Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT

SP11-16

Title
Family Law: Domestic Partnerships and Same Sex Marriages

Proposed Rules, Forms, Standards, or Statutes
Revise forms FL-103, FL-123, FL-800, FL-810, FL-910, and FL-915

Proposed by
Family and Juvenile Law Advisory Committee
Hon. Kimberly J. Nystrom-Geist, Cochair
Hon. Dean Stout, Cochair

Action Requested
Review and Submit Comments by November 1, 2011

Proposed Effective Date
January 1, 2012

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Discussion

On October 9, 2011, Governor Jerry Brown signed Senate Bill 651 (Stats. 2011, ch. 721), which becomes effective January 1, 2012. The bill amends Family Code section 2320 to authorize a judgment for dissolution, nullity, or legal separation of a marriage between persons of the same sex to be issued in California if the marriage was entered in California and neither party to the marriage resides in a jurisdiction that will dissolve the marriage. The bill provides a rebuttable presumption that if the jurisdiction does not recognize the marriage, it will not dissolve the marriage. It provides that the superior court in the county where the marriage was entered is the proper court for the proceeding.

SB 651 also enacts Family Code section 297.1 to permit a person under the age of 18 years and his or her proposed domestic partner to establish a domestic partnership if the minor obtains permission of a parent or guardian and a court order, and the minor otherwise meets the requirements to file a Declaration of Domestic Partnership under Family Code section 297. Section 297.1 also establishes the process for filing the court order with the court clerk and the Secretary of State.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

To implement the above statutory changes, the Family and Juvenile Law Advisory Committee recommends revising:

- *Petition—Domestic Partnership (Family Law)* (form FL-103);
- *Response—Domestic Partnership (Family Law)* (form FL-123);
- *Joint Petition for Summary Dissolution of Marriage* (form FL-800);
- *Summary Dissolution Information* (form FL-810);
- *Request of Minor to Marry* (form FL-910); and
- *Order on Request of Minor to Marry* (form FL-915).

Forms FL-103 and FL-123 circulated for comment as part of the spring 2011 cycle as SPR11-41 to respond to statutory changes in Assembly Bill 2700 (Stats. 2010, ch. 397). The attached forms incorporate the changes mandated by AB 2700 and comments received during the spring cycle. These changes have not yet been approved by the Judicial Council. During this special cycle, the committee is seeking comment only on the highlighted changes based on SB 651.

Forms FL-800 and FL-810 also circulated for comment in the spring cycle, as SPR11-43, responding to statutory changes made by Assembly Bill 939 (Stats. 2010, ch. 352) and AB 2700. The attached forms incorporate the changes mandated by AB 939 and comments received during the spring cycle. These changes have not yet been approved by the Judicial Council. For this special cycle, the committee is seeking comment only on the highlighted changes (on the first page of FL-800 and on page 13 of form FL-810), which are mandated by SB 651.

Forms FL-910 and FL-915 were first adopted on January 1, 2009, and are circulating with changes necessitated by SB 651 only. Commentators should note that SB 651 does not require the minors to attend counseling before the court can make an order to establish a domestic partnership. The forms were revised to try to clarify this difference between a minor's request to marry and a request to establish a domestic partnership.

These items are circulating for comment in an expedited cycle to ensure that the forms are in place by the effective date of SB 651, January 1, 2012, and to avoid the need to change the forms twice within one year, causing difficulties for courts, practitioners, and the public.

The proposed revised forms are attached at pages 3–32. The text of SB 651 is attached at pages 33–35.

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*

TELEPHONE NO. : FAX NO. *(Optional):*

E-MAIL ADDRESS *(Optional):*

ATTORNEY FOR *(Name):*

FOR COURT USE ONLY

DRAFT
Not Approved by
Judicial Council

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

DOMESTIC PARTNERSHIP OF

PETITIONER:

RESPONDENT:

CASE NUMBER:

PETITION FOR ☐ **AMENDED**

☐ **Dissolution of** ☐ **Domestic Partnership** ☐ **Same Sex Marriage**

☐ **Legal Separation of** ☐ **Domestic Partnership** ☐ **Same Sex Marriage**

☐ **Nullity of** ☐ **Domestic Partnership** ☐ **Same Sex Marriage**

1. STATISTICAL FACTS
   a. (1) Date of registration of domestic partnership or equivalent:
      (2) Date of separation:
      (3) Time from date of registration of domestic partnership to date of separation *(specify):* Years Months
   b. ☐ (1) Date of marriage:
      ☐ (2) Time from date of marriage to date of separation *(specify):* Years Months

2. RESIDENCE
   a. ☐ Our domestic partnership was established in California. Neither of us has to be a resident or have a domicile in California to dissolve our partnership here.
   b. (1) ☐ Our domestic partnership was established in another state or nation *(specify):*
      (2) ☐ We were married in ☐ California ☐ another state or nation *(specify):*
      (3) If (1) or (2), and a dissolution is requested ☐ petitioner ☐ respondent has been a resident of the state of California for at least six months and of this county for at least three months immediately preceding the filing of the *Petition*.
   c. ☐ We are the same sex and were married in California. Neither of us lives in a jurisdiction that will dissolve the marriage. We are filing this case in the county in which we married. Petitioner's residence *(state or nation):*
      Respondent's residence (state or nation):

3. DECLARATION REGARDING MINOR CHILDREN *(include children of this relationship born or adopted prior to or during this domestic partnership or marriage):*
   a. ☐ There are no minor children.
   b. ☐ The minor children are:

Child's name	Birthdate	Age	Sex

   ☐ Continued on Attachment 3b.

   c. If there are minor children of the petitioner and respondent, a completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105) must be attached.

4. SEPARATE PROPERTY
   Petitioner requests that the assets and debts listed ☐ in *Property Declaration* (form FL-160) ☐ in Attachment 4 ☐ below be confirmed as separate property.

Item	Confirm to

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child or partner support.

Form Adopted for Mandatory Use
Judicial Council of California
FL-103 [Rev. January 1, 2012]

PETITION—DOMESTIC PARTNERSHIP/SAME SEX MARRIAGE
(Family Law)

Family Code, §§ 299, 2320, 2330;
Cal. Rules of Court. rule 5.28
www.courts.ca.gov

DOMESTIC PARTNERSHIP OF *(Last name, first name of each party):*	CASE NUMBER:

5. DECLARATION REGARDING COMMUNITY AND QUASI-COMMUNITY ASSETS AND DEBTS AS CURRENTLY KNOWN
   a. ☐ There are no such assets or debts subject to disposition by the court in this proceeding.
   b. ☐ All such assets and debts are listed ☐ in *Property Declaration* (form FL-160) ☐ in Attachment 5b.
      ☐ below *(specify):*

6. **Petitioner requests**
   a. ☐ dissolution of the ☐ domestic partnership ☐ marriage based on
      (1) ☐ irreconcilable differences. (Fam. Code, § 2310(a).) (2) ☐ incurable insanity. (Fam. Code, § 2310(b).)
   b. ☐ legal separation of the ☐ domestic partnership ☐ marriage based on
      (1) ☐ irreconcilable differences. (Fam. Code, § 2310(a).) (2) ☐ incurable insanity. (Fam. Code, § 2310(b).)
   c. ☐ nullity of void ☐ domestic partnership ☐ marriage based on
      (1) ☐ incest. (Fam. Code, § 2200.) (2) ☐ bigamy. (Fam. Code, § 2201.)
   d. ☐ nullity of voidable ☐ domestic partnership ☐ marriage based on
      (1) ☐ petitioner's age at time of registration of domestic partnership or marriage. (Fam. Code, § 2210(a).)
      (2) ☐ prior existing marriage or domestic partnership. (Fam. Code, § 2210(b).)
      (3) ☐ unsound mind. (Fam. Code, § 2210(c).)
      (4) ☐ fraud. (Fam. Code, § 2210(d).)
      (5) ☐ force. (Fam. Code, § 2210(e).)
      (6) ☐ physical incapacity. (Fam. Code, § 2210(f).)

7. **Petitioner requests** that the court grant the above relief and make injunctive (including restraining) and other orders as follows:

	Petitioner	Respondent	Joint	Other
a. Legal custody of children to	☐	☐	☐	☐
b. Physical custody of children to	☐	☐	☐	☐
c. Child visitation granted to	☐	☐		☐

   As requested in form: ☐ FL-311 ☐ FL-312 ☐ FL-341(C) ☐ FL-341(D) ☐ FL-341(E) ☐ Attachment 7c.
   d. ☐ Determination of parentage of any children born to the petitioner and respondent prior to the domestic partnership or marriage.
   e. Attorney fees and costs payable by ..... ☐ ☐
   f. Partner or spousal support payable to ..... ☐ ☐
   g. ☐ Terminate the court's jurisdiction (ability) to award partner or spousal support to respondent.
   h. ☐ Determine property rights.
   i. ☐ Restore petitioner's former name *(specify):*
   j. ☐ Other *(specify):*

      ☐ Continued on Attachment 7j.

8. **Child support:** If there are minor children who were born to or adopted by the petitioner and respondent before or during this domestic partnership or marriage, the court will make orders for the support of the children on request and submission of financial forms by the requesting party. An earnings assignment may be issued without further notice. Any party required to pay support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent.

9. **I HAVE READ THE RESTRAINING ORDERS ON THE BACK OF THE SUMMONS, AND I UNDERSTAND THAT THEY APPLY TO ME WHEN THIS PETITION IS FILED.**

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 PETITIONER)

Date:

(TYPE OR PRINT NAME)

▶ (SIGNATURE OF ATTORNEY FOR PETITIONER)

NOTICE: Dissolution or legal separation may automatically cancel the rights of a domestic partner or spouse under the other domestic partner's or spouse's will, trust, retirement plan, power of attorney, pay-on-death bank account, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the right of a domestic partner or spouse as beneficiary of the other partner's or spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance polices, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions. However, some changes may require the agreement of your partner or spouse or a court order (see Fam. Code, §§ 231–235).

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO. *(Optional):* E-MAIL ADDRESS *(Optional):* ATTORNEY FOR *(Name):*	DRAFT Not Approved by Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
DOMESTIC PARTNERSHIP OF PETITIONER: RESPONDENT:	
RESPONSE ☐ **and REQUEST FOR** ☐ **AMENDED** ☐ **Dissolution of** ☐ **Domestic Partnership** ☐ **Same Sex Marriage** ☐ **Legal Separation of** ☐ **Domestic Partnership** ☐ **Same Sex Marriage** ☐ **Nullity of** ☐ **Domestic Partnership** ☐ **Same Sex Marriage**	CASE NUMBER:

1. STATISTICAL FACTS
   a. (1) Date of registration of domestic partnership or equivalent:
      (2) Date of separation:
      (3) Time from date of registration of domestic partnership to date of separation *(specify):* Years Months
   b. ☐ (1) Date of marriage:
      ☐ (2) Time from date of marriage to date of separation *(specify):* Years Months
2. RESIDENCE
   a. ☐ Our domestic partnership was established in California. Neither of us has to be a resident or have a domicile in California to dissolve our partnership here.
   b. (1) ☐ Our domestic partnership was established in another state or nation *(specify):*
      (2) ☐ We were married in ☐ California ☐ another state or nation *(specify):*
      (3) If (1) or (2), and a dissolution is requested ☐ petitioner ☐ respondent has been a resident of this state of California for at least six months and of this county for at least three months immediately preceding the filing of the *Petition.*
   c. ☐ We are the same sex and were married in California. Neither of us lives in a jurisdiction that will dissolve the marriage. We are filing this case in the county in which we married. Petitioner's residence *(state or nation):*
      Respondent's residence (state or nation):
3. DECLARATION REGARDING MINOR CHILDREN *(include children of this relationship born or adopted prior to or during this domestic partnership or marriage):*
   a. ☐ There are no minor children.
   b. ☐ The minor children are:

Child's name	Birthdate	Age	Sex

   ☐ Continued on Attachment 3b.
   c. If there are minor children of the petitioner and the respondent, a completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105) must be attached.
4. SEPARATE PROPERTY
   Respondent requests that the assets and debts listed ☐ in *Property Declaration* (form FL-160) ☐ in Attachment 4 ☐ below be confirmed as separate property.

Item	Confirm to

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child or partner support.

Form Adopted for Mandatory Use
Judicial Council of California
FL-123 [Rev. January 1, 2012]

RESPONSE—DOMESTIC PARTNERSHIP/SAME SEX MARRIAGE
(Family Law)

Family Code, §§ 299, 308, 2020
www.courts.ca.gov

DOMESTIC PARTNERSHIP OF *(Last name, first name of each party):*	CASE NUMBER:

5. DECLARATION REGARDING COMMUNITY AND QUASI-COMMUNITY ASSETS AND DEBTS AS CURRENTLY KNOWN
   a. ☐ There are no such assets or debts subject to disposition by the court in this proceeding.
   b. ☐ All such assets and debts are listed ☐ in *Property Declaration* (form FL-160) ☐ in Attachment 5b.
      ☐ below *(specify):*

6. ☐ **Respondent contends** that there is not a valid domestic partnership, marriage, or equivalent.

7. ☐ **Respondent denies** the grounds set forth in item 6 of the petition.

8. **Respondent requests**
   a. ☐ dissolution of the ☐ domestic partnership ☐ marriage based on
      (1) ☐ irreconcilable differences. (Fam. Code, § 2310(a).) (2) ☐ incurable insanity. (Fam. Code, § 2310(b).)
   b. ☐ legal separation of the ☐ domestic partnership ☐ marriage based on
      (1) ☐ irreconcilable differences. (Fam. Code, § 2310(a).) (2) ☐ incurable insanity. (Fam. Code, § 2310(b).)
   c. ☐ nullity of void ☐ domestic partnership ☐ marriage based on
      (1) ☐ incest. (Fam. Code, § 2200.) (2) ☐ bigamy. (Fam. Code, § 2201.)
   d. ☐ nullity of voidable ☐ domestic partnership ☐ marriage based on
      (1) ☐ respondent's age at time of registration of domestic partnership or marriage. (Fam. Code, § 2210(a).)
      (2) ☐ prior existing marriage or domestic partnership. (Fam. Code, § 2210(b).)
      (3) ☐ unsound mind. (Fam. Code, § 2210(c).)
      (4) ☐ fraud. (Fam. Code, § 2210(d).)
      (5) ☐ force. (Fam. Code, § 2210(e).)
      (6) ☐ physical incapacity. (Fam. Code, § 2210(f).)

9. **Respondent requests** that the court grant the above relief and make injunctive (including restraining) and other orders as follows:

	Petitioner	Respondent	Joint	Other
a. Legal custody of children to	☐	☐	☐	☐
b. Physical custody of children to	☐	☐	☐	☐
c. Child visitation granted to	☐	☐		☐

   As requested in form: ☐ FL-311 ☐ FL-312 ☐ FL-341(C) ☐ FL-341(D) ☐ FL-341(E) ☐ Attachment 9c.

   d. ☐ Determination of parentage of any children born to the petitioner and respondent prior to the domestic partnership or marriage.

e. Attorney fees and costs payable by	☐	☐
f. Partner or spousal support payable to	☐	☐

   g. ☐ Terminate the court's jurisdiction (ability) to award partner or spousal support to the petitioner.
   h. ☐ Determine property rights.
   i. ☐ Restore respondent's former name *(specify):*
   j. ☐ Other *(specify):*

      ☐ Continued on Attachment 9j.

10. **Child support:** If there are minor children who were born to or adopted by the petitioner and respondent before or during this domestic partnership or marriage, the court will make orders for the support of the children on request and submission of financial forms by the requesting party. An earnings assignment may be issued without further notice. Any party required to pay support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent.

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 RESPONDENT)

Date:

(TYPE OR PRINT NAME) ▶ (SIGNATURE OF ATTORNEY FOR RESPONDENT)

The original response must be filed in the court with proof of service of a copy on petitioner.

PARTY WITHOUT ATTORNEY OR ATTORNEY *(Name, State Bar number and address):*	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO. *(Optional):* E-MAIL ADDRESS *(Optional):* ATTORNEY FOR *(Name):*	DRAFT Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OR PARTNERSHIP OF PETITIONER 1: PETITIONER 2:	
JOINT PETITION FOR SUMMARY DISSOLUTION ☐ **MARRIAGE** ☐ **DOMESTIC PARTNERSHIP**	CASE NUMBER:

We petition for a summary dissolution of marriage, registered domestic partnership, or both and declare that all the following conditions exist on the date this petition is filed with the court:

1. We have read and understand the *Summary Dissolution Information* booklet (form FL-810).
2. a. ☐ We were married on *(date)*:
   b. ☐ We registered as domestic partners on *(date)*:
3. We separated on *(date)*:
4. Less than five years have passed between the date of our marriage and/or registration of our domestic partnership and the date of our separation.
5. a. ☐ One of us has lived in California for at least six months and in the county of filing for at least the three months preceding the date of filing. Or we are only asking to end a domestic partnership registered in California.
   b. ☐ We are the same sex and were married in California. Neither of us lives in a place that will allow us to divorce. We are filing this case in the county in which we married.
6. There are no minor children who were born of our relationship before or during our marriage or domestic partnership or adopted by us during our marriage or domestic partnership. Neither one of us, to our knowledge, is pregnant.
7. Neither of us has an interest in any real property anywhere. **(You may have a lease for a residence in which one of you lives. It must terminate within a year from the date of filing this petition. The lease must not include an option to purchase.)**
8. Except for obligations with respect to cars, on obligations incurred by either or both of us during our marriage or domestic partnership, we owe no more than $6,000.
9. The total fair market value of community property assets, not including what we owe on those assets and not including cars, is less than $38,000.
10. Neither of us has separate property assets, not including what we owe on those assets and not including cars, in excess of $38,000.
11. We each have filled out and given the other an *Income and Expense Declaration* (form FL-150).
12. We each have filled out and given the other copies of the worksheets on pages 7, 9, and 11 of the *Summary Dissolution Information* booklet (form FL-810) used in determining the value and division of our property. We have told each other in writing about any investment, business, or other income-producing opportunities that came up after we were separated based on investments made or work done during the marriage or domestic partnership and before our separation. This meets the requirements of preliminary declaration of disclosure, and no further proof of service of the declaration of disclosure is required.
13. *(Check whichever statement is true.)*
    a. ☐ We have no community assets or liabilities.
    b. ☐ We have signed an agreement listing and dividing all our community assets and liabilities and have signed all the papers necessary to carry out our agreement. A copy of our agreement is attached to the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825).
14. Irreconcilable differences have caused the irremediable breakdown of our marriage and/or domestic partnership, and each of us wishes to have the court dissolve our marriage and/or domestic partnership without our appearing before a judge.

PETITIONER 1: PETITIONER 2:	CASE NUMBER:

15. ☐ Petitioner 1 desires to have his or her former name restored. That name is (*specify)*:

    ☐ Petitioner 2 desires to have his or her former name restored. That name is (*specify)*:

16. We each give up our rights to appeal and to move for a new trial after the effective date of our *Judgment of Dissolution*.

17. **Each of us forever gives up any right to spousal or partner support from the other.**

18. We each agree to keep the court and each other informed of any change of mailing address or phone number occurring within six months from the filing of this joint petition using the *Notice of Change of Address* (form MC-040).

19. We are submitting the original and three copies of the proposed *Judgment of Dissolution* and *Notice of Entry of Judgment* (form FL-825) and two stamped envelopes together with this petition. One envelope is addressed to Petitioner 1 and the other to Petitioner 2.

20. We agree that this matter may be determined by a commissioner sitting as a temporary judge.

21. **Mailing address of Petitioner 1**
Name:
Address:

City:
State:
Zip Code:

22. **Mailing address of Petitioner 2**
Name:
Address:

City:
State:
Zip Code:

23. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

Date:

▶ _____
(SIGNATURE OF PETITIONER 1)

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

Date:

▶ _____
(SIGNATURE OF PETITIONER 2)

NOTICES

Your marriage and/or domestic partnership will end six months from the date of filing this joint petition. Both petitioners will receive a stamped copy from the court of the *Judgment of Dissolution and Notice of Entry of Judgment* (from FL-825) stating the effective date of your dissolution. Until the effective date specified on form FL-825 for the dissolution of your marriage and/or domestic partnership, either one of you can stop this joint petition by filing a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830). If you stop this joint petition, you will STILL be married or in a domestic partnership.

Dissolution may automatically cancel the rights of a spouse or domestic partner under the other spouse's or domestic partner's will, trust, retirement plan, power of attorney, pay-on-death bank account, transfer-on-death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar instrument. It does not automatically cancel the rights of a spouse or domestic partner as beneficiary of the other spouse's or domestic partner's life insurance policy. You should review these matters, as well as any credit card accounts, other credit accounts, insurance policies, and credit reports to determine whether they should be changed or whether you should take any other actions. However, some changes may require the agreement of your spouse or domestic partner or a court order. (See Fam. Code, §§ 231–235.)

DRAFT
Not Approved by the
Judicial Council

SUMMARY DISSOLUTION INFORMATION

This booklet is available in English and Spanish from the office of the court clerk in the superior court of each county in California, or at *www.courts.ca.gov/selfhelp*.

Este folleto puede obtenerse en inglés y en español en la Dirección de Registro Público del Condado (Office of the Court Clerk) o en la Corte Superior (Superior Court) de cada condado en el estado de California *www.sucorte.ca.gov*.

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I . WHAT IS THIS BOOKLET ABOUT?

This booklet describes a way to end a marriage, a domestic partnership, or both through a kind of divorce called **summary dissolution.**

The official word for **divorce** in California is **dissolution.** There are two ways of getting a divorce, or dissolution, in California. The usual way is called a **regular dissolution.**

Summary dissolution is a shorter and easier way. But not everybody can use it. Briefly, a summary dissolution is possible for couples who

1. have no children together;
2. have been married and/or in a domestic partnership five years or less (this means that the time between the date you married or registered your domestic partnership and the date you separated from your spouse or partner is five years or less);
3. do not own very much;
4. do not owe very much;
5. do not want spousal or partner support from each other; and
6. have no disagreements about how their belongings and their debts are going to be divided up once they are no longer married to or in a domestic partnership with each other.

With this procedure, you will not have to appear in court. You may not need a lawyer, but it is in your best interest to see a lawyer about the ending of your marriage or domestic partnership. See page 19 for more details about how a lawyer can help you.

For a summary dissolution, you prepare and file a *Joint Petition for Summary Dissolution* (form FL-800), together with a property settlement agreement,* with the superior court clerk in your county. You will also prepare and turn in a *Judgment for Dissolution* and *Notice of Entry of Judgment* (form FL-825). Your divorce, ending your marriage and/or your domestic partnership, will be final six months after you file your *Joint Petition for Summary Dissolution*. During the six months while you wait for your divorce to become final, either of you can stop the process of summary dissolution if you change your mind. One of you can file a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) and that will stop the divorce. If either one of you still wants to get divorced, you will then have to file for a regular dissolution with a *Petition—Marriage* (form FL-100) or *Petition—Domestic Partnership* (FL-103) unless you both agree to start a new summary dissolution process.

IMPORTANT! Domestic partners who qualify for a summary dissolution can choose to use the process described in this booklet OR a special summary dissolution for domestic partners through the California Secretary of State. You can find the California Secretary of State forms at *www.sos.ca.gov*. **There is no filing fee for this process.** If you choose to file to terminate your domestic partnership through the Secretary of State, do not use this guide.

- If you are domestic partners but do not qualify for a summary dissolution, you will have to file for a regular divorce in the courts, starting with the *Petition—Domestic Partnership* (form FL-103).
- If you are domestic partners AND also legally married and want to end your marriage AND your domestic partnership, you will have to file for dissolution through the courts, either through the summary dissolution process discussed here (if you qualify) or through a regular dissolution, starting with the *Petition—Domestic Partnership* (form FL-103).

This booklet will tell you

1. who can use the summary dissolution procedure;
2. what steps you must take to get a summary dissolution;
3. when it would help to see a lawyer; and
4. what risks you take when you use this procedure rather than the regular dissolution procedure.

If you wish to use the summary dissolution procedure, you must, at the time you file the joint petition, sign a statement that says you have read and understood this booklet. It is important for you to read the whole booklet very carefully.

Save this booklet for at least six months if you decide to start a summary dissolution. If you decide you want to stop the summary dissolution process and revoke your petition, it will tell you how to do that.

SPECIAL WARNING

If you are an alien who became a lawful permanent resident on the basis of your marriage to a U.S. citizen or to a lawful permanent resident, obtaining a dissolution within two years of your marriage may lead to your deportation. You should consult a lawyer before obtaining a divorce.

* A property settlement agreement is an agreement that the two of you write or have someone write for you after you fill out the worksheets in this booklet. The agreement spells out how you will divide what you own and what you owe.

II. SOME TERMS YOU NEED TO KNOW

In the following pages, you will often see the terms *community property, separate property,* and *community obligations.* Those terms are explained in this section.

As a married couple or domestic partners, the two of you are, in the eyes of the law, a single unit. There are certain things that you **own together** rather than separately. And there may be certain debts that you **owe together.** If one of you borrows money or buys something on credit, the other one can be made to pay.

If your marriage or domestic partnership breaks up, you become two separate individuals again. Before that can happen, you have to decide what to do with the things you *own* as a couple and the money you *owe* as a couple.

The laws that cover these questions contain the terms *community property, separate property*, and *community obligations.* To understand what these terms mean, you should have a clear idea of the **length of time you lived together as spouses or domestic partners.** This is the period between the day you married or registered your domestic partnership and the day you separated.

It may not be easy to decide exactly when you separated. In most cases, the day of the separation is the day the couple stopped living together. However, you may want to choose the day when you definitely decided to get a divorce and took some action to show this (like telling your spouse or partner that you wanted a divorce).

Community Property

Community property is everything spouses or registered domestic partners **own together.**

In most cases that includes

1. money you now have that either of you earned during the time you were living together as spouses or partners; and
2. anything either of you bought with money earned during that period. It does not matter if only one of you earned or spent the money.

Separate Property

Separate property is everything spouses or registered domestic partners **own separately from each other.**

In most cases that includes

1. anything either of you owned before you got married or registered your domestic partnership;
2. anything either of you earned or received after your separation; and
3. anything either of you received, as a gift or by inheritance, at any time.

Community Obligations

Community obligations are the debts spouses or registered domestic partners **owe together.**

In most cases that includes anything you still owe on any debts either of you acquired during the time you were living together as spouses or registered domestic partners. (For instance, if you bought furniture on credit while you were married or domestic partners and living together, the unpaid balance is a part of your community obligations.) It usually does not matter if the debt was in the name of one spouse or domestic partner only, like on a credit card.

NOTE: If you have any questions about your separation date or about your property, it would be good to see a lawyer as these issues can be complicated. Also, if you lived together before your marriage or domestic partnership, you may wish to see a lawyer about possible additional rights either of you may have.

III. WHO CAN USE THE SUMMARY DISSOLUTION PROCEDURE?

You can use the summary dissolution procedure only if **all** of the following statements are true about you at the time you file the *Joint Petition for Summary Dissolution* (form FL-800). Check this list very carefully. If even *one* of these statements is not true for you, you cannot get a divorce in this way.

____ 1. We have both read this booklet, and we both understand it.

____ 2. We have been married or registered as domestic partners five years or less between the date that we got married and/or registered our domestic partnership and the date we separated. *(Note that if you are trying to end both a marriage AND a domestic partnership at the same time through a summary dissolution, both your marriage and domestic partnership must have lasted five years or less.)*

____ 3. No children were born to the two of us together before or during our marriage and/or domestic partnership.

____ 4. We have no adopted children under 18 years of age.

____ 5. Neither one of us is pregnant.

____ 6. Neither of us owns any part of any land or buildings.

____ 7. Our community property is not worth more than $38,000.*

____ 8. Neither of us has separate property worth more than $38,000.*

____ 9. The total of our community obligations (other than cars) is $6,000 or less.**

For deciding on statements 7, 8, and 9, use the guide on pages 5–11.

____ 10. If we are asking for a dissolution of our marriage,

____ At least one of us has lived in California for the past six months or longer *and* has lived in the county where we are filing for dissolution for the past three months or longer; or

____ We are the same sex and were married in California. Neither of us lives in a place that will allow us to divorce. We are filing this case in the county in which we married.

____ 11. We have prepared and signed an agreement that states how we want our possessions and debts to be divided between us (or states that we have no community property or community obligations).

____ 12. We have both signed the joint petition and all other papers needed to carry out this agreement.

____ 13. Together with the joint petition, we will turn in the judgment of dissolution forms and two self-addressed stamped envelopes to the superior court.

____ 14. We both want to end the marriage and/or domestic partnership because of serious, permanent differences.

____ 15. We have both agreed to use the summary dissolution procedure rather than the regular dissolution procedure.

____ 16. We are both aware of the following facts:

a. There is a six-month waiting period, and either of us can stop the divorce at any time during this period.
b. The date that appears on the *Judgment of Dissolution of Marriage and Notice of Entry of Judgment* (form FL-825) we receive from the court as the "effective date" of the dissolution is the date our divorce will be final, unless one of us has asked to stop the divorce prior to that effective date.
c. After the dissolution becomes final, neither of us has any right to expect money or support from the other except that which is included in the property settlement agreement.
d. By choosing the summary dissolution procedure, we give up certain legal rights that we would have if we had used the regular dissolution procedure. These rights are explained on page 4.

*Do not count cars in this total.
**Do not count car loans in this total.

IV. AN IMPORTANT DIFFERENCE BETWEEN SUMMARY DISSOLUTION AND REGULAR DISSOLUTION

With a regular dissolution, either spouse or partner can ask for a court hearing or trial. And with a regular dissolution, if either spouse or partner is unhappy with the judge's final decision, it is possible to challenge that decision. This can be done, for example, by asking for a new trial. It is also possible to **appeal** the decision by taking the case to a higher court.

With a summary dissolution, there is no trial or hearing. Couples who choose this method of getting a divorce do not have the right to ask for a new trial (since there is no trial) or the right to appeal the case to a higher court.

There are, however, some cases in which a divorce agreement under a summary dissolution can be challenged. You will have to see a lawyer about this. The court *may* have the power to set aside the divorce if you can show that one of the following things happened:

1. **You were treated unfairly in the property settlement agreement.**
   This is possible if you find out that the things you agreed to give your spouse or partner were much more valuable than you thought at the time of the dissolution.

2. **You went through the dissolution procedure against your will.**
   This is possible if you can show that your spouse or partner used threats or other kinds of unfair pressure to get you to go along with the divorce.

3. **There are serious mistakes in the original agreement.**
   Some kinds of mistakes can make the dissolution invalid, but you will have to go to court to prove the mistakes. It may be that one or both of you had a lot of property that you had forgotten about when you drew up the property settlement agreement. Or maybe a bank account mentioned in the agreement had much more money or much less money in it than your agreement states.

4. **Neither of you completed the *Income and Expense Declaration* (form FL-150) and property worksheets on pages 7, 9, and 11 nor gave copies to your spouse or partner.**
   California law requires that you fully share all information about your property and debts as well as your income. You have to share this information before you sign your property settlement agreement.

Correcting mistakes and unfairness in a summary dissolution proceeding can be expensive, time-consuming, and difficult. It is very important for both of you to be honest, cooperative, and careful when you or your lawyers do the paperwork for the dissolution.

V. HOW DO YOU FIGURE OUT THE VALUE OF YOUR PROPERTY AND THE AMOUNT OF YOUR DEBTS?

Section III, page 3, lists statements that must be true if you want to use the summary dissolution procedure.

Statement 7 reads: "Our community property is not worth more than $38,000."

Your community property is the money and things you own jointly as spouses or domestic partners. This was explained on page 2. The value of your community property is determined by adding together (1) the amount of **money** you have as community property and (2) the "fair market value" of the **possessions** you have as community property.

The **fair market value** is an estimate of the amount of money you could get if you sold these items to a stranger—for example, through a classified ad in the newspaper. It does **not** mean what you paid for it originally, and it does **not** mean how much it would cost you to replace it if you lost it.

One way of estimating the fair market value of your goods is to use prices for equivalent items in other people's classified ads for secondhand goods.

Three kinds of items go into figuring out your community property:

1. Money (as in bank accounts and credit union accounts);
2. Things you own outright (furniture that is already paid for, for example); and
3. Things you are buying on credit.

When you include things you still owe money on, subtract the amount of money you still owe on them from the fair market value.

You should not include the value of a car in this list.

Statement 8 reads: "Neither of us has separate property worth more than $38,000."

Separate property is property that each spouse or partner owns separately. The term is explained on page 2. Separate property includes the same kinds of things used in determining community property. And again, you should not include cars in this list.

Statement 9 reads: "The total of our community obligations (other than cars) is $6,000 or less."

Your community obligations are the debts that you and your spouse or partner owe jointly. The term is explained on page 2. List all the debts you have that you took on while you were living together as spouses or domestic partners. If you borrowed money before you got married or registered your domestic partnership, you do **not** have to include that in your community obligations. If you bought furniture on credit after you got married or registered your domestic partnership but before you separated, you **have to** include the amount of money you still owe on the furniture. If you bought a stereo after you separated, you do **not** have to include that.

Do not include car loans in this list.

NOTICE: The law for summary dissolution allows you to leave out cars when you figure out whether you are **eligible** for this kind of divorce. But if you do have cars as part of your community property, you still have to decide who is going to own them (and who is going to pay for them) after your divorce. You must include them in your property settlement agreement.

Worksheets for figuring out these amounts are found on pages 6–11. You must complete and give to your spouse or domestic partner the worksheets on pages 7 (Value of Separate Property), 9 (Value and Division of Community Property), and 11 (Community Obligations and Their Division) to meet the requirement that you fully disclose your assets and debts to each other. Sample worksheets showing how to fill out those forms are on pages 6, 8, and 10.

PETITIONER 1: Pat PETITIONER 2: Chris	CASE NUMBER:

VI. SAMPLE WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY

This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **separate property of one spouse/partner** cannot be more than $38,000. The total fair market value of the **separate property of the other spouse/partner** cannot be more than $38,000. Separate property is anything that either of you owned or earned before you got married or registered your domestic partnership, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage or domestic partnership. Do not include cars.

Note: The information on this form is for an imaginary couple, Pat and Chris, who are married. (When you fill out your worksheet, use your information.)

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

Item	Pat's Property—Fair Market Value	Chris's Property—Fair Market Value
Credit union savings—Pat (before marriage)	420	
Savings bonds—Chris (bought before marriage)		250
Pension plan benefits—Pat (before marriage and after separation)	1500	
Pension plan benefits—Chris (before marriage and after separation)		1300

B. Items owned outright

Item		
Clothes—Pat (bought before marriage)	350	
Stocks—Pat (birthday present from father)	375	
Furniture—Pat (owned before marriage)	460	
Camera—Chris (owned before marriage)		229
Wristwatch—Chris (bought after separation)		142
Clothes—Chris (bought after separation)		250

C. Items being bought on credit

Item	Fair Market Value	Minus What's Owed			
TV set—Pat (after separation)	400	350	=	50	
Clothes—Pat (after separation)	220	170	=	50	
			=		
			=		
			=		
			=		
			=		
GRAND TOTALS: Pat and Chris SEPARATE PROPERTY				3205	2171

PETITIONER 1: PETITIONER 2:	CASE NUMBER:

VI. WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY

This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **separate property of one spouse or domestic partner** cannot be more than $38,000. The total fair market value of the **separate property of the other spouse or domestic partner** cannot be more than $38,000. Separate property is anything that either of you owned or earned before you got married or registered your domestic partnership, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage or domestic partnership. Do not include cars.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

Item	PETITIONER 1 Property—Fair Market Value	PETITIONER 2 Property—Fair Market Value

B. Items owned outright

Item		

C. Items being bought on credit

Item	Fair Market Value	Minus What's Owed		
		=		
		=		
		=		
		=		
		=		
		=		
		=		
GRAND TOTALS: PETITIONER 1'S AND PETITIONER 2'S SEPARATE PROPERTY				

PETITIONER 1: Pat PETITIONER 2: Chris	CASE NUMBER:

VI. SAMPLE WORKSHEET FOR DETERMINING VALUE AND DIVISION OF COMMUNITY PROPERTY

Note: The information on this form is for an imaginary couple, Pat and Chris, who are married. (When you fill out your worksheet, use your information.)

This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The grand total value of your community property cannot be more than $38,000.

This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

Item	Amount	Pat Receives	Chris Receives
Savings account	150	150	
Life insurance (cash value)	250	250	
Pension plan—Pat	600	600	
Pension plan—Chris	500		500
Checking account	180		180
Subtotal A	1680	1000	680

B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry; do not include cars)

Item	Fair Market Value	Pat Receives	Chris Receives
Furniture & furnishings— Pat's apartment	775	775	
Furniture & furnishings—Chris's apartment	300		300
Terriers season tickets	285		285
Savings bonds	200	200	
Jewelry—Pat	200	200	
Pet parrot and cage	40		40
Subtotal B	1800	1175	625

C. Items you are buying on credit (for example, stereo equipment, appliances, furniture, tools; do not include cars)

Item	Fair Market Value	Minus Amount Owed	=	Net Fair Market Value	Pat Receives	Chris Receives
Stereo set	305	150	=	155		155
Color television	400	100	=	300		300
Golf clubs	350	50	=	300		300
			=			
Subtotal C				755	0	755
Grand total value of community property = A + B + C				4235	2175	2060

PETITIONER 1: PETITIONER 2:	CASE NUMBER:

VI. WORKSHEET FOR DETERMINING VALUE AND DIVISION OF COMMUNITY PROPERTY

This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The grand total value of your community property cannot be more than $38,000.

This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

Item	Amount	PETITIONER 1 Receives	PETITIONER 2 Receives
Subtotal A			

B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry; do not include cars)

Item	Fair Market Value	PETITIONER 1 Receives	PETITIONER 2 Receives
Subtotal B			

C. Items you are buying on credit (for example, stereo equipment, appliances, furniture, tools; do not include cars)

Item	Fair Market Value	Minus Amount Owed	=	Net Fair Market Value	PETITIONER 1 Receives	PETITIONER 2 Receives
			=			
			=			
			=			
			=			
Subtotal C						
Grand total value of community property = A + B + C						

PETITIONER 1: Pat PETITIONER 2: Chris	CASE NUMBER:

VI. SAMPLE WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION

Note: The information on this form is for an imaginary couple, Pat and Chris, who are married. When you fill out your worksheet, use your information and make sure you indicate if you are married, in a domestic partnership, or both.

This side of the worksheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The total amount of your community obligations (debts) cannot be more than $6,000. Do not include car loans. Be sure you include any other debts you took on while you were living together as spouses or domestic partners. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property.** Then add all other debts and bills, including loans, charge accounts, medical bills, and taxes you owe.

This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement.**

Item	Amount Owed	Pat Will Pay	Chris Will Pay
Stereo set	150		150
Color TV	100		100
Golf clubs	50		50
Dr. R. C. Himple	74		74
Sam's Drugs	32		32
College loan	500		500
Cogwell's charge account	275	275	
Mister Charge account	68		68
Green's Furniture	123	123	
Dr. Irving Roberts	37	37	
Pat's parents	150	150	
TOTAL	1559	585	974
		Pat's Share of Community Obligations	**Chris's Share of Community Obligations**

PETITIONER 1: PETITIONER 2:	CASE NUMBER:

VI. WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION

This side of the worksheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The total amount of your community obligations (debts) cannot be more than $6,000. Do not include car loans. Be sure you include any other debts you took on while you were living together as spouses or domestic partners. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property.** Then add all other debts and bills including loans, charge accounts, medical bills, and taxes you owe.

This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement.**

Item	Amount Owed	Petitioner 1 Will Pay	Petitioner 2 Will Pay
TOTAL			
		Petitioner 1 Share of Community Obligations	**Petitioner 2 Share of Community Obligations**

VII. WHAT SHOULD BE INCLUDED IN THE PROPERTY SETTLEMENT AGREEMENT?

A property settlement agreement should contain at least five parts:

I. **Preliminary Statement**
This part identifies the spouses or domestic partners, states that the marriage and/or domestic partnership is being ended, and states that both spouses or partners agree on the details of the agreement.

II. **Division of Community Property**
This part has two sections:
1. What the one spouse or partner receives; and
2. What the other spouse or partner receives.

III. **Division of Community Obligations**
This part has two sections:
1. The amount one spouse or partner must pay and whom he or she must pay it to.
2. The amount the other spouse or partner must pay and whom he or she must pay it to.

IV. **Waiver of Spousal Support**
This part states that each spouse or partner gives up all rights of financial support from the other.

V. **Date and Signature**
Both spouses or partners must write the date and sign the agreement.

An example of a property settlement agreement is found on pages 13–15.

VIII. SAMPLE PROPERTY SETTLEMENT AGREEMENT

Below is a sample of an acceptable **property settlement agreement.** You may use it as a model for your own agreement if you wish. You can find a fill-in-the blanks version of this agreement at *www.courts.ca.gov/selfhelp* in the section on summary dissolution.

- The parts that are underlined will fit most cases. You can copy these parts for your own agreement. Since many of the words have special meanings in the law, you may wish to talk to a lawyer if you want to change the words.
- The parts printed in regular type (not underlined) are based on an imaginary couple. You will need to replace these parts with items that apply to your situation.
- The numbered notes in *italics* in the right-hand column are **not** part of the agreement. They are there to help you understand it. (You will not need the small [1] and [2] in the sample for your agreement.)
- The sample below is for a married couple, so it refers to marriage. If you are ending a domestic partnership, you should say that in your agreement. If you are ending both a marriage and a domestic partnership with the same person, say both and write in the dates of both your marriage and the registration of your domestic partnership.

Remember, you can divide the items any way you want. As long as you both agree, the court will accept it. If you cannot agree about the division of your property and debts, you should file a regular dissolution.*

PROPERTY SETTLEMENT AGREEMENT

1. We are Chris P. Smedlap, hereafter called Chris ,[1] and Pat T. Smedlap, hereafter called Pat.[1] We were married on October 7, 2009, and separated on December 5, 2010. Because irreconcilable differences[2] have caused the permanent breakdown of our marriage, we have made this agreement together to settle once and for all what we owe to each other and what we can expect from each other. Each of us states here that nothing has been held back and that we have honestly included everything we could think of in listing the money and goods that we own; and each of us states here that we believe the other has been open and honest in writing this agreement. Each of us agrees to sign and exchange any papers that might be needed to complete this agreement.

[1] *If you prefer, you can also write "hereafter called "Wife" or "Husband" or "Partner A" or "Partner B" whichever applies. Just make sure it is clear to whom you are referring.*

[2] *This means there are problems in your marriage or domestic partnership that you think can never be solved.* ***Irreconcilable differences is*** *the only legal grounds for getting a* ***summary dissolution.***

* At the trial in a regular dissolution, a judge would set a value on and divide community property and debts into two approximately equal parts as provided by California law.

Each of us also understands that even after a *Joint Petition for Summary Dissolution* is filed, this entire agreement will be canceled if either of us revokes the dissolution proceeding.[3]

II. Division of Community Property[4]

We divide our community property as follows:

1. Chris transfers to Pat as Pat's sole and separate property:

   A. All household furniture and furnishings located at the apartment at 180 Needlepoint Way, San Francisco.[5]

   B. All rights to cash in savings account at Home Savings.

   C. All cash value in life insurance policy insuring life of Pat through Sun Valley Life Insurance.

   D. All retirement and pension plan benefits earned by Pat during marriage.

   E. Two U.S. Savings Bonds, Series E.

   F. Pat's jewelry.

   G. 2003 Chevrolet 4-door sedan.

2. Pat transfers to Chris as Chris's sole and separate property:

   A. All household furniture and furnishings located at the apartment on 222 Bond Street, San Francisco.

   B. All retirement and pension plan benefits earned by Chris during marriage.

   C. Season tickets to Golden State Terriers basketball games.

   D. One stereo set.

   E. One set of Jock Nicklaus golf clubs.

   F. One RAC color television.

   G. 2003 Ford station wagon.

   H. One pet parrot named Arthur, plus cage and parrot food.

   I. All rights to cash in checking account in Bank of America.

[3] *This means that the property agreement is a part of the dissolution proceeding. If either of you decides to stop the dissolution proceeding by turning in a* Notice of Revocation of Petition for Summary Dissolution *(form FL-830) (see page 18), this entire agreement will be canceled.*

[4] *Community property is property that you own as a couple (see page 2).*

If you have no community property, replace Part II with the simple statement ***"We have no community property."***

[5] *If the furniture and household goods in one apartment are to be divided, they may have to be listed item by item.*

III. Division of Community Property (Debts)[6]

1. Chris will pay the following debts and will not at any time hold Pat responsible for them:

   A. Mister Charge account.

   B. Debt to Dr. R. C. Himple.

   C. Debt to Sam's Drugs.

   D. Debt to UC Berkeley for college education loan to Chris.[7]

   E. Debt to Golf Store for golf clubs.

   F. Debt to Everything Electronics for color TV and stereo set.

   G. Debt to Used Ford Store for 2003 Ford.

2. Pat will pay the following debts and will not at any time hold Chris responsible for them:

   A. Cogwell's charge account.

   B. Debt to Pat's parents, Mr. and Mrs. Joseph Smith.

   C. Debt to Green's Furniture.

   D. Debt to Dr. Irving Roberts.

   E. Debt to Friendly Finance Company for 2003 Chevrolet 4-door Sedan.

IV. Waiver of Spousal/Partner Support [8]

Each of us waives any claim for spousal/partner support now and for all time.

V. Dated: _____ Dated: _____

_____ _____

Chris P. Smedlap Pat T. Smedlap

[6] *If you have no unpaid debts, replace Part III with the simple statement* ***"We have no unpaid community obligations."***

[7] *A general rule for dividing debts is to give the debt over to the person who benefited more from the item. In the sample agreement, because Chris received the education, Chris should pay off the loan.*

[8] *You each give up the right to have your spouse or partner support you.*

IX. WHAT STEPS DO YOU HAVE TO TAKE TO GET A SUMMARY DISSOLUTION?

If after reviewing the information in this booklet, you feel your marriage or your domestic partnership will qualify for a summary dissolution, you should carefully go through the following 15 steps. You can fill out the forms, worksheets, and agreements in the summary dissolution section

- online, for free, at *www.courts.ca.gov/selfhelp;*
- with a typewriter; or
- with neat printing.

1. ____ Turn to page 7 and complete the Worksheet for Determining Value of Separate Property. See page 6 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or partner and keep one for your records.

2. ____ Turn to page 9 and complete the Worksheet for Determining Value and Division of Community Property. See page 8 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or partner and keep one for your records.

3. ____ Turn to page 11 and complete the Worksheet for Determining Community Obligations and Their Division. See page 10 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or partner and keep one for your records.

4. ____ Fill out an *Income and Expense Declaration* (form FL-150). You each need to fill out this form and give it to your spouse or partner before you sign your property settlement agreement or complete your divorce. Make one extra copy of your form after it has been completed. Give one copy to your spouse or partner and keep one for your records.

5. ____ Type or print your property settlement agreement if you have any property or debts to divide. Both of you must date and sign it. Make two extra copies. See pages 12–15 for an example and instructions. You can also find a version that you can fill in online at *www.courts.ca.gov/selfhelp* in the information on summary dissolution.

6. ____ Fill out a *Joint Petition for Summary Dissolution* (form FL-800)*. Both* of you must sign and date this petition. Make two extra copies of this form. (This is the form you need to ***START*** the process.)

   Note: *When signing your joint petition and your property settlement agreement, you are signing these documents under penalty of perjury under the laws of the State of California, which is the same as being sworn to testify in court.*

   You may not sign each other's name.

7. ____ Make three sets of forms that include copies of your property settlement agreement and a copy of your *Joint Petition for Summary Dissolution* (form FL-800)*.* Staple each set together.

8. ____ Fill out the top portion of the *Judgment for Dissolution and Notice of Entry of Judgment* (form FL-825) and make three copies of it. (If you filed your *Joint Petition for Dissolution* before January 1, 2011, read the NOTICE after step 15.)

9. ____ Make one extra copy of a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) so each of you has one, and hold on to it. This is the form you would need to **STOP** the process. You may wish to use it during the waiting period if you change your mind and want to stop the process. You should keep one copy. See page 18 for more information.

10. ____ Take your *Joint Petition for Summary Dissolution* (form FL-800), *Judgment for Dissolution and Notice of Entry of Judgment* (form FL-825), and all of your copies to the superior court clerk's office together with two self-addressed, stamped envelopes (one addressed to each spouse or partner). The location of your superior court clerk's office can be found in the phone book or online at *www.courts.ca.gov/find-my-court.htm.* The clerk will stamp the date on all copies, will keep one copy of each document, and will return the other two to you. One copy is for each spouse or partner.

11. ____ Pay the superior court clerk's filing fee. If you cannot afford to pay the filing fee, you may qualify for a fee waiver based on your income. If one of you qualifies for a fee waiver but the other one does not, the one who does not qualify will have to pay the filing fee. To request a fee waiver, see *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO). You will need to prepare a *Request to Waive Court Fees* (form FW-001) and an *Order on Court Fee Waiver* (form FW-003).

12. ____ The clerk will file your joint petition and return the copies to you and your spouse or partner. The court may also process the *Judgment for Dissolution* at that time, in the next few weeks, or after the six month waiting period has expired and give or mail it to you and your spouse or partner. The *Judgment for Dissolution and Notice of Entry of Judgment* (form FL-825) will have a date on which the dissolution ending your marriage, domestic partnership, or both will be final. That is the effective date of your dissolution and it will be six months from the date you file your joint petition. The six month waiting period is mandated by law.

13. ____ Put your copies of all documents in a safe place.

14. ____ Wait for six months. If either one of you wants to stop the summary dissolution case, fill out and file a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) before the six months run out.

15. ____ On the day that appears on your *Judgment of Dissolution* and *Notice of Entry of Judgment (*form FL-825*)* as the effective date of your dissolution:

a. Your marriage or domestic partnership (or both) is ended;
b. The agreements you made in your property settlement agreement are binding—you will then own the property assigned to you, and you will have to pay the bills assigned to you;
c. Except for those agreements, you and your spouse or partner have no further obligations to each other; and
d. You are legally free to remarry or register a new domestic partnership.

REMEMBER: Either of you can stop the process by filling out a *Notice of Revocation of Petition for Summary Dissolution (form FL-830)* and bringing it to the superior court clerk during the six-month waiting period before the date your dissolution is effective according to the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) that you received from the court.

X. WHAT YOU SHOULD KNOW ABOUT REVOCATION

It is important to realize that the *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) is not just another form you are supposed to fill out and turn in.

Do not fill it out and do not bring it to the superior court clerk unless you want to stop the divorce!

What is the notice of revocation for?

This is the form you need if you want to stop the divorce. **Revoking** the agreement is canceling or stopping it.

What reasons are there for revoking?

There are three reasons you might have for wanting to stop the summary dissolution:

1. You have decided to return to your spouse or partner and continue the marriage or domestic partnership;
2. You want to change over to the regular dissolution as a better way of getting your divorce; or
3. You learn that one of you is pregnant.

Why might you want to change over to the regular dissolution?

You may come to believe that you will get a better settlement if you go to court than with the agreement you originally made with your spouse or partner. (Maybe, after thinking it over, you feel you are not receiving a fair share of the community property.)

How do you do it?

At the time you picked up the joint petition forms, you and your spouse or partner also received a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830). Fill out the form, sign it, make two copies, and bring them to the superior court clerk's office. You must also send a copy of form FL 830 to your spouse or domestic partner by first-class mail, postage prepaid, to his or her last known address. You can do this alone. This form does not need your spouse's or partner's signature.

If you do this at any time during the six-month waiting period, before the effective date of your dissolution, you will stop this divorce proceeding.

Can the dissolution be stopped once the waiting period is over?

NO. After the date the court wrote on your *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) as the date your marriage or domestic partnership is ended (the date the divorce is effective), you can no longer revoke the dissolution by filing the revocation form. You may have other legal options, but you will need to talk to a lawyer about them.

If you change over to a regular dissolution, what happens to the part of the waiting period that has passed?

You can apply the amount of time you waited on the summary dissolution to your regular dissolution. For example, if four months went by before you decided to revoke the summary dissolution, the waiting period for the regular dissolution will be shortened by four months.

However, you can save this time **only** if you file for a regular dissolution within 90 days of revoking the summary dissolution.

XI. SHOULD YOU SEE A LAWYER?

Must you have a lawyer to use the summary dissolution procedure?

No. You can do the whole thing by yourselves. But it would be wise to see a lawyer before you decide to do it yourselves. You should not rely on this booklet only. It is not intended to take the place of a lawyer.

If you want legal advice, does that mean you have to hire a lawyer?

No. You may hire a lawyer, of course, but you can also just visit a lawyer once or twice for advice on how to carry out the dissolution proceeding. Do not be afraid to ask the lawyer in advance what fee will be charged. It may be surprisingly inexpensive to have a lawyer handle your divorce.

Do you have to accept your lawyer's advice?

No, you do not. And if you are not pleased with what one lawyer advises, you can feel free to go to another one.

How can a lawyer help you with the summary dissolution procedure?

First, a lawyer can advise you, on the basis of your personal situation, whether you ought to use the regular dissolution procedure rather than the summary dissolution procedure.

Second, a lawyer can read your property settlement agreement to help you figure out if you have thought of everything you should have. (It is easy to forget things you do not see very often, such as savings bonds and safe deposit boxes.)

Third, in many situations it is not easy to figure out what should count as community property and what should count as separate property. Suppose one of you had money before the marriage and put it into a bank account in both of your names and then both of you used money from that account. It may not be easy to decide how the money remaining in that account should be divided. A lawyer can advise you on how to make these decisions.

Fourth, there may be special situations in which your property settlement is not covered by the sample agreement on pages 13–15.

A lawyer can help you put the agreement in words that are legally precise and cannot be challenged or misinterpreted later.

Where can you find a lawyer?

You can locate organizations that can help you find a lawyer in the yellow pages of your telephone directory under "Attorneys," "Attorney Referral Service," or "Lawyer Referral Service." In many cases you will be able to find an attorney who will charge only a small fee for your first visit. You can get information about free or low-cost legal services through the county bar association in your county. You can find information about certified lawyer referral services at *www.courts.ca.gov/selfhelp* or on the State Bar website at *www.calbar.ca.gov.*

XII. SOME GENERAL INFORMATION

What about income taxes?
If you have filed a joint tax return, both of you will still be responsible for paying any unpaid taxes even after your divorce.

If you are receiving a tax refund, you should agree in the property settlement agreement on how it should be divided.

The amount of money that you will owe, or that will be taken out of your paycheck, for income taxes may be greater after you are single again. If that is the case, you should prepare yourself for a bigger tax obligation.

It would be a good idea to consult the Internal Revenue Service or a tax expert on how the divorce is going to affect your taxes. You should probably do this before you make your property settlement agreement.

What about bank accounts and credit cards?
If you have a joint bank account, it may be a good idea to close it when you separate and get two individual bank accounts. That way it will be easier to keep your money separate.

If you have credit card accounts that you both have been using, you should destroy the cards and take out separate accounts.

What about cars?
If both of your names are on a title to a car and you agree that one of you is going to own the car, you need to take action to change the ownership. You should call or visit the Department of Motor Vehicles to find out how to do that. You should also talk to the lender to get the debt into one person's name and change the insurance coverage after both the title and debt are transferred.

What if your spouse or domestic partner does not pay his or her debts?
If your spouse or domestic partner does not pay a debt that is his or her responsibility, the person who loaned the money may be able to collect it from you. But then a court may order your spouse or partner to reimburse you. If you have any reason to worry about this, a lawyer can explain your rights to you.

Can you take back your former name?
If you changed your name when you were married or registered your domestic partnership, you have the right to give up that name and get your former name back. You can do this by requesting it in the joint petition. If you do not request this in the joint petition, you can file a form called *Ex Parte Application for Restoration of Former Name After Entry of Judgment and Order* (form FL-395). Your spouse or partner cannot make you change your name.

What if I am not happy with my final judgment?
When your divorce is final, all your rights and duties connected with your marriage or domestic partnership have ended and you cannot appeal. But if you decide later that you were cheated or pressured by your spouse or partner, or if you believe that a mistake was made in the paperwork connected with the divorce, the court may be able to set aside the divorce. A lawyer can explain your rights.

FL-910 Request of Minor to Marry or Establish a Domestic Partnership

Clerk stamps date here when form is filed.

NOT APPROVED BY THE JUDICIAL COUNCIL

Fill in court name and street address:

Superior Court of California, County of

Clerk fills in case number when form is filed.

Case Number:

1 Minor Requesting Court Order

Date of birth: _____

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

2 Minor's Proposed Spouse or Domestic Partner

Date of birth: _____

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

3 Your Lawyer's Information *(if you have a lawyer):*

Name: _____

Telephone number: _____ E-mail: _____

Address: _____

State Bar number: _____

4 Request

The people listed in 1 and 2 above request that the court grant permission to
☐ Marry ☐ Establish a Domestic Partnership.

5 Written Permission

You must attach permission to marry or establish a domestic partnership 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 1's *(check one):* ☐ mother ☐ father ☐ guardian
☐ Other *(explain):* _____

b. ☐ Permission from 2's *(check one):* ☐ mother ☐ father ☐ guardian
☐ Other *(explain):* _____

6 Premarital Counseling

If requesting permission to marry, the judge may require you to go to premarital counseling to learn about the social, economic, and personal responsibilities of marriage.

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

Date: _____

▶ _____
Person 1 signs here

Date: _____

▶ _____
Person 2 signs here

FL-915 Order on Request of Minor to Marry or Establish a Domestic Partnership

Clerk stamps date here when form is filed.

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 Minor Requesting Court Order

Date of birth: _____

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

2 Minor's Proposed Spouse or Domestic Partner

Date of birth: _____

Name: _____

Street address: _____

City: _____ State: _____ Zip: _____

Telephone number: _____

3 Your Lawyer's Information *(if you have a lawyer):*

Name: _____

Address: _____

Telephone number: _____ E-mail: _____

State Bar number: _____

4 The court has considered the *Request of Minor to* ☐ *Marry* ☐ *Establish a Domestic Partnership* filed by the people listed in (1) and (2) above 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 may establish a domestic partnership if they meet all other requirements to file a Declaration for Domestic Partnership.

c. ☐ This couple must go to premarital counseling to learn about the social, economic, and personal responsibilities of marriage (applies only to a request of minor to marry).

d. ☐ This couple may not get married at this time. The court finds that the person or persons under 18 are not able to consent to marriage.

e. ☐ The court is considering whether it is in the best interest of the person or persons under 18 to marry or establish a domestic partnership at this time. The matter is scheduled for a hearing on

Hearing Date → Date: _____ Time: _____ ☐ a.m. ☐ p.m.

Dept./Rm. or Address: _____

f. ☐ The couple must show a certificate of completion of premarital counseling before permission is granted (applies only to a request of minor to marry).

g. ☐ Other:

Date: _____

▶ _____

Judge (or Judicial Officer)

This is a Court Order.

BILL NUMBER: SB 651 CHAPTERED
BILL TEXT

CHAPTER 721
FILED WITH SECRETARY OF STATE OCTOBER 9, 2011
APPROVED BY GOVERNOR OCTOBER 9, 2011
PASSED THE SENATE SEPTEMBER 9, 2011
PASSED THE ASSEMBLY SEPTEMBER 8, 2011
AMENDED IN ASSEMBLY SEPTEMBER 2, 2011
AMENDED IN ASSEMBLY JUNE 22, 2011
AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE MARCH 31, 2011

INTRODUCED BY Senator Leno
(Coauthors: Senators De León, Pavley, and Yee)
(Coauthors: Assembly Members Ammiano, Block, Blumenfield, Chesbro, Gordon, Huffman, Ma, V. Manuel Pérez, Portantino, and Skinner)

FEBRUARY 18, 2011

An act to amend Sections 297 and 2320 of, and to add Sections 297.1 and 298.7 to, the Family Code, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

SB 651, Leno. Family law: domestic partnerships.

Existing law provides that 2 unmarried, unrelated adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring may establish a domestic partnership by filing a declaration with the Secretary of State if certain requirements are met, including that both persons have a common residence and that both persons are at least 18 years of age. Existing law authorizes 2 unmarried persons, not minors, who have been living together as husband and wife to obtain a confidential marriage license, as specified.

This bill would eliminate the requirement that domestic partners have a common residence. This bill would also permit a person who is under 18 years of age who otherwise meets the requirements for establishing a domestic partnership to do so upon obtaining a court order that provides that authority to the underage person. The bill would also provide for the consent of the underage person's parent or guardian, except as specified, and would require that the court order and the written consent be filed with the court clerk and submitted to the Secretary of State with a Declaration of Domestic Partnership. The bill would also require the Secretary of State to establish a process by which 2 persons could enter into a confidential domestic partnership and maintain each confidential Declaration of Domestic Partnership, as specified, and permit the Secretary of State to charge a reasonable fee in this regard.

Existing law prohibits a judgment of dissolution of marriage from being entered unless one of the parties to the marriage has been a resident of this state for 6 months and of the county in which the proceeding is filed for 3 months before the filing of the petition.

This bill would authorize a judgment for dissolution, nullity, or legal separation of a marriage between persons of the same sex to be

entered if the marriage was entered in California and neither party to the marriage resides in a jurisdiction that will dissolve the marriage.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 297 of the Family Code is amended to read:

297. (a) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(b) A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division, and, at the time of filing, all of the following requirements are met:

(1) Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.

(2) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.

(3) Both persons are at least 18 years of age, except as provided in Section 297.1.

(4) Either of the following:

(A) Both persons are members of the same sex.

(B) One or both of the persons meet the eligibility criteria under Title II of the Social Security Act as defined in Section 402(a) of Title 42 of the United States Code for old-age insurance benefits or Title XVI of the Social Security Act as defined in Section 1381 of Title 42 of the United States Code for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are over 62 years of age.

(5) Both persons are capable of consenting to the domestic partnership.

SEC. 2. Section 297.1 is added to the Family Code, to read:

297.1. (a) A person under 18 years of age who, together with the person with whom he or she proposes to establish a domestic partnership, otherwise meets the requirements for a domestic partnership other than the requirement of being at least 18 years of age, is capable of consenting to and establishing a domestic partnership upon obtaining a court order granting permission to the underage person or persons to establish a domestic partnership.

(b) (1) The court order and written consent of the parents of each person under 18 years of age or of one of the parents or the guardian of each person under 18 years of age, except as provided in paragraph (2), shall be filed with the clerk of the court, and a certified copy of the order shall be filed with the Secretary of State with the Declaration of Domestic Partnership.

(2) If it appears to the satisfaction of the court by application of a person under 18 years of age that the person requires a written consent to establish a domestic partnership and that the minor has no parent or guardian, or has no parent or guardian capable of consenting, the court may make an order consenting to establishing the domestic partnership. The order shall be filed with the clerk of the court and a certified copy of the order shall be filed with the Secretary of State with the Declaration of Domestic Partnership.

SEC. 3. Section 298.7 is added to the Family Code, to read:

298.7. The Secretary of State shall establish a process by which two persons, who have been living together as domestic partners and who meet the requirements of paragraphs (1) to (5), inclusive, of subdivision (b) of Section 297, may enter into a confidential domestic partnership. This process shall do all of the following:

(a) Maintain each confidential Declaration of Domestic Partnership as a permanent record that is not open to public inspection except upon order of the court issued upon a showing of good cause.

(b) Authorize the Secretary of State to charge a reasonable fee to offset costs directly connected with maintaining confidentiality of a Declaration of Domestic Partnership.

SEC. 4. Section 2320 of the Family Code is amended to read:

2320. (a) Except as provided in subdivision (b), a judgment of dissolution of marriage may not be entered unless one of the parties to the marriage has been a resident of this state for six months and of the county in which the proceeding is filed for three months next preceding the filing of the petition.

(b) (1) A judgment for dissolution, nullity, or legal separation of a marriage between persons of the same sex may be entered, even if neither spouse is a resident of, or maintains a domicile in, this state at the time the proceedings are filed, if the following apply:

(A) The marriage was entered in California.

(B) Neither party to the marriage resides in a jurisdiction that will dissolve the marriage. If the jurisdiction does not recognize the marriage, there shall be a rebuttable presumption that the jurisdiction will not dissolve the marriage.

(2) For the purposes of this subdivision, the superior court in the county where the marriage was entered shall be the proper court for the proceeding. The dissolution, nullity, or legal separation shall be adjudicated in accordance with California law.

Item SP11-16 Response Form

Title: Family Law: Domestic Partnerships and Same Sex Marriages (revise forms FL-103, FL-123, FL-800, FL-810, FL-910, and FL-915)

☐ **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 submitted online, written on this form, or prepared in a letter format. 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. You are welcome to email your comments as an attachment.

Internet: www.courts.ca.gov/policyadmin-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., Tuesday, November 1, 2011

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.