

Divorce – La. Civ. Code Art. 103(1)

*This information is only a guide for self-represented litigants. It is not legal advice and should be considered as legal information only. *Louisiana Code of Civil Procedure*

24th JDC Domestic Forms:

<https://www.24jdc.us/forms/>

Orleans CDC Self Help Forms:

<https://www.orleanscdc.com/domesticHD.html>

Step 1: File the Petition

- Divorce (*with no minor children*): Must have lived separate and apart for **180 days**
- Divorce (*with minor children*): Must have lived separate and apart for **365 days**
 - Custody arrangement of children must be detailed in the Petition if hearing is requested
- *Jurisdiction*: either the Petitioner or Defendant must **permanently reside in Parish where filing**.
- **Forms filed together**: “Petition for Divorce” & “Verification”

Step 2: Service: Notifying defendant of court action. Service is essential to protecting our *due process* rights.

Acceptance of Service (Defendant is ready for divorce too): Complete Step 1 and request a **certified copy** of the petition from the clerk. Give this and the “**Acceptance of Service**” form to your spouse. They will **sign it in front of a notary**. The completed form is then filed with the court (you can file it or they can run up to the clerks’ office themselves)

Sheriff Service: Deputy will serve your spouse either personally or at their last known residence (domicillary)

Incarcerated Defendant Service: Warden of the Correctional Facility is served; direct clerk to do so via letter (La.CCP art 1235.1)*

Long Arm Service: (Defendant outside LA) Request service by long-arm in the petition. The Clerk will mail defendants’ documents to you. Mail this packet to your defendant using a service that requires signature at delivery. When the defendant signs, you will receive a signature card in the mail. This is your evidence of service. You then attach this proof to an *affidavit* stating how the defendant was served and file it in the record.



0 Days – defendant waived legal delays provided by law



Spouse is allowed **15 days** from *date served* to answer suit before proceeding.



Wait **30 days** from date *Affidavit of Service via Certified Mail* was filed in the court records before proceeding.

Step 3: Preliminary Default: if defendant accepts the petition or does **not** file an answer, you can request a default judgment

Once the **Acceptance of Service** document is filed, you are welcome to file the **Motion for Preliminary Default**. They can even be filed at the same time. The benefit of the acceptance by the defendant is that you can get a default judgment immediately.

Check to see if your spouse has filed an answer. If they have filed an answer, you will have to go to trial. If they have not filed an answer and 15 days has passed from their service date, you can file **Motion for Preliminary Default**.

After 30 days, you may file **Motion for Preliminary Default**. If they have filed an answer, you will have to go to trial.



Once “Motion for Preliminary Default” has been signed and filed, you must wait **THREE (3) days** before signing the form “**Affidavit of Facts**”



Step 4: File together → Affidavit of Facts, Certification by Self-Represented Litigant, 1702E Checklist, Judgment of Divorce, Maiden Name Change (if needed)

- Affidavit of Facts reconfirms you did not reconcile over the course of the divorce. It must be signed before a notary
- 1702E Checklist can be found here: https://www.lasc.org/rules/dist.ct/Title_IV/APPENDIX_28.1B.pdf
- *You are divorced as of the date of the Judge’s/Commissioner’s signature at the bottom of the Judgment of Divorce*
- If you want to return to using your maiden name or the name of your minor children from a previous marriage, then complete the form “**Motion to Resume Using Maiden Name/Name of Minor Children**.” You may file this at the same time you file the “Affidavit of Facts” and the Final Judgment of Divorce for the Judge/Commissioner to sign.