-105(3C)/GC-120(3C) for this purpose.)*

SHORT TITLE: _____	CASE NUMBER: _____
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4. Have you participated as a party or a witness or in some other capacity in another litigation or custody proceeding, in California or elsewhere, concerning custody of a child subject to this proceeding?

No Yes (If yes, provide the following information):

- a. Name of each child:
- b. I was a party witness other (specify):
- c. Court (specify name, state, location):
- d. Court order or judgment (date):

5. Do you have information about a custody proceeding pending in a California court or any other court concerning a child in this case, other than that stated in item 4?

No Yes (If yes, provide the following information):

- a. Name of each child:
- b. Nature of proceeding: dissolution or divorce guardianship adoption other (specify):
- c. Court (specify name, state, location):
- d. Status of proceeding:

6. One or more domestic violence restraining /protective orders are now in effect. (Attach a copy of the orders if you have one.)
The orders are from the following court or courts (specify county and state):

- | | |
|---|---|
| a. <input type="checkbox"/> Criminal: County/state: _____
Case No. (if known): _____ | c. <input type="checkbox"/> Juvenile: County/state: _____
Case No. (if known): _____ |
| b. <input type="checkbox"/> Family: County/state: _____
Case No. (if known): _____ | d. <input type="checkbox"/> Other: County/state: _____
Case No. (if known): _____ |

7. Do you know of any person who is not a party to this proceeding who has physical custody or claims to have custody of or visitation rights with any child in this case?

No Yes (If yes, provide the following information):

a. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights	b. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights	c. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights
Name of each child	Name of each child	Name of each child

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE OF DECLARANT)
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8. Number of pages attached after this page: _____

NOTICE TO DECLARANT: You have a continuing duty to inform this court if you obtain any information about a custody proceeding in a California court or any other court concerning a child subject to this proceeding.

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
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APPLICATION FOR SEPARATE TRIAL

Attachment to Order to Show Cause (form FL-300) Notice of Motion (form FL-301)

I, (name): , request that the court sever (bifurcate) and grant an early and separate trial on the following issue or issues:

- 1. Dissolution of the status of the marriage.
 - a. I will serve with this application my preliminary Declaration of Disclosure and completed Schedule of Assets and Debts unless they have been previously served or the parties have stipulated in writing to defer service.
 - b. All pension or retirement plans in which the community has an interest have been joined as a party to this proceeding, unless this joinder is precluded or made unnecessary as a matter of law. These pension plans and addresses are listed below: (See form FL-318-INFO, Retirement Plan Joinder-Information Sheet, to determine if a joinder is required.)

c. I understand that the court may make the orders on page 2 and 3 if the motion is granted to bifurcate the status of the marriage and the marriage is ended.

- 2. Permanent custody and visitation of the children of the marriage.
- 3. Date of separation of the parties.
- 4. Alternate valuation date for property.
- 5. Validity of marital settlement agreement entered into before or during the marriage.
- 6. Other (specify):

- 7. a. I request that the court conduct this separate trial on the hearing date.
or
b. I will, at the hearing, ask the court to set a date for this separate trial.

8. The reasons in support of this request are (specify):
 Points and authorities attached. Supporting declarations attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
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I understand that the court may impose any of the following conditions:

1. I or my estate must indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party in connection with the division of the community estate that would not have been payable we were still married at the time the division was made.
2. Until judgment has been entered on all remaining issues and has become final, that I must maintain all existing health and medical insurance coverage for the other party and any minor children as named dependents, so long as I am eligible to do so. If at any time during this period, I am not eligible to maintain that coverage, I must, at my sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available.

To the extent that coverage is not available, I will be responsible to pay, and must demonstrate to the court's satisfaction the ability to pay, for the health and medical care for the other party and the minor children, to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status, and shall otherwise indemnify and hold the other party harmless from any adverse consequences resulting from the loss or reduction of the existing coverage.

3. Until judgment has been entered on all remaining issues and has become final, I must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.
4. Until judgment has been entered on all remaining issues and has become final, I must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.
5. Until judgment has been entered on all remaining issues and has become final, I must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the other party's rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated therewith, to the extent that the other party would have been entitled to those benefits or elections as my spouse or surviving spouse.
6. I must indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as my surviving spouse.
7. I must maintain a beneficiary designation for a nonprobate transfer, as described in Section 5000 of the Probate Code, for a spouse or domestic partner for up to one-half of or, upon a showing of good cause, for all of a nonprobate transfer asset until judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.
8. In order to preserve my ability to defer the distribution of an Individual Retirement Account (IRA) upon the death of the other party, the court may require that one-half, or all upon a showing of good cause, of the community interest in any IRA, by or for the benefit of the party, be assigned and transferred to the other party.
9. If it appears that it would be difficult to enforce either of our community property rights if one of us died before the division and distribution or compliance with any court-ordered payment of any community property interest, the court may order a specific security interest. These orders may include:
 - a. an order that I provide an undertaking;
 - b. an order to provide a security interest by Qualified Domestic Relations Order (QDRO) from my share of a retirement plan or plans;

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
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- c. an order for the creation of a trust as defined in paragraph (2) of subdivision (a) of Section 82 of the Probate Code;
- d. an order for other arrangements as may be reasonably necessary and feasible;
- e. if a retirement plan is not subject to an enforceable court order for the payment of spousal survivor benefits to the other party, an interim order requiring the party to pay or cause to be paid, and to post adequate security for the payment of, any survivor benefit that would have been payable to the other party on the death of the party but for the judgment granting a dissolution of the status of the marriage, pending entry of judgment on all remaining issues.

10. Any other condition the court determines is just and equitable.

Before, or at the same time as the judgment granting dissolution of the status of marriage, the following must happen:

- 1. The party's retirement or pension plan must be joined as a party to the proceeding for dissolution, unless joinder is precluded or made unnecessary as a matter of law. *(See form FL-318-INFO, Retirement Plan Joinder—Information Sheet, to determine if a joinder is required.)*
- 2. The court must enter an order preserving the claims of each spouse in all retirement plan benefits upon entry of judgment granting a dissolution of the status of the marriage.

CASE NAME: 	CASE NUMBER:
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**ATTACHMENT 3
DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA)**

<input type="checkbox"/> Child's name <input type="checkbox"/> Residence information is the same as given on form FL-105/GC-120 for child a. (If NOT the same, provide the information below.)		Place of birth	Date of birth	Sex
Period of residence to present	Address <input type="checkbox"/> Confidential	Person child lived with (name and present address)		Relationship
to				
to				
to				
<input type="checkbox"/> Child's name <input type="checkbox"/> Residence information is the same as given on form FL-105/GC-120 for child a. (If NOT the same, provide the information below.)		Place of birth	Date of birth	Sex
Period of residence to present	Address <input type="checkbox"/> Confidential	Person child lived with (name and present address)		Relationship
to				
to				
to				
<input type="checkbox"/> Child's name <input type="checkbox"/> Residence information is the same as given on form FL-105/GC-120 for child a. (If NOT the same, provide the information below.)		Place of birth	Date of birth	Sex
Period of residence to present	Address <input type="checkbox"/> Confidential	Person child lived with (name and present address)		Relationship
to				
to				
to				

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
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RESPONSE TO APPLICATION FOR SEPARATE TRIAL**Attachment to Responsive Declaration to Order to Show Cause or Notice of Motion —FL-320**

- I, agree disagree with the moving party's request that the court sever (bifurcate) and grant an early and separate trial on the following issue or issues:
1. Dissolution of the status of the marriage.
 - a. I will serve with this application my preliminary *Declaration of Disclosure* and completed *Schedule of Assets and Debts* unless they have been previously served or the parties have stipulated in writing to defer service.
 - b. All pension or retirement plans in which the community has an interest have been joined as a party to this proceeding, unless this joinder is precluded or made unnecessary as a matter of law. These pension plans and addresses are listed below: *(See form FL-318-INFO, Retirement Plan Joinder-Information Sheet, to determine if a joinder is required.)*
 - c. I ask that the conditions checked on pages 2 and 3 be applied to the person asking for the bifurcation.
 2. Permanent custody and visitation of the children of the marriage.
 3. Date of separation of the parties.
 4. Alternate valuation date for property.
 5. Validity of marital settlement agreement entered into prior to or during the marriage.
 6. Other *(specify)*:
 7. a. I request that the court conduct this separate trial on the hearing date.
or
b. I will, at the hearing, ask the court to set a date for this separate trial.
 8. The reasons in support of this request are *(specify)*:
 Points and authorities attached. Supporting declarations attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
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9. Conditions relating to bifurcation of the status of marriage:

- A. I understand that the court must enter an order preserving the claims of each spouse in all retirement plan benefits upon entry of judgment granting a dissolution of the status of the marriage.
- B. I request that the court impose the following conditions:

- (1) The person requesting the bifurcation and his or her estate must indemnify and hold me harmless from any taxes, reassessments, interest, and penalties that I have to pay in connection with the division of the community estate that I would not have had to pay if we were still married at the time the division was made.
- (2) Until judgment has been entered on all remaining issues and has become final, that the person requesting the bifurcation must maintain all existing health and medical insurance coverage for me and any minor children as named dependents, so long as he or she is eligible to do so. If at any time during this period, he or she is not eligible to maintain that coverage, he or she must, at his or her sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available.

To the extent that coverage is not available, I request that the person requesting the bifurcation be responsible to pay, and demonstrate to the court's satisfaction the ability to pay, for the health and medical care for me and the minor children, to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status, and must otherwise indemnify and hold me harmless from any adverse consequences resulting from the loss or reduction of the existing coverage.

- (3) Until judgment has been entered on all remaining issues and has become final, I request that the person requesting the bifurcation indemnify and hold me harmless from any adverse consequences to me if the bifurcation results in a termination of my right to a probate homestead in the residence in which I am residing at the time the severance is granted.
- (4) Until judgment has been entered on all remaining issues and has become final, I request that the person requesting the bifurcation indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of the my rights to a probate family allowance as the surviving spouse.
- (5) Until judgment has been entered on all remaining issues and has become final, I ask that the person requesting the bifurcation indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of my rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated therewith, to the extent that I would have been entitled to those benefits or elections as the spouse or surviving spouse.
- (6) The other party must indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent I would have been entitled to those benefits or elections as the surviving spouse.
- (7) I request that the party requesting the bifurcation maintain a beneficiary designation for a nonprobate transfer, as described in Section 5000 of the Probate Code, for a spouse or domestic partner for up to one-half of or, upon a showing of good cause, for all of a nonprobate transfer asset until judgment has been entered with respect to the community ownership of that asset, and until my interest therein has been distributed to me.
- (8) In order to preserve my ability to defer the distribution of an the Individual Retirement Account (IRA) upon the death of the person requesting the bifurcation, the court may require that one-half, or all upon a showing of good cause, of the community interest in any IRA, by or for the benefit of the person, be assigned and transferred to me.

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
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- (9) It will be difficult to enforce either of our community property rights if one of us died before the division and distribution or compliance with any court-ordered payment of any community property interest, thus I ask that the court order a specific security interest. I request the following orders:
- (A) an order for an undertaking.
 - (B) an order to provide a security interest by Qualified Domestic Relations Order (QDRO) from a share of a retirement plan or plans.
 - (C) an order for the creation of a trust as defined in paragraph (2) of subdivision (a) of Section 82 of the Probate Code.
 - (D) an order for other arrangements as may be reasonably necessary and feasible.
 - (E) if a retirement plan is not subject to an enforceable court order for the payment of spousal survivor benefits to me, an interim order requiring the person requesting the bifurcation to pay or cause to be paid, and to post adequate security for the payment of, any survivor benefit that would have been payable to me on the death of the party but for the judgment granting a dissolution of the status of the marriage, pending entry of judgment on all remaining issues.
- (10) I ask that the court also make the following orders:

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

**BIFURCATION OF STATUS OF MARRIAGE—
ATTACHMENT TO FINDINGS AND ORDER AFTER HEARING**

The court grants the motion of Petitioner Respondent, "the moving party," to bifurcate and grant a separate trial on the issue of the dissolution of the status of the marriage with Petitioner Respondent, "the other party," apart from other issues.

Date marital or domestic partnership status ends: _____ .

THE COURT FINDS THAT:

1. A preliminary declaration of disclosure with a completed schedule of assets and debts and income and expense declaration has been served on the nonmoving party or the parties have stipulated in writing to defer service of the preliminary declaration of disclosure until a later time.
2. The moving party's retirement or pension plan has been joined as a party to the proceeding for dissolution, unless joinder is precluded or made unnecessary by statute. (See form FL-318-INFO, *Retirement Plan Joinder-Information Sheet*, to determine if a joinder is required.)

THE COURT ORDERS THAT:

3. a. To preserve the claims of each spouse in all retirement plan benefits on entry of judgment granting a dissolution of the status of the marriage, the court makes the following orders for each retirement plan in which either party is a participant:
 - (1) An order under Family Code section 2610 disposing of each party's interest in retirement plan benefits, including survivor and death benefits (see attached).
 - (2) An interim order preserving the nonemployee party's right to retirement plan benefits, including survivor and death benefits, pending entry of judgment on all remaining issues (see attached).
 - (3) An order on *Pension Benefits—Attachment to Judgment* (form FL-348) incorporated as an attachment to the judgment of dissolution of the status of marriage (*Judgment*, form FL-180). This order provisionally awards a one-half interest in all pension benefits accrued during the marriage or domestic partnership to each party.
- b. The moving party must promptly serve a copy of any order, interim order, or attachment entered under a. above and a copy of the judgment granting a dissolution of the status of the marriage (form FL-180), on the retirement or pension plan administrators.
4. Jurisdiction is reserved for later determination of all other pending issues in this case.
5. If the moving party dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this section will be enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable before the person's death.
6. The court makes the following orders as conditions for granting the severance on the issue of dissolution of the status of marriage. In the case of the moving party's death, the order continues to be binding on that moving party's estate:
 - a. The moving party must indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party in connection with the division of the community estate that would not have been payable if the parties were still married at the time the division was made.
 - b. Until judgment has been entered on all remaining issues and has become final, the moving party must maintain all existing health and medical insurance coverage for the other party; and the moving party must also maintain any minor children as named dependents, so long as the moving party is eligible to do so. If at any time during this period the moving party is not eligible to maintain that coverage, the moving party must, at the moving party's sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available. If that coverage is not available, the moving party is responsible to pay for the health and medical care for the other party and the minor children, to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status, and shall otherwise indemnify and hold the other party harmless from any adverse consequences resulting from the loss or reduction of the existing coverage. "Health and medical insurance coverage" includes any coverage for which the parties are eligible under any group or individual health or other medical plan, fund, policy, or program.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:
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6. c. Until judgment has been entered on all remaining issues and has become final, the moving party must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.
- d. Until judgment has been entered on all remaining issues and has become final, the moving party must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the moving party.
- e. Until judgment has been entered on all remaining issues and has become final, the moving party must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the other party's rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated therewith, to the extent that the other party would have been entitled to those benefits or elections as the spouse or surviving spouse of the moving party.
- f. The moving party must indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the moving party.
- g. (1) The moving party must maintain a beneficiary designation for a nonprobate transfer, as described in Probate Code section 5000, for a spouse or domestic partner for
- (a) up to one-half
 - (b) all
- of a nonprobate transfer asset until judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.
- (2) A showing of good cause exists so that this designation should also apply to:
- (a) A nonprobate transfer described in Probate Code section 5000 that was not created by either party or that was acquired by either party by gift, descent, or devise;
 - (b) An irrevocable trust;
 - (c) A trust of which neither party is the grantor;
 - (d) Powers of appointment under a trust instrument that was not created by either party or of which neither party is a grantor;
 - (e) The execution and filing of a disclaimer under part 8 (commencing with section 260) of division 2 of the Probate Code;
 - (f) The appointment of the moving party as a trustee.
- h. In order to preserve the ability of the moving party to defer the distribution of the Individual Retirement Account (IRA) on the death of the other party,
- (1) one-half
 - (2) all
- of the community interest in any IRA, by or for the benefit of the moving party, be assigned and transferred to the other party under Internal Revenue Code section 408(d)(6).

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:
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6. i. Circumstances exist that would place a substantial burden of enforcement on either party's community property rights or would eliminate the ability of the surviving party to enforce his or her community property rights if the other party died before the division and distribution or compliance with any court-ordered payment of any community property interest therein. Thus, the court orders the following security interest:
- (1) The moving party must provide an undertaking.
 - (2) The moving party must provide a security interest by Qualified Domestic Relations Order from the moving party's share of a retirement plan or plans.
 - (3) A trust must be created as defined in paragraph (2) of subdivision (a) of Probate Code section 82.
 - (4) The moving party must pay, and post adequate security for the payment of, any survivor benefit that would have been payable to the other party on the death of the moving party but for the judgment granting a dissolution of the status of the marriage, pending entry of judgment on all remaining issues.
 - (5) Other:
- j. Other:

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

PENSION BENEFITS—ATTACHMENT TO JUDGMENT
(Attach to form FL-180)

This order concerns the division of pension benefits between the following two parties:

Name of petitioner: _____ Name of respondent: _____
Address of petitioner: _____ Address of respondent: _____

Date of marriage: _____ Date of separation: _____

TO THE PLAN OR PLANS:

Each party is provisionally awarded without prejudice, and subject to adjustment by a later court order, one half of all benefits accrued or to be accrued under any retirement plan in which a party has accrued a benefit, including but not limited to the plans listed below, as a result of employment of the other party during the marriage or domestic partnership and before the date of separation. In addition, pending further notice, the plan must, as allowed by law, or as allowed by the terms of the plan in the case of a governmental plan, continue to treat the parties as married persons or domestic partners for purposes of any survivor rights and benefits available under the plan to the extent necessary to provide for payment to the surviving spouse or domestic partner of an amount equal to that separate interest, or for all of the survivor benefits if at the time of death of the participant there is no other eligible recipient of the survivor benefit.

TO THE PARTIES:

Each party must provide the information and take the required actions listed below to protect the other party's interest in retirement benefits:

- List below (or on a page attached) the name and address of each employer that you or the other party work or worked for where either of you participated in a retirement plan during the marriage and before your separation. Include the name (or a description if you do not have the name) of each of these plans.
- For each plan you listed under 1, promptly deliver a copy of this order on the plan's administrator. You can deliver a copy of this order in person or by mail.
If you do not know the plan's administrator, deliver a copy to:
 - The employer or plan sponsor, or, if unknown,
 - The trustee or custodian of any assets of the plan.
- The party who has participated in any or all of the plans in 1 must join each of these plans as a party to this case as required by law. (*See Retirement Plan Joinder-Information Sheet, form FL-318-INFO.*)
- If you are not the party who participated in a plan listed in 1 and are concerned that you have not received proof that notice of your interest has been delivered to the plan, you are encouraged to deliver a copy of this order to the appropriate plan representative as described in 2. You also have a right to join any plan that requires joinder in the event that no joinder documents have been filed with the court.
- Each party must promptly let the plan representative know of any change in that party's mailing address.

Clerk stamps date here when form is filed.

**DRAFT 4
03/14/08 mc
Not approved by the
Judicial Council**

Fill in court name and street address:

Superior Court of California, County of

Fill in case number if known:

Case Number:

1 Female's Information

Date of birth: _____

(Check one) Under 18 Not under 18

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

2 Male's Information

Date of birth: _____

(Check one) Under 18 Not under 18

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

3 Your Lawyer's Information (if you have one):

Name: _____

Telephone number: _____ E-mail: _____

Address: _____

State Bar number: _____ This is the lawyer for (check one): the female the male

4 Written Permission

You must attach permission to marry in writing from the parent or guardian of each person under 18. Describe the permissions attached to this form. (Check all that apply):

a. Permission from the female's (check one): mother father guardian

Other (explain): _____

b. Permission from the male's (check one): mother father guardian

Other (explain): _____

5 Meet With Family Court Services Counselor

Before the Court can decide your case, you must **both** meet with a family court services counselor at the time listed below. (The court fills out your appointment information.)

Go to your appointment →

Date: _____ Time: _____ a.m. p.m.

Dept./Rm. or Address: _____

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date served: _____

▶ _____
Female signs here

Date served: _____

▶ _____
Male signs here

Clerk stamps date here when form is filed.

DRAFT 2
02/28/08 mc
Not approved by the
Judicial Council

Fill in court name and street address:

Superior Court of California, County of

Fill in case number if known:

Case Number:

1 Female's Information

Date of birth: _____

(Check one) Under 18 Not under 18

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

2 Male's Information

Date of birth: _____

(Check one) Under 18 Not under 18

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

3 Your Lawyer's Information (if you have one):

Name: _____

Telephone number: _____ E-mail: _____

Address: _____

State Bar number: _____ This is the lawyer for (check one): the female the male

4 The court has considered the *Request to Marry* filed by the people listed in **1** and **2** above, as well as the family court services counselor's recommendation and other evidence provided in this case.

5 The court makes the following orders:

- a. This couple may get married if they meet all other requirements to get a marriage license.
- b. This couple must also go to premarital counseling to learn about the social, economic, and personal responsibilities of marriage.
- c. This couple may not get married at this time. The court finds that the person or persons under 18 is/are not able to consent to marriage.
- d. It may not be in the best interest of the person or persons under 18 to marry at the time. The court needs more time to consider this request. This couple can come back to hear the court's decision on (date): _____ .
- e. Other:

Date: _____

Judicial officer signs here**This is a Court Order.**

RETIREMENT PLAN JOINDER—INFORMATION SHEET

Type of Retirement Plan	Examples	Joinder Required
Governmental plan of a state, county, public school or university, or other public agency	CalPERS, CalSTRS, SCERS, and UCRS (includes both qualified plans and non-qualified plans, such as Section 457 deferral plans or 403(b) tax sheltered annuities)	Yes
Federal Government Plan	Federal Government Plan	No
Qualified Plan covering employees working for private industry employer (includes collectively bargained plans)	401(k) Plan, Defined Benefit Pension Plan (traditional or cash balance), Profit Sharing Plan, Money Purchase or Target Benefit Pension Plan, ESOP, SEP	No (ERISA covered)
Unfunded Non-Qualified Plan covering employees working for private industry employer	Supplemental Executive Retirement Plan, Section 457 deferral Plan, SAR or Phantom Stock Plan, Severance Plan	No (ERISA covered)
Plan (qualified or nonqualified) covering only business owners and spouses, or employees of a church	401(k) Plan, Defined Benefit Pension Plan (traditional or cash balance), Profit Sharing Plan, Money Purchase or Target Benefit Pension Plan, "Keogh", TSA	Yes
Individual Retirement Account or Annuity	IRA, Roth IRA	No (Not true retirement plans-QDRO requirements do not apply) May be divided by judgment or order.
All others		Yes

FAMILY CODE 2337

2337. (a) In a proceeding for dissolution of marriage, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) A preliminary declaration of disclosure with a completed schedule of assets and debts shall be served on the nonmoving party with the noticed motion unless it has been served previously, or unless the parties stipulate in writing to defer service of the preliminary declaration of disclosure until a later time.

(c) The court may impose upon a party any of the following conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in case of that party's death, an order of any of the following conditions continues to be binding upon that party's estate:

(1) The party shall indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party in connection with the division of the community estate that would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and any minor children as named dependents, so long as the party is eligible to do so. If at any time during this period the party is not eligible to maintain that coverage, the party shall, at the party's sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available. To the extent that coverage is not available, the party shall be responsible to pay, and shall demonstrate to the court's satisfaction the ability to pay, for the health and medical care for the other party and the minor children, to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status, and shall otherwise indemnify and hold the other party harmless from any adverse consequences resulting from the loss or reduction of the existing coverage. For purposes of this subdivision, "health and medical insurance coverage" includes any coverage for which the parties are eligible under any group or individual health or other medical plan, fund, policy, or program.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the rights of the other party to a

probate **family** allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the other party's rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated therewith, to the extent that the other party would have been entitled to those benefits or elections as the spouse or surviving spouse of the party.

(6) The party shall indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(7) (A) The court may make an order pursuant to paragraph (3) of subdivision (b) of Section 5600 of the Probate **Code**, if appropriate, that a party maintain a beneficiary designation for a nonprobate transfer, as described in Section 5000 of the Probate **Code**, for a spouse or domestic partner for up to one-half of or, upon a showing of good cause, for all of a nonprobate transfer asset until judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.

(B) Except upon a showing of good cause, this paragraph does not apply to any of the following:

(i) A nonprobate transfer described in Section 5000 of the Probate **Code** that was not created by either party or that was acquired by either party by gift, descent, or devise.

(ii) An irrevocable trust.

(iii) A trust of which neither party is the grantor.

(iv) Powers of appointment under a trust instrument that was not created by either party or of which neither party is a grantor.

(v) The execution and filing of a disclaimer pursuant to Part 8 (commencing with Section 260) of Division 2 of the Probate **Code**.

(vi) The appointment of a party as a trustee.

(8) In order to preserve the ability of the party to defer the distribution of the Individual Retirement Account or annuity (IRA) established under Section 408 or 408A of the Internal Revenue **Code** of 1986, as amended, (IRC) upon the death of the other party, the court may require that one-half, or all upon a showing of good cause, of the community interest in any IRA, by or for the benefit of the party, be assigned and transferred to the other party pursuant to Section 408(d)(6) of the Internal Revenue **Code**. This paragraph does not limit the power granted pursuant to subdivision (g).

(9) Upon a showing that circumstances exist that would place a substantial burden of enforcement upon either party's community property rights or would eliminate the ability of the surviving party to enforce his or her community property rights if the other party died before the division and distribution or compliance with any

court-ordered payment of any community property interest therein, including, but not limited to, a situation in which preemption under federal law applies to an asset of a party, or purchase by a bona fide purchaser has occurred, the court may order a specific security interest designed to reduce or eliminate the likelihood that a postmortem enforcement proceeding would be ineffective or unduly burdensome to the surviving party. For this purpose, those orders may include, but are not limited to, any of the following:

(A) An order that the party provide an undertaking.

(B) An order to provide a security interest by Qualified Domestic Relations Order from that party's share of a retirement plan or plans.

(C) An order for the creation of a trust as defined in paragraph (2) of subdivision (a) of Section 82 of the Probate Code.

(D) An order for other arrangements as may be reasonably necessary and feasible to provide appropriate security in the event of the party's death before judgment has been entered with respect to the community ownership of that asset, and until the other party's interest therein has been distributed to him or her.

(E) If a retirement plan is not subject to an enforceable court order for the payment of spousal survivor benefits to the other party, an interim order requiring the party to pay or cause to be paid, and to post adequate security for the payment of, any survivor benefit that would have been payable to the other party on the death of the party but for the judgment granting a dissolution of the status of the marriage, pending entry of judgment on all remaining issues.

(10) Any other condition the court determines is just and equitable.

(d) Prior to, or simultaneously with, entry of judgment granting dissolution of the status of the marriage, all of the following shall occur:

(1) The party's retirement or pension plan shall be joined as a party to the proceeding for dissolution, unless joinder is precluded or made unnecessary by Title 1 of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.), as amended (ERISA), or any other applicable law.

(2) To preserve the claims of each spouse in all retirement plan benefits upon entry of judgment granting a dissolution of the status of the marriage, the court shall enter one of the following in connection with the judgment for each retirement plan in which either party is a participant:

(A) An order pursuant to Section 2610 disposing of each party's interest in retirement plan benefits, including survivor and death benefits.

(B) An interim order preserving the nonemployee party's right to retirement plan benefits, including survivor and death benefits, pending entry of judgment on all remaining issues.

(C) An attachment to the judgment granting a dissolution of the status of the marriage, as follows:

EACH PARTY (insert names and addresses) IS PROVISIONALLY AWARDED WITHOUT PREJUDICE AND SUBJECT TO ADJUSTMENT BY A SUBSEQUENT DOMESTIC

RELATIONS ORDER, A SEPARATE INTEREST EQUAL TO ONE-HALF OF ALL BENEFITS ACCRUED OR TO BE ACCRUED UNDER THE PLAN (name each plan individually) AS A RESULT OF EMPLOYMENT OF THE OTHER PARTY DURING THE MARRIAGE OR DOMESTIC PARTNERSHIP AND PRIOR TO THE DATE OF SEPARATION. IN ADDITION, PENDING FURTHER NOTICE, THE PLAN SHALL, AS ALLOWED BY LAW, OR IN THE CASE OF A GOVERNMENTAL PLAN, AS ALLOWED BY THE TERMS OF THE PLAN, CONTINUE TO TREAT THE PARTIES AS MARRIED OR DOMESTIC PARTNERS FOR PURPOSES OF ANY SURVIVOR RIGHTS OR BENEFITS AVAILABLE UNDER THE PLAN TO THE EXTENT NECESSARY TO PROVIDE FOR PAYMENT OF AN AMOUNT EQUAL TO THAT SEPARATE INTEREST OR FOR ALL OF THE SURVIVOR BENEFIT IF AT THE TIME OF THE DEATH OF THE PARTICIPANT, THERE IS NO OTHER ELIGIBLE RECIPIENT OF THE SURVIVOR BENEFIT.

(e) The moving party shall promptly serve a copy of any order, interim order, or attachment entered pursuant to paragraph (2) of subdivision (d), and a copy of the judgment granting a dissolution of the status of the marriage, on the retirement or pension plan administrator.

(f) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

(g) If the party dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this section shall be enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable prior to the person's death.

Family Code Sections Re: Underage Marriages

302. (a) An unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage upon obtaining a court order granting permission to the underage person or persons to marry.

(b) The court order and written consent of the parents of each underage person, or of one of the parents or the guardian of each underage person shall be filed with the clerk of the court, and a certified copy of the order shall be presented to the county clerk at the time the marriage license is issued.

303. If it appears to the satisfaction of the court by application of a minor that the minor requires a written consent to marry and that the minor has no parent or has no parent capable of consenting, the court may make an order consenting to the issuance of a marriage license and granting permission to the minor to marry. The order shall be filed with the clerk of the court and a certified copy of the order shall be presented to the county clerk at the time the marriage license is issued.

304. As part of the court order granting permission to marry under Section 302 or 303, the court shall require the parties to the prospective marriage of a minor to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if the court considers the counseling to be necessary. The parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in the premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for the counseling. The court may impose a reasonable fee to cover the cost of any premarital counseling provided by the county or the court. The fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

Item SPR08-38 Response Form

Title: **Family Law: Miscellaneous Forms** (adopt forms FL-105(3C)/GC-120(3C), FL-316, FL-347, FL-348, FL-351, FL-910 and FL-915; approve form FL-318-INFO; revise forms FL-105/GC-120 and FL-315) of Court, rule 5.275; revise forms FL-615, FL-625, FL-626, and FL 663)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ Title: _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

Internet: www.courtinfo.ca.gov/invitationstocomment

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*