

The Complete California Divorce Guide



**Everything You Need to Know About Divorce,
Joint Petitions, Mediation and Your Legal Rights**

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Welcome

If you're reading this guide, you're likely facing one of the most significant transitions of your life. Divorce can bring uncertainty, difficult decisions, and emotions that feel overwhelming. While every family's journey is different, one thing remains true: having the right information can make all the difference.

As a Certified Divorce Mediator and Certified Divorce Specialist with more than 20 years of experience helping people navigate conflict and life-changing decisions, I created this guide to give you the knowledge, confidence, and practical tools you need to understand the California divorce process.

Inside, you'll find a clear, step-by-step explanation of how to file for divorce in California, what forms and documents you'll need, your legal rights and responsibilities, and how to prepare for important decisions involving property, finances, and, if applicable, your children. You'll also discover how divorce mediation can help many couples reach fair, lasting agreements while avoiding the stress, expense, and uncertainty of courtroom litigation.

Remember, divorce is not simply the end of a marriage, it is the beginning of a new chapter.

Wishing you peace, clarity, and hope for the road ahead,

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



How to Use This Guide

This guide is designed to walk you through every stage of the California divorce process, from deciding whether divorce is the right path to receiving your final Judgment of Dissolution. Whether you are considering filing for divorce, responding to a petition, exploring mediation, or simply trying to understand your legal rights, you can read the guide from beginning to end or use the Table of Contents to jump directly to the topics most relevant to your situation. Each chapter explains complex legal concepts in clear, easy-to-understand language and includes practical tips, checklists, and real-world examples to help you make informed decisions.

Throughout the guide, you'll also find Mediation Tips highlighting opportunities to reduce conflict, save time, and reach lasting agreements outside the courtroom. While this guide is intended to provide comprehensive educational information about California divorce law and procedure, it is not legal advice. Every family's circumstances are unique, and you should consult with a qualified family law attorney or mediator if you have questions about how the law applies to your specific situation.



Divorce vs. Legal Separation vs. Annulment

When a marriage is no longer working, California law provides three different legal options: **divorce (dissolution of marriage), legal separation, and annulment**. Although each process addresses important issues such as property, finances, and, when applicable, child custody and support, they have very different legal consequences. Throughout this guide, you'll learn how each option works and how mediation can help resolve issues regardless of which legal process you choose.

A divorce legally ends a marriage, allowing each spouse to remarry once the divorce is finalized.

A legal separation allows spouses to live separately and obtain legally binding court orders regarding property division, child custody, child support, and spousal support without ending the marriage. Some couples choose legal separation for religious, financial, insurance, or personal reasons. There are no California residency requirements to file for a legal separation.

An annulment, formally known as a Judgment of Nullity, is different because it declares that a valid marriage never legally existed due to specific circumstances recognized under California law, such as fraud, force, incapacity, or an existing prior marriage. Annulments are available only in limited situations and require meeting strict legal requirements.



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Understanding Divorce in California



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- Financial Considerations
- Parenting Considerations
- Emotional Readiness
- When Mediation Makes Sense
- When Litigation May Be Necessary

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Questions to Ask Yourself

Before filing for divorce, take time to honestly reflect on your relationship, your goals, and what you hope your future will look like. There are no right or wrong answers, but thoughtful self-reflection can help you determine whether divorce is the appropriate next step or whether additional communication, counseling, or mediation may be beneficial. Ask yourself:

- Have we exhausted reasonable efforts to improve our relationship?
- Are our disagreements temporary or long-term?
- Is there mutual respect between us?
- Are we able to communicate without constant conflict?
- Would marriage counseling or mediation help us better understand our options?
- Are there issues involving abuse, addiction, or safety that require immediate attention?
- How would divorce affect our children?
- Am I making this decision based on temporary emotions or long-term realities?
- What kind of relationship do I hope to have with my spouse after the divorce, especially if we will continue co-parenting?
- What does success look like for me one year after the divorce is finalized?

For many people, divorce is not simply about ending a marriage—it is about creating a healthier future. Taking time to define your goals now can help guide important decisions throughout the legal process.

Self-Reflection Exercise

Before moving forward, write down your answers to the following questions:

Why am I considering divorce?

What concerns me most about staying married?

What concerns me most about divorce?

What do I hope life looks like after divorce?

Financial Considerations



Financial Considerations

Begin by Gathering a Complete Picture of Your Finances

Divorce changes not only your legal status but also your financial future. Understanding your current financial situation before filing can reduce stress and help you make informed decisions during property division, support discussions, and settlement negotiations. Consider:

Income

- Employment income
- Bonuses and commissions
- Self-employment income
- Rental income
- Retirement income
- Investment income

Assets

- Bank accounts
- Retirement accounts
- Investment accounts
- Real estate
- Businesses
- Vehicles
- Valuable personal property

Debts

- Mortgages
- Auto loans
- Student loans
- Credit cards
- Tax obligations
- Personal loans

Monthly Living Expenses

- Housing
- Utilities
- Insurance
- Childcare
- Transportation
- Food
- Medical expenses
- Entertainment
- Debt payments

Many couples underestimate how much their monthly expenses will change after divorce. Preparing a post-divorce budget early in the process can help you understand your future financial needs and identify areas that may require adjustment.

If you or your spouse owns a business, has stock options, retirement benefits, pensions, or other complex assets, additional financial planning may be appropriate.



Parenting Considerations

If you have children, their well-being should remain at the center of every decision.

Although your marriage may be ending, your role as parents continues for many years to come. Children generally benefit when parents are able to:

- Communicate respectfully.
- Avoid exposing children to conflict.
- Maintain consistent routines.
- Support healthy relationships with both parents when appropriate.
- Make important decisions together.
- Keep children out of adult disagreements.

Ask yourself:

- What parenting arrangement would best serve our children?
- How can we minimize conflict during the divorce?
- Are we willing to work together as co-parents?
- What schedule will provide stability?
- How will holidays, vacations, birthdays, and school activities be handled?
- How will we communicate after divorce?

Remember that California courts focus on **the best interests of the child**, not the preferences of either parent. Parents who are able to develop a thoughtful parenting plan together often experience fewer future conflicts and provide greater stability for their children.

Parenting Reflection

My children's greatest needs are:

The most important values I want them to experience during this transition are:



Emotional Readiness

Divorce is both a legal process and an emotional journey.

Even when both spouses agree that divorce is the best decision, it is common to experience a wide range of emotions, including grief, anxiety, fear, relief, sadness, guilt, uncertainty, or hope. Emotional readiness does not mean you have all the answers or that you never feel overwhelmed. Instead, it means recognizing your emotions while making thoughtful decisions rather than reacting impulsively. Important legal and financial choices are often easier to make when emotions are acknowledged but not allowed to control the process.

Many people find it helpful to build a support system that may include trusted family members, friends, therapists, clergy, support groups, financial professionals, or divorce coaches. Seeking support is not a sign of weakness, it is often an important part of successfully navigating one of life's most significant transitions.

Ask yourself:

- Am I making decisions based on facts rather than emotions?
- Do I have a support system?
- Am I taking care of my physical and emotional health?
- Am I prepared to communicate respectfully, even during difficult conversations?
- What healthy coping strategies can I rely on during this process?

Remember that healing takes time. Divorce marks the end of one chapter, but it can also create the opportunity to build a healthier and more fulfilling future.

Understanding Your Feelings

1. What emotions am I experiencing most often right now (e.g., sadness, anger, fear, relief, guilt, hope)?
2. What events or circumstances have led me to consider divorce?
3. Am I making this decision based on long-term patterns in my marriage or a recent conflict?
4. What are my greatest fears about divorce?
 - ☐ Financial stability
 - ☐ Being alone
 - ☐ Impact on my children
 - ☐ Starting over
 - ☐ Family relationships
 - ☐ Other: _____
5. If my divorce were finalized one year from today, what would I hope my life looks like?
6. What positive changes do I hope divorce may bring?
7. What challenges do I expect during the transition?
8. Am I able to communicate respectfully with my spouse, even when we disagree?
9. What situations tend to increase conflict between us?
10. What can I do to improve communication during this process?
11. Who can I rely on for healthy emotional support during my divorce?
12. What additional support might I need?
13. How do I hope my children will describe this transition five years from now?
14. What can I do today to help protect my children emotionally during this process?
15. What activities help me manage stress in healthy ways?



When Mediation Makes Sense

Many couples assume that divorce automatically means going to court.

In reality, most California divorce cases are resolved through settlement rather than trial. Mediation offers couples the opportunity to work together with the assistance of a neutral third party to resolve important issues in a respectful and confidential setting. Mediation may be an excellent option if you and your spouse:

- Want to avoid lengthy court battles.
- Wish to reduce legal costs.
- Prefer to make your own decisions rather than having a judge decide for you.
- Want greater privacy.
- Need to preserve a co-parenting relationship.
- Own a business together.
- Have complex financial issues.
- Want flexible, customized solutions.
- Are willing to negotiate in good faith.

Mediation does not require spouses to agree on everything before they begin. In fact, many couples enter mediation with significant disagreements. A skilled mediator helps facilitate productive conversations, improve communication, and guide spouses toward practical solutions that meet the needs of both parties and their family.

For many families, mediation provides a more collaborative, less adversarial path through divorce while helping preserve important relationships for the future.

Although mediation is highly effective for many families, it is not appropriate in every situation. There are circumstances in which court intervention may be necessary to protect the rights, safety, or interests of one or both spouses. Litigation may be more appropriate when:

- There are credible allegations of domestic violence or abuse.
- One spouse is unwilling to participate in good faith.
- There are serious concerns about coercion or intimidation.
- A spouse is intentionally hiding assets or income.
- Emergency court orders are needed to protect children or property.
- Complex legal issues require judicial determination.
- One party refuses to comply with legal obligations or court orders.
- Significant disagreements cannot be resolved through negotiation or mediation.

Choosing litigation does not necessarily mean your case will proceed to trial. Many litigated cases still settle before reaching the courtroom. However, when fundamental disputes cannot be resolved collaboratively, the Family Court has the authority to make legally binding decisions based on California law and the evidence presented by both parties.

Mediation Tip

Emotional readiness does not mean you have all the answers or that the path ahead will be easy. It means you are willing to move forward thoughtfully, seek support when needed, and make decisions that align with your values and your family's long-term well-being. Taking time to prepare emotionally today can help you navigate the divorce process with greater clarity, resilience, and confidence.



When Litigation May Be Necessary

Although many California divorces can be resolved through mediation or a Joint Petition, not every case is appropriate for a cooperative process. Some situations require the court's intervention to protect the rights, safety, or financial interests of one or both spouses. When this occurs, the traditional litigation process may be the most appropriate path.

Choosing litigation does not mean a divorce will necessarily end in a trial. In fact, most litigated divorce cases eventually settle before trial. However, litigation provides a structured legal process that allows the court to issue temporary orders, require the exchange of information, resolve disputes, and make binding decisions when spouses cannot reach an agreement.

Litigation May Be Appropriate When:

There Is Domestic Violence or Safety Concerns

The safety of you and your children should always come first. If there is a history of domestic violence, threats, intimidation, coercive control, or fear of retaliation, mediation or a Joint Petition may not be appropriate unless adequate safeguards are in place. In these situations, the court can issue protective orders and make temporary decisions regarding custody, visitation, support, and possession of the family home.

One Spouse Refuses to Participate

A Joint Petition requires both spouses to voluntarily file together and participate in the process. If one spouse:

- Refuses to communicate,
- Will not sign documents,
- Ignores requests to participate, or
- Does not want to cooperate, the other spouse may need to begin a traditional divorce by filing a Petition for Summary Dissolution (FL-800) not a Joint Petition (FL-700).

Immediate Court Orders Are Needed

Sometimes important issues cannot wait until mediation is completed. The court may need to issue temporary orders regarding:

- Child custody
- Parenting time
- Child support
- Spousal support
- Exclusive use of the family residence
- Payment of household expenses
- Restraining orders protecting assets

Temporary orders provide stability while the divorce is pending and remain in effect until modified by the court or incorporated into the final judgment.

Hidden Assets or Financial Misconduct

California law requires both spouses to fully disclose all assets, debts, income, and expenses. Litigation may be necessary if there are concerns that one spouse is:

- Hiding bank accounts
- Failing to disclose investments
- Underreporting income
- Transferring property to others
- Destroying financial records
- Misusing community funds

Attorneys use formal discovery tools, such as subpoenas and depositions, etc.



When Litigation May Be Necessary, cont.

Significant Disagreements About Parenting

Parents often have different opinions regarding custody and parenting schedules. While mediation can successfully resolve many parenting disputes, court intervention may become necessary when parents cannot agree on issues affecting the children's best interests.

Examples include disagreements about:

- Legal custody
- Primary residence
- Parenting schedules
- Relocation
- Education
- Medical decisions
- Safety concerns

In these situations, the judge may issue custody and visitation orders after considering the evidence and California's "best interests of the child" standard.

Complex Financial or Business Disputes

Many divorces involve substantial assets that require professional analysis. Examples include:

- Family-owned businesses
- Professional practices
- Multiple real estate properties
- Executive compensation
- Stock options
- Investment portfolios
- Separate property reimbursement claims

Although these matters are often successfully resolved in mediation with the assistance of financial professionals, litigation may be necessary if the parties cannot agree on valuation or division.

One Spouse Acts in Bad Faith

The success of mediation depends on both spouses negotiating honestly and respectfully.

Litigation may become necessary if one spouse repeatedly:

- Delays the process
- Refuses to provide information
- Violates court orders
- Harasses the other spouse
- Makes unreasonable demands solely to prevent settlement

The court has the authority to enforce deadlines, compel compliance, and issue sanctions when appropriate.

Litigation and Mediation Are Not Mutually Exclusive

It is important to understand that choosing litigation does not prevent spouses from using mediation. Many California couples begin with a traditional divorce filing because immediate court orders are necessary, but later participate in mediation to resolve property division, support, or parenting issues. Likewise, some couples begin mediation but later seek limited court involvement to address a specific dispute. In many cases, litigation and mediation work together rather than as competing processes.



Understanding Divorce in California



Chapter 2

Understanding California Family Law

- California Divorce Options: Traditional Divorce (FL-100), Joint Petition (FL-700) and Summary Dissolution (FL-800) and their Eligibility
- California No-Fault Divorce, Community Property Laws & Separate Property
- Family Court Overview
- Residency Requirements
- Military Families
- Registered Domestic Partners



Understanding California Divorce Options

California offers three primary ways to begin the legal process of ending a marriage or registered domestic partnership. While each process ultimately leads to the same legal result—a judgment dissolving the marriage or domestic partnership—they differ significantly in how the case begins, who qualifies, and the level of cooperation required between the parties. Choosing the appropriate filing process is one of the first and most important decisions you will make during your divorce. The right option depends on your family's circumstances, your willingness to work together, and whether you meet California's eligibility requirements. The three filing options are:

- **FL-100 – Petition—Marriage/Domestic Partnership (Family Law) (Traditional Divorce)**
- **FL-700 – Joint Petition—Marriage/Domestic Partnership (Joint Petition)**
- **FL-800 – Joint Petition for Summary Dissolution (Summary Dissolution)**

Option 1: Traditional Divorce (FL-100)

The Petition-Marriage/Domestic Partnership (FL-100) is the traditional method for filing for divorce, legal separation, or annulment in California. One spouse initiates the case by filing the petition, and the other spouse is formally served with the court papers. The responding spouse then has the opportunity to file a Response (FL-120). This process is appropriate for both contested and uncontested cases and is often necessary when only one spouse wishes to proceed or when immediate court orders are needed.

Best for:

- Contested divorces
- One spouse files independently
- Cases requiring temporary court orders
- High-conflict situations
- Cases involving domestic violence or financial disputes

Option 2: Joint Petition (FL-700)

Effective January 1, 2026, California introduced the Joint Petition-Marriage/Domestic Partnership (FL-700), allowing many couples to begin the divorce or legal separation process together. Instead of one spouse filing against the other, both spouses jointly sign and file the petition, eliminating the need for formal service of process and a Response (FL-120).

FL-700 is available to a broad range of cooperative couples, including those with children, real estate, businesses, retirement accounts, and higher-value assets, provided they intend to resolve their issues through agreement. Best for:

- Cooperative couples
- Mediation clients
- Couples with children
- Long-term marriages
- Complex financial situations resolved by agreement

Option 3: Summary Dissolution (FL-800)

Summary Dissolution is California's simplified divorce process for couples who **meet strict statutory eligibility requirements**. Couples who qualify jointly file the Joint Petition for Summary Dissolution (FL-800) and follow a streamlined procedure. Unlike FL-700, Summary Dissolution is available only to couples who satisfy every eligibility requirement established by California law. If even one requirement is not met, the couple must instead file either a Joint Petition (FL-700) or proceed with Traditional Divorce (FL-100).



Traditional Divorce (FL-100) vs. Joint Petition (FL-700)

Although all procedures ultimately follow the same California divorce laws and result in the same type of final judgment, understanding these differences can help couples choose the process that best fits their circumstances. First, we will compare **Traditional Divorce (FL-100) vs. Joint Petition (FL-700)**.

1. How the Case Begins

Traditional Divorce (FL-100): One spouse files a Petition for Dissolution (FL-100), becoming the Petitioner. The other spouse becomes the Respondent and must be formally notified through service of process.

Joint Petition (FL-700): Both spouses jointly complete and sign the FL-700 Joint Petition and file it together with the court. They begin the case as equal participants rather than opposing parties. The filing immediately reflects their shared intention to resolve the divorce cooperatively.

2. Service of Process

Traditional Divorce: The filing spouse must legally serve:

- Petition (FL-100)
- Summons (FL-110)
- Other required documents

Proof of Service must then be filed with the court before the case can proceed. Failure to respond may result in a default proceeding.

Joint Petition: One of the most significant benefits of FL-700 is that formal service of process is eliminated. Because both spouses sign the petition together, neither spouse must hire:

- a process server,
- the sheriff,
- or another adult to deliver legal documents.

3. Response Requirement

Traditional Divorce: The Respondent generally has 30 days after service to file:

- FL-120 Response

Joint Petition: No Response is required.

Both spouses have already agreed to begin the divorce together.

4. Relationship Between the Parties

Traditional Divorce: Even amicable couples begin the process with one spouse filing against the other. Although this is simply a legal procedure, some couples perceive it as adversarial.

Joint Petition: The process begins with cooperation. Neither spouse is viewed as initiating legal action against the other. This often reduces feelings of blame or defensiveness.

5. Temporary Court Orders

Traditional Divorce: Either party may request temporary court orders shortly after filing if immediate decisions are needed. This is often necessary when spouses disagree about parenting, finances, or living arrangements.

Joint Petition: While the joint petition remains in effect, the parties generally cannot seek temporary court orders, such as:

- Temporary child custody, child support & spousal support
- Exclusive use of the family residence
- Temporary property restraints beyond the Automatic Temporary Restraining Orders (ATROs)



Eligibility Comparison

Marriage Length

FL-100 (Traditional Divorce): There are no restrictions based on the length of the marriage. Whether you have been married six months or forty years, you may file a traditional divorce.

FL-700 (Joint Petition): There are no marriage length requirements. Couples married for any period of time may qualify if they otherwise meet the requirements for filing jointly.

FL-800 (Summary Dissolution): The spouses or registered domestic partners must have been married or registered for less than five years at the time the Joint Petition for Summary Dissolution is filed. If the marriage has lasted five years or longer, Summary Dissolution is not available.

Minor Children

FL-100: Parents with minor children may file a traditional divorce.

FL-700: Parents with minor children may also file a Joint Petition. They must resolve issues involving custody, parenting time, child support, and related matters before the divorce is finalized.

FL-800: To qualify for Summary Dissolution:

- The parties cannot have children together who were born before or during the marriage or adopted during the marriage.
- Neither spouse may be expecting a child together.

Pregnancy Considerations

FL-100: Pregnancy does not prevent a spouse from filing a traditional divorce.

FL-700: Pregnancy also does not prevent spouses from filing jointly. However, if the child is born before the divorce is finalized, issues involving custody, support, and parenting will generally need to be addressed before entry of judgment.

FL-800: If either spouse is pregnant with the parties' child, Summary Dissolution is not available because the procedure is limited to cases without child-related issues.

Property Limitations

FL-100: There are no limits on the amount or value of property.

FL-700: There are no property limitations. Couples may own:

- A family home
- Multiple residences
- Businesses
- Retirement accounts
- Investment portfolios
- Commercial property
- Other valuable assets

FL-800: Summary Dissolution is limited to couples whose community and separate property falls within California's statutory limits. Because these limits are periodically adjusted by law, couples should verify the current eligibility thresholds before filing.

Debt Limitations

FL-100: There are no restrictions on the amount of debt.

FL-700: There are no debt limitations. Mortgages, business loans, tax liabilities, and other obligations may all be addressed through settlement.

FL-800: Community debt (excluding vehicle loans) must not exceed California's statutory maximum for Summary Dissolution eligibility.



Eligibility Comparison

Income Considerations

FL-100: There are no income restrictions.

FL-700: There are no income restrictions. High-income individuals and business owners may use the Joint Petition if they otherwise qualify.

FL-800: There are no specific income limits. However, Summary Dissolution is intended for couples with relatively simple financial circumstances that satisfy the statutory property and debt limitations.

Real Estate Considerations

FL-100: Ownership of real estate does not affect eligibility.

FL-700: Couples may own:

- Their primary residence
- Rental properties
- Commercial real estate
- Vacation homes
- Vacant land

Real estate ownership does not prevent spouses from filing a Joint Petition.

FL-800: Generally, neither spouse may have an ownership interest in real property. Couples who own a home or other real estate are generally not eligible for Summary Dissolution.

Quick Comparison

Eligibility Requirement	FL-100 Traditional Divorce	FL-700 Joint Petition	FL-800 Summary Dissolution
Marriage length limit	✗ No	✗ No	✓ Yes (less than 5 years)
Minor children allowed	✓ Yes	✓ Yes	✗ No
Pregnancy allowed	✓ Yes	✓ Yes	✗ No
Real estate ownership allowed	✓ Yes	✓ Yes	✗ Generally No
Property value limits	✗ No	✗ No	✓ Yes
Debt limits	✗ No	✗ No	✓ Yes
Income limits	✗ No	✗ No	✗ No
Both spouses file together	✗ No	✓ Yes	✓ Yes
Formal service required	✓ Yes	✗ No	✗ No
Best suited for	Any divorce	Cooperative couples	Very simple divorces



Which Process is Right for You?

Which Process Is Right for You?

- **A Traditional Divorce - Marriage/Domestic Partnership (FL-100)** may be appropriate if: One spouse does not agree to file jointly, the parties anticipate significant disagreements, immediate court intervention is needed, there are concerns about domestic violence, coercion, or financial is conduct, and one spouse may refuse to participate or disclose financial information.
- **A Joint Petition (FL-700)** may be the best choice if: **Both spouses** agree the marriage should end, willing to file together, intend to resolve all issues cooperatively, are participating in mediation and reach a settlement, do not need immediate temporary court orders, and feel safe communicating and negotiating with one another.

At a Glance Comparison	
Joint Petition (FL-700)	Traditional Divorce (FL-100)
Both spouses file together	One spouse files first
Cooperative process	May be cooperative or contested
No formal service of process	Formal service of process required
No Response (FL-120) required	Respondent generally files FL-120
No petitioner vs. respondent dynamic	Parties are designated Petitioner and Respondent
Best for couples committed to settlement	Appropriate for both contested and uncontested cases
Encourages mediation	Can involve mediation or litigation
Cannot generally request temporary orders while proceeding as a joint petition	Temporary court orders are available when needed
Either spouse may revoke the joint petition	Traditional litigation process remains in place throughout

- **Summary Dissolution (FL-800)**
Summary Dissolution is California's simplified divorce process designed for couples with relatively straightforward financial circumstances who meet specific eligibility requirements established by state law. Couples who qualify may file a Joint Petition for Summary Dissolution (FL-800) together, allowing them to complete their divorce through a streamlined procedure without using the traditional Petition (FL-100) or the newer Joint Petition (FL-700). Because Summary Dissolution is intended for uncomplicated cases, both spouses must satisfy every statutory eligibility requirement before they can use this process. Unlike the FL-700 Joint Petition, which became available in 2026 and is open to a much broader range of cooperative couples, FL-800 Summary Dissolution is limited to marriages or registered domestic partnerships that meet strict requirements regarding the length of the marriage, children, property, debts, and other financial considerations. If a couple does not qualify for Summary Dissolution, they may still be eligible to file other divorce options, like (FL-100) or (FL-700).



California No-Fault Divorce, Community and Separate Property Laws

California is a "No-Fault" Divorce State

You do not have to prove that your spouse did something wrong to obtain a divorce. You are not required to prove:

- Adultery
- Abuse (unless seeking protective orders)
- Abandonment
- Substance abuse
- Financial misconduct
- Personality conflicts

Instead, most divorces are filed based on irreconcilable differences, meaning the marriage has broken down beyond repair. This allows couples to focus on resolving important financial and parenting issues rather than assigning blame.

California Community Property Law

California follows community property law, which means that, in general, all property, income, assets, and debts acquired by either spouse during the marriage belong equally to both spouses, regardless of whose name is on the title or who earned the income. This does not automatically mean that every asset will be physically divided in half. Instead, the goal is to achieve an overall equal division of the community estate while allowing spouses the flexibility to negotiate creative solutions through mediation or settlement. Generally includes:

- Income earned by either spouse during the marriage
- The family home or other real estate purchased during the marriage
- Retirement benefits and pensions earned during the marriage
- Bank accounts and investments acquired during the marriage
- Businesses or business interests started or grown during the marriage
- Vehicles, furniture, and other personal property purchased during the marriage
- Debts incurred during the marriage, including credit cards, loans, and mortgages

California Separate Property Law

California law recognizes that not all property owned by a married couple is considered community property. Separate property generally belongs exclusively to one spouse and is not subject to division in a divorce, provided it has remained separate and has not been converted into community property. Determining whether an asset is separate property can sometimes be straightforward, but in other cases it may require careful analysis, especially if separate and community assets have been mixed together over time. Understanding what qualifies as separate property is essential because it helps protect assets that belong solely to one spouse while ensuring that community property is divided fairly under California law. It includes:

- Gifts given specifically to one spouse during the marriage
- Inheritances received by one spouse before or during the marriage
- Income earned from separate property, in certain circumstances
- Property acquired by one spouse after the date of separation
- Assets designated as separate property through a valid prenuptial or postnuptial agreement
- Property that spouses have agreed in writing will remain the separate property of one spouse



California Family Court Overview & Residency Requirement

California Family Court Overview

The California Family Court is a division of the Superior Court that handles legal matters involving families and domestic relationships. Its primary role is to ensure that divorces, legal separations, annulments, child custody, child support, spousal support, property division, and other family law issues are resolved in accordance with California law. While the court has the authority to make legally binding decisions when spouses cannot reach an agreement, many cases are resolved without a trial through negotiation, mediation, or settlement. Every California county has its own **Superior Court**, which includes a Family Law Division responsible for hearing family law matters filed within that county. Understanding how the Family Court system works can help reduce uncertainty and better prepare you for each stage of the divorce process. The California Family Court commonly handles:

- Divorce (Dissolution of Marriage)
- Joint Petitions for Dissolution (FL-700)
- Legal Separation
- Annulments (Judgments of Nullity)
- Child Custody and Parenting Time
- Child Support
- Spousal Support (Alimony)
- Division of Community and Separate Property
- Allocation of Marital Debts
- Domestic Violence Restraining Orders
- Parentage (Paternity) Actions
- Modifications of Existing Family Court Orders
- Enforcement of Family Court Orders

Residency Requirement

Before you can file for divorce in California, you must meet the state's residency requirements. These rules determine whether a California court has the authority to grant your divorce. To file a Petition for Dissolution of Marriage (Divorce) in California, at least one spouse must have:

- **Lived in the State of California for at least six (6) consecutive months** immediately before filing for divorce; **and**
- **Lived in the county where the divorce will be filed for at least three (3) consecutive months** immediately before filing.
- **Only one spouse needs to satisfy these residency requirements. It is not necessary for both spouses to be California residents.**

Example

If Maria has lived in California for two years and recently moved from Orange County to Los Angeles County two months ago, she cannot yet file for divorce in Los Angeles County because she has not lived there for at least three months. However, if she still qualifies to file in Orange County because she met the residency requirements there before moving, she may be able to file there instead. Otherwise, she will need to wait until she has lived in Los Angeles County for three months.



Residency Requirement, Military Families, and Registered Domestic Partners

What If You Recently Moved to California?

If you have lived in California for less than six months, you generally cannot file for a California divorce yet. Depending on your circumstances, you may:

- Wait until you meet California's residency requirements.
- File for divorce in the state where you previously lived if you still qualify there.
- Consult with a family law attorney or mediator to determine the best course of action.

What If You Don't Meet the Residency Requirements?

If you do not yet qualify for a California divorce, you may still be able to file for a Legal Separation. Unlike divorce, California does not require any minimum residency period to file for legal separation. Many couples choose legal separation to:

- Establish temporary custody and parenting schedules.
- Obtain child support or spousal support orders.
- Divide responsibilities for bills and debts.
- Protect financial interests while waiting to qualify for divorce.
- Begin resolving issues through mediation before converting the case to a divorce later.

Once the residency requirements have been met, a legal separation case can often be amended to a divorce case.

Military Families

Special residency rules may apply to members of the United States Armed Forces and their spouses. Generally, a service member stationed in California may be considered a California resident for purposes of filing for divorce even if California is not their permanent home of record. Because military divorces can involve additional legal issues—including military retirement benefits, residency, and jurisdiction—it is advisable to seek legal guidance if either spouse is serving in the military.

Registered Domestic Partners

California's residency requirements may differ for registered domestic partners who are ending their registered domestic partnership. In some situations, registered domestic partners may file in California even if neither partner currently lives in the state, provided the partnership was registered in California.

Mediation Tip

Many couples use the waiting period before filing to prepare for mediation. During this time, you can begin gathering financial documents, discussing parenting goals, identifying community and separate property, and developing a plan for the future. Completing this preparation early often results in a smoother, faster, and less stressful divorce process once you become eligible to file.



Traditional Divorce Process (FL-100 & FL-110)



Chapter 3

Traditional Divorce Process

- **FL-100 Petition & FL-110 Summons**
- **Filing Your Case**
- **Automatic Temporary Restraining Orders (ATROS)**
- **Serving Your Spouse**
- **Responding (FL-120)**
- **Default Cases**
- **Stipulated Judgments**
- **Uncontested Cases**



Traditional Divorce Process at a Glance

The Traditional Divorce process may seem overwhelming at first, but understanding the overall process can make it much more manageable. Most California divorces follow the same general sequence of events. Many couples are able to resolve their differences through mediation, avoiding lengthy court battles. The following overview provides a simplified snapshot of the seven key stages you'll encounter throughout the California divorce process.

THE CALIFORNIA DIVORCE PROCESS

1 Meet Eligibility & Residency Requirements ▼

2 Complete & File Petition & Summons ▼

3 Serve Your Spouse ▼

4 Exchange Financial Disclosures ▼

5 Negotiate or Mediate ▼

6 Submit Settlement & Judgment Package ▼

7 Finalize Divorce (After 6-Month Waiting Period)



Traditional Divorce Petition (FL-100) & Summons (FL-110)

Petition (FL-100)

Once you have confirmed that you meet California's residency requirements, the next step is to officially begin your divorce by filing two required forms with the Superior Court:

- Petition—Marriage/Domestic Partnership (FL-100)
- Summons (Family Law) (FL-110)

These forms officially open your divorce case and notify both the court and your spouse that you are requesting a dissolution of your marriage. Every divorce case in California begins with these documents. The FL-100 starts the legal process and establishes the issues that will be addressed as your case moves forward.

What Is Form FL-100?

The Petition (FL-100) is one of the most important documents in your divorce. Think of it as your formal request asking the court to dissolve your marriage and identify the issues that will need to be resolved during your divorce. The Petition does not finalize your divorce or decide who receives what. Instead, it tells the court:

- Who you are
- Who your spouse is
- Basic information about your marriage
- Whether you have children together
- What you are asking the court to decide
- The general relief you are requesting

Information You'll Need Before Completing FL-100

Personal Information

- Full legal names
- Current mailing addresses
- Telephone numbers
- Email addresses (if applicable)

Marriage Information

- Date of marriage
- Date of separation (if applicable)
- City and state where you were married

Residency Information

You'll confirm that either you or your spouse has:

- Lived in California for at least six months.
- Lived in the county where you're filing for at least three months.

Minor Children

If you have children under 18 together, you'll identify:

- Number of children, Children's names, Children's birthdates

You will also **complete Form FL-105 (Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act)** to tell the court where your children have lived the previous five years.



Petition (FL-100) & Summons (FL-110)

What Are You Asking the Court to Decide?

You do not list every asset on this form. Detailed financial information comes later through your financial disclosures. One of the most important parts of the Petition is indicating which issues need to be resolved. These may include:

Property Division

You will indicate that there are:

- Community assets
- Separate property
- Community debts

Child Custody

If you have children, the Petition simply notifies the court that custody will need to be addressed. You'll indicate whether you're requesting:

- Legal custody
- Physical custody
- Joint custody
- Sole custody

Child Support

You'll indicate that child support should be determined according to California law. The actual amount is not calculated on the Petition.

Spousal Support

You may request:

- Temporary spousal support
- Long-term spousal support
- Termination of the court's ability to award support

Requesting support on the Petition preserves your right to ask the court to consider it later.

Restoration of Former Name

If you wish to return to your former name after the divorce, you may request it within the Petition. Many people overlook this section and later have to file additional paperwork.

What Is Form FL-110?

The Summons (FL-110) accompanies your Petition. Unlike the Petition, which explains what you're asking the court to decide, the Summons serves several important legal purposes:

It officially notifies your spouse that a divorce case has been filed. It explains that the Respondent has 30 calendar days after being served to file a Response (Form FL-120). It contains Automatic Temporary Restraining Orders (ATROS), which immediately apply to both spouses once the case is filed and served.



Filing Your Case

Filing Your Forms With the Court

After completing the Petition and Summons:

1. Make copies of all forms.
2. File the originals with the Superior Court in the appropriate county.
3. Pay the filing fee or request a fee waiver if you qualify.
4. The court clerk will assign a case number and return your filed copies.

Your divorce case officially begins once the Petition is filed. However, your spouse must still be formally served before the court can proceed.

Common Mistakes to Avoid

Many first-time filers make avoidable mistakes that delay their case.

Be sure to:

- Double-check names, dates, and addresses.
- Sign and date every required form.
- Request all issues you want the court to address.
- Read the Summons carefully before filing.
- Keep copies of everything you submit.
- Do not forget additional required forms if you have children.

Mediation Tip

If you are pursuing divorce mediation, the Petition and Summons are simply the documents that start your case—they are not a declaration of war. Many couples successfully file these forms, complete their financial disclosures, and then work together in mediation to reach agreements on property, parenting, child support, and spousal support without ever going to trial. Starting the legal process early while committing to mediation often saves time, reduces costs, and gives both spouses greater control over the outcome.



Automatic Temporary Restraining Order (ATROS)

Understanding the Automatic Temporary Restraining Orders (ATROS)

One of the most important parts of the Summons is the Automatic Temporary Restraining Orders (ATROS). Despite the name, these are not domestic violence restraining orders. Instead, they are automatic legal rules designed to preserve the status quo while the divorce is pending. Unless both spouses agree in writing or the court orders otherwise, neither spouse may remove minor children from California. Neither parent may take the children out of California without: Written permission from the other parent, or a court order.

Transfer or Hide Property

Neither spouse may:

- Sell major assets
- Transfer property
- Hide assets
- Give away community property
- Remove the other spouse from financial accounts
- Dispose of valuable property outside the ordinary course of business

Cancel Insurance

These protections help ensure that insurance remains available while the divorce is pending. Neither spouse may:

- Cancel health insurance
- Cancel automobile insurance
- Cancel life insurance
- Change beneficiaries where prohibited by the ATROS

Create Certain Non-Probate Transfers

The ATROS also restrict certain transfers of property that could affect the other spouse's legal rights after death.



Serving Your Spouse - Requirements

What Does "Serving Your Spouse" Mean?

After filing your **Petition (FL-100)** and **Summons (FL-110)** with the court, the next step is to legally notify your spouse that a divorce case has been filed. This process is called service of process, or simply "service." Serving your spouse is a legal requirement in every California divorce case. It ensures that your spouse receives copies of the filed court documents, understands that a divorce has been initiated, and has the opportunity to respond.

The court cannot move forward with your divorce until your spouse has been properly served and Proof of Service has been filed.

Why Is Service So Important?

California law requires every person to receive proper notice before a court can make decisions affecting their legal rights. If service is not completed correctly, your divorce may be delayed, and you may have to repeat the process.

Proper service:

- Protects your spouse's constitutional right to due process.
- Starts important legal deadlines.
- Gives the court authority (jurisdiction) to proceed.
- Begins the six-month waiting period for divorce once service is completed.

Can I Serve My Spouse Myself?

No. California law does not allow you to personally hand the divorce papers to your spouse. This rule helps ensure that service is impartial and properly documented. Many people choose a professional process server because they are familiar with California's service rules and can complete the required paperwork accurately. The papers must be delivered by someone who:

- Is a trusted friend or family member who is at least 18 years old.
- A registered California process server.
- The county sheriff (available in many counties for a fee).
- Another adult who is not involved in the case.

What Documents Must Be Served?

The person serving your spouse generally delivers copies of the filed documents, which often include:

- Petition – Marriage/Domestic Partnership (FL-100)
- Summons (FL-110)
- Declaration Under UCCJEA (FL-105), if you have minor children
- Blank Response – Marriage/Domestic Partnership (FL-120)
- Blank Declaration Under UCCJEA (FL-105), if applicable
- Any required local court forms

Depending on your county or the circumstances of your case, additional documents may also be included.



Personal Service & Notice and Acknowledgment of Receipt (FL-117)

Personal Service

Most divorces begin with personal service. This simply means the server personally hands the divorce papers directly to your spouse. The server may say something as simple as: "These are legal documents related to your divorce." Your spouse does not have to:

- Read the papers immediately.
- Sign anything acknowledging receipt.
- Agree with the divorce.
- Accept the documents verbally.

Once the papers are handed to them, service is generally complete.

What If My Spouse Refuses to Take the Papers?

A spouse cannot avoid being served simply by refusing to accept the documents.

If the server clearly identifies your spouse and informs them that the documents are legal papers, the server may leave the papers in your spouse's presence if they refuse to physically take them. Simply refusing service does not stop the divorce process.

What If I Don't Know Where My Spouse Lives?

Sometimes a spouse cannot be located despite reasonable efforts. Before asking the court for alternative service, you should make diligent efforts to locate them, such as:

- Contacting relatives or mutual friends.
- Checking with former employers.
- Reviewing social media.
- Searching public records.
- Looking through online people-search resources.
- Sending correspondence to the last known address.

If those efforts are unsuccessful, you may ask the court for permission to serve by another method, such as publication or posting, depending on your circumstances. These methods require court approval and are generally used only as a last resort.

Notice and Acknowledgment of Receipt

In addition to personal service, California law allows divorce papers to be served by Notice and Acknowledgment of Receipt when the receiving spouse is willing to cooperate. This method is often used in amicable or uncontested divorces because it avoids the need for a process server or sheriff to personally deliver the documents. Instead, the filing spouse mails the divorce papers along with a Notice and Acknowledgment of Receipt (Form FL-117) for the other spouse to sign and return. By signing this form, the receiving spouse is not agreeing to the divorce or accepting the terms of the Petition—they are simply acknowledging that they have received the legal documents. Once the signed acknowledgment is returned and filed with the court, service is considered complete. Notice and Acknowledgment of Receipt can be an excellent option for couples who are communicating respectfully and intend to work together through mediation or an uncontested divorce.



Proof of Service

Filing the Proof of Service

Once your spouse has been served, the person who completed the service must fill out a Proof of Service form. The Proof of Service tells the court:

- Who was served.
- What documents were served.
- The date and time of service.
- The address where service occurred.
- Who completed the service.
- How the documents were delivered.

The server, not the person filing for divorce, signs the Proof of Service under penalty of perjury. You then file the completed Proof of Service with the court. This document becomes part of your official court file and demonstrates that your spouse received proper legal notice. Without a properly filed Proof of Service, the court cannot proceed toward a final judgment.

The Proof of Service establishes several important legal milestones:

- It confirms that your spouse was legally notified.
- It starts your spouse's 30-day period to file a Response (FL-120).
- It allows the court to move forward with the case.
- It marks the date from which California's six-month minimum waiting period for finalizing the divorce is generally measured.

What Happens After My Spouse Is Served?

Once service is complete, your spouse has several options. They may:

- File a Response with the court within 30 days.
- Work with you through mediation to negotiate a settlement.
- Hire an attorney.
- Choose not to respond, which may allow the case to proceed by default if all legal requirements are met.

A Response does not mean the case is headed to trial.

Common Mistakes to Avoid

Correct service at the beginning of your case helps prevent delays later in the divorce process. Avoid these common service errors:

- Serving your spouse yourself.
- Using someone under 18 years old.
- Forgetting to include required documents.
- Filing an incomplete or unsigned Proof of Service.
- Waiting too long to complete service after filing.
- Assuming a verbal conversation counts as legal service.
- Failing to keep copies of all filed documents.

Mediation Tip

Service of divorce papers often causes anxiety because many people associate it with conflict. In mediation, however, it can simply be viewed as a legal step required to open the court case. Many couples discuss the filing process in advance, agree on when and how service will occur, and continue working together respectfully throughout the mediation process.



Response FL-120

California law provides several ways to respond after being served. You may file a formal **Response (FL-120)**, work cooperatively with your spouse through mediation, negotiate a settlement, or, in some circumstances, choose not to respond. The option you choose can affect how your case proceeds, your ability to participate in decisions, and the timeline for finalizing your divorce. Understanding these options will help you make informed decisions about protecting your interests while moving your case toward resolution.

What Is Form FL-120?

The **Response-Marriage/Domestic Partnership (FL-120)** is the official form used by the Respondent (the spouse who did not file first) to participate in the divorce case. Filing a Response does not mean you disagree with the divorce or intend to fight every issue. Instead, it tells the court that you want to participate in the proceedings and have your voice heard regarding important issues such as property division, child custody, child support, and spousal support.

Generally, the Respondent has **30 calendar days** after being served to file a completed Response with the Superior Court and serve a copy on the Petitioner.

What Information Is Included in the Response?

The FL-120 asks for information similar to the Petition and allows you to respond to the requests made by the filing spouse. The Response generally includes:

- Your personal information
- Information about your marriage or domestic partnership
- Confirmation of residency, when applicable
- Information about any minor children
- Requests regarding child custody and visitation
- Requests regarding child support
- Requests regarding spousal support
- Identification of community and separate property
- Requests regarding attorney's fees, if applicable
- Restoration of a former name, if desired

Like the Petition, the Response does not require you to list every asset or debt. Detailed financial information is exchanged later through the required financial disclosure process.

Why File a Response?

Filing a Response preserves your right to participate fully in the divorce process. By filing a Response, you can:

- Present your position on important issues.
- Participate in settlement negotiations.
- Request custody or parenting orders.
- Request child or spousal support.
- Protect your legal interests.
- Prevent the case from proceeding as a default without your participation.

Even if you and your spouse agree on most issues, filing a Response may still be appropriate depending on your circumstances.



What happens if You Ignore the Petition

What Happens if You Ignore the Petition?

Being served with divorce papers does not mean you are required to contest the divorce. However, ignoring the paperwork can have significant legal consequences.

If you do not file a Response within the required time, your spouse may ask the court to proceed without your participation. This is known as a default divorce. Ignoring the Petition does not stop the divorce. The court may still:

- End your marriage.
- Divide community property.
- Divide debts.
- Make child custody orders.
- Enter child support orders.
- Enter spousal support orders.
- Issue enforceable court judgments.

Although California law requires the court to follow applicable laws when entering a default judgment, you lose the opportunity to actively participate in decisions that affect your future. If you are unsure how to respond, consider consulting a family law attorney or mediator before allowing the response deadline to pass.

Common Reasons People Do Not Respond

Some spouses mistakenly believe they should not respond because:

- They agree with the divorce.
- They hope reconciliation is possible.
- They cannot afford an attorney.
- They believe mediation means no Response is necessary.
- They are overwhelmed by the process.

None of these reasons automatically prevent a default from occurring.

Even couples planning to mediate should understand their legal options before deciding whether to file a Response.



Default Cases

A **default case** occurs when the Respondent does not file a Response within the required time and the Petitioner asks the court to continue the divorce without the Respondent's participation. Default cases are common when:

- One spouse chooses not to participate.
- The spouses have lost contact.
- One spouse cannot be located after proper service.
- The Respondent simply ignores the paperwork.

In a default case, the Petitioner must still comply with California's legal requirements, including financial disclosures and preparation of a complete Judgment Package.

The judge reviews the proposed judgment before approving it to ensure it complies with California law.

It is important to understand that a default judgment does not automatically give the Petitioner everything requested. The court may only grant relief that is permitted by law and consistent with the requests made in the original Petition.

Advantages and Disadvantages of Default

Advantages

- May simplify the legal process.
- Can move the case forward when one spouse refuses to participate.
- May reduce delays caused by non-cooperation.

Potential Disadvantages

- The Respondent loses the opportunity to negotiate.
- The Respondent has little or no input regarding settlement terms.
- Future challenges to a default judgment may be difficult and require additional legal proceedings.



Stipulated Judgments

A **Stipulated Judgment** is one of the most efficient ways to finalize a California divorce. In a stipulated judgment, both spouses agree on all issues before submitting the final paperwork to the court.

Instead of asking a judge to resolve disagreements, the spouses work together to create a written settlement agreement that addresses every aspect of their divorce.

The court then reviews the agreement and, if it complies with California law, incorporates it into the final Judgment of Dissolution.

Stipulated Judgments commonly include agreements regarding:

- Property division
- Debt allocation
- Child custody
- Parenting schedules
- Child support
- Spousal support
- Retirement accounts
- Tax matters
- Future dispute resolution

Many mediated divorces conclude with a stipulated judgment because the spouses have already resolved their disagreements through collaborative negotiations.

Benefits of a Stipulated Judgment

- Greater control over the outcome.
- Lower legal costs.
- Faster resolution.
- Fewer court appearances.
- Customized solutions for the family.
- Reduced conflict.
- Increased privacy.



Uncontested Cases

An **uncontested divorce** means that both spouses ultimately agree on every issue necessary to finalize their divorce. Unlike a contested divorce, there are no unresolved disputes requiring a judge to decide issues such as:

- Property division
- Child custody
- Child support
- Spousal support
- Responsibility for debts

An uncontested divorce does not necessarily mean the spouses agreed from the beginning. Many couples begin with disagreements but successfully resolve them through mediation, negotiation, or attorney-assisted settlement. Most uncontested divorces still require:

- Filing the required court forms.
- Completing financial disclosures.
- Preparing a Marital Settlement Agreement.
- Submitting a complete Judgment Package.
- Waiting the mandatory six-month period before the divorce becomes final.

Because the spouses have already reached agreement, uncontested cases are often completed more efficiently and at a significantly lower cost than contested litigation.

Is Mediation Right for an Uncontested Divorce?

Absolutely. In fact, mediation is one of the most common paths to an uncontested divorce. A mediator helps spouses identify issues, exchange information, improve communication, and negotiate practical solutions that work for their family. Once agreements have been reached, those terms can be incorporated into a written settlement agreement and submitted to the court as part of a stipulated judgment. Even couples who agree on most issues often discover that mediation helps clarify misunderstandings, address overlooked details, and create comprehensive agreements that reduce the likelihood of future disputes.

Common Mistakes to Avoid

Many Respondents unintentionally delay or complicate their divorce by making avoidable mistakes. Be sure to:

- Read every document you receive carefully.
- Calendar your 30-day deadline to respond.
- Do not ignore court papers, even if you agree with the divorce.
- Understand the differences between a contested, uncontested, stipulated, and default case.
- Keep copies of all documents you file or receive.
- Seek professional guidance if you are uncertain about your rights or responsibilities.

Mediation Tip

Receiving divorce papers does not mean your case is destined for conflict. Many couples begin the legal process by filing a Petition and Response but choose to resolve every issue through mediation rather than litigation. Filing a Response simply preserves your legal rights and allows you to participate fully in the process while working collaboratively toward a fair and lasting settlement. For many families, mediation transforms what could have been a courtroom battle into a respectful conversation focused on building a successful next chapter.



California Joint Petition Divorce (FL-700)



Chapter 4

Understanding California's Joint Petition Marriage/Domestic Partnership (FL-700)

- What is a Joint Petition?
- History of California's FL-700 Law
- Benefits of Filing Jointly
- Who Qualifies or Does NOT Qualify?
- Is Mediation Still Helpful?
- Role of Divorce Mediator and Joint Petition (FL-700)

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



Joint Petition Marriage/Domestic Partnership (FL-700)

The Traditional Divorce process may seem overwhelming at first, but understanding the overall process can make it much more manageable. Most California divorces follow the same general sequence of events. Many couples are able to resolve their differences through mediation, avoiding lengthy court battles. The following overview provides a simplified snapshot of the seven key stages you'll encounter throughout the California divorce process.

THE CALIFORNIA DIVORCE PROCESS

1 Meet Eligibility & Residency Requirements ▼

2 Complete File Petition ▼

3 No Service - Case Begins ▼

4 Exchange Financial Disclosures ▼

5 Negotiate or Mediate ▼

6 Submit Settlement & Judgment Package ▼

7 Finalize Divorce (After 6-Month Waiting Period)

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



What is a Joint Petition, Who Can Use It & Residency

What is FL-700?

The FL-700 Joint Petition is a single petition signed by both spouses. Instead of:

- Petitioner
- Respondent

the spouses become:

- Petitioner 1
- Petitioner 2

Neither spouse is "suing" the other. This is often psychologically important because it immediately sets a cooperative tone. Unlike the traditional process using FL-100 Petition—Marriage/Domestic Partnership, there is:

- no service of process
- no Proof of Service
- no Response (FL-120)

The case begins jointly.

Who Can Use FL-700?

The couple must:

- ✓ Be married or registered domestic partners
- ✓ Want either
 - Divorce
 - Legal Separation
 - Dissolution of Domestic Partnership
- ✓ Believe they can resolve ALL issues

including

- property
- debts
- retirement
- custody
- visitation
- child support
- spousal support
- attorney fees
- reimbursement claims

They do not have to already have a signed settlement agreement when filing. They simply must reasonably believe they will reach one. If either spouse anticipates litigation, FL-700 is generally not appropriate.

Residency Requirements for divorce & legal separation (same as traditional divorce):

For Divorce - One spouse must have lived

- in California for at least 6 months
- in the county where filing for at least 3 months

For Legal Separation:

There is no residency requirement.

If residency has not yet been met, spouses often file for legal separation and later amend the case to dissolution.



History of Joint Petition (FL-700)

Why Lawmakers Wanted Another Option

For decades, mediators, family law practitioners, and self-help centers observed a common problem. Many couples had already agreed to divorce amicably but still had to:

- designate one spouse as the petitioner,
- serve legal papers on the other spouse,
- wait for a formal response,
- follow procedures designed for contested litigation.

This often felt inconsistent with the reality of collaborative divorces and mediation. Even spouses who agreed on every issue had to begin the case using forms designed for an adversarial process.

Senate Bill 1427

To address this issue, **California Senator Ben Allen** introduced **Senate Bill 1427** during the **2023–2024 Regular Session**. The bill was designed to create a new procedure allowing spouses who intended to resolve their divorce cooperatively to file together from the outset.

The Legislature recognized that:

- many divorces are uncontested,
- mediation has become increasingly common,
- cooperative families should not be required to begin their case through an adversarial filing process.

Legislative Goals of SB 1427

The Legislature intended to:

- reduce unnecessary conflict,
- simplify court procedures,
- improve access to justice,
- reduce the burden on California family courts,
- encourage negotiated settlements,
- modernize divorce filing procedures.

Importantly, the legislation did not change California's substantive divorce laws. Instead, it created a new procedural pathway for eligible couples to begin their case jointly and was signed into law in 2024, although was delayed into implementation to allow for Courts to revise forms and procedures. FL-700 is considered a landmark change in procedural divorce reform.

The law amended several sections of the California Family Code, including:

- Family Code § 2330
- Family Code § 2331
- Family Code § 2342
- New Family Code §§ 2342.5 and 2342.51
- Family Code §§ 2401 and 2402.

January 1, 2026: FL-700 Becomes Effective Beginning January 1, 2026, California officially allowed most cooperative couples to jointly initiate:

- a dissolution of marriage,
- a dissolution of a registered domestic partnership, or
- a legal separation,



Benefits of Filing Jointly

California's FL-700 Joint Petition offers couples a modern, cooperative way to begin the divorce process. While it does not change the legal requirements for obtaining a divorce, it changes how the case starts, reducing unnecessary conflict and making the process more consistent with mediation and settlement. Below are the primary benefits of filing jointly.

1. Starts the Divorce as a Team

One of the most significant advantages of **FL-700** is that both spouses file the petition together. In a traditional divorce, one spouse becomes the Petitioner and the other becomes the Respondent, which can create the perception that one person is "suing" the other. Even in amicable divorces, this terminology can create unnecessary tension. With a Joint Petition, both spouses begin the case as equal participants, reinforcing their mutual commitment to resolving their divorce cooperatively. **Benefit:** Promotes collaboration instead of confrontation from day one.

2. Eliminates Formal Service of Process

In a traditional divorce, the filing spouse must formally serve the other spouse with the Petition and Summons. Although service is simply a legal notice requirement, many people view it as hostile or emotionally upsetting. With FL-700:

- There is no process server.
- No Proof of Service is required.
- No one has to be "served."

Both spouses sign and file the petition together, satisfying the notice requirement. **Benefit:** Removes one of the most emotionally difficult steps in the divorce process.

3. No Response Is Required

Under the traditional process:

- One spouse files the Petition (FL-100).
- The other spouse has 30 days to file a Response (FL-120).

With FL-700:

- Both spouses initiate the case together.
- No Response is necessary.

This simplifies the early stages of the case and eliminates concerns about missed deadlines or default judgments based solely on a failure to respond.

Benefit: Fewer forms, fewer deadlines, and a more streamlined filing process.

4. Encourages Amicable Resolution

FL-700 is specifically designed for couples who intend to resolve their divorce through agreement rather than litigation. Beginning the process jointly often helps spouses maintain a cooperative mindset when discussing:

- Property division
- Parenting plans
- Child support
- Spousal support
- Retirement accounts
- Debt allocation

This collaborative approach can reduce conflict throughout the divorce process. **Benefit:** Supports productive negotiations and helps preserve respectful communication.



Benefits of Filing Jointly, cont.

5. Works Well with Divorce Mediation

Joint filing complements mediation because both processes emphasize:

- Open communication
- Shared decision-making
- Mutual respect
- Problem-solving
- Customized solutions

Rather than preparing for court, couples focus on creating agreements that work for their family. **Benefit:** The legal process aligns with the goals of mediation from the very beginning.

6. Reduces Emotional Stress

Many couples describe the traditional filing process as emotionally difficult because it feels adversarial, even when both spouses agree on the divorce. Joint filing often reduces:

- Anxiety
- Defensiveness
- Feelings of blame
- Fear of litigation

This can be especially important for couples with children who wish to preserve a healthy co-parenting relationship. **Benefit:** Creates a calmer and more respectful experience.

7. Helps Protect Co-Parenting Relationships

Parents who begin their divorce cooperatively often establish healthier communication patterns that continue after the divorce. By filing together, parents demonstrate a willingness to work collaboratively on issues affecting their children, including:

- Parenting schedules
- Decision-making responsibilities
- Holiday arrangements
- Future communication

Benefit: Supports a stronger foundation for long-term co-parenting.

8. Maintains Privacy

Because spouses are working together rather than litigating against one another, many issues can be resolved through mediation and settlement instead of contested court hearings. Although divorce filings are generally public records, reducing court appearances often means fewer public disputes over personal and financial matters. **Benefit:** Keeps family matters more private and reduces public conflict.

9. May Save Time and Money

Joint filing does not eliminate filing fees or all legal requirements, but it can reduce costs associated with:

- Process servers
- Preparing a formal response
- Motion practice related to service or default
- Unnecessary procedural disputes

When combined with mediation, many couples resolve their divorce more efficiently than through contested litigation. **Benefit:** Allows couples to focus their time and resources on reaching a fair settlement rather than procedural battles.



Benefits of Filing Jointly, cont.

10. Preserves the Six-Month Timeline

California law still requires a mandatory six-month waiting period before a divorce can become final. Filing jointly does not shorten this statutory waiting period.

However, because couples often resolve issues earlier in the process, they may be prepared to submit their judgment package well before the six-month period expires.

Benefit: Couples are often ready to finalize their divorce as soon as legally permitted.

11. Reinforces Shared Decision-Making

FL-700 reflects the idea that divorce is a legal restructuring of a family—not a contest with a winner and a loser. Throughout the process, spouses retain control over decisions involving:

- Division of assets and debts
- Parenting arrangements
- Financial support
- Future communication

Rather than asking a judge to decide these issues, couples work together to create solutions tailored to their family's unique needs. **Benefit:** Couples—not the court—remain in control of the outcome.

Is a Joint Petition Right for Every Couple?

While FL-700 offers many advantages, it is not appropriate for every situation. A Joint Petition is generally best suited for couples who:

- Agree that the marriage or domestic partnership should end.
- Are willing to communicate respectfully and negotiate in good faith.
- Intend to resolve all issues through agreement rather than litigation.
- Do not need immediate temporary court orders for support, custody, or exclusive use of property.
- Feel safe participating in a cooperative process without coercion or intimidation.

If there is a history of domestic violence, significant power imbalances, hidden assets, or a likelihood of contested litigation, the traditional divorce process may provide greater procedural protections.

A New Era of Collaborative Divorce

The FL-700 Joint Petition reflects California's recognition that many divorcing couples are capable of working together to resolve their differences. By eliminating unnecessary procedural conflict and encouraging cooperation from the outset, the Joint Petition supports a more respectful, efficient, and family-centered approach to divorce.

For couples choosing mediation, FL-700 and mediation work hand in hand—allowing spouses to begin the legal process together, make informed decisions collaboratively, and move forward with dignity and greater control over their future.



Who Qualifies or Does not Qualify

The FL-700 Joint Petition—Marriage or Domestic Partnership is available to many, but not all couples seeking a divorce or legal separation in California. It is intended for spouses or registered domestic partners who are committed to resolving their case cooperatively rather than through litigation. Unlike California's traditional Summary Dissolution process, FL-700 does not impose strict limits on the length of the marriage, the value of assets, or whether the couple has children. Instead, eligibility focuses on the couple's willingness to work together throughout the divorce process.

Basic Eligibility Requirements

To qualify to file a Joint Petition, both parties must meet the following requirements.

1. Both Parties Must Agree to File Together

The most important requirement is that both spouses or registered domestic partners voluntarily agree to jointly begin the case. Both individuals must:

- Sign the Joint Petition (FL-700)
- Participate in filing the case together
- Acknowledge that they wish to proceed jointly

If one spouse is unwilling to participate, the couple must use the traditional divorce process beginning with FL-100 (Petition).

2. They Must Be Married or Registered Domestic Partners.

The Joint Petition may be used by:

- Married spouses seeking a dissolution (divorce)
- Married spouses seeking a legal separation
- Registered domestic partners seeking dissolution
- Registered domestic partners seeking legal separation

It cannot be used for unmarried couples.

3. They Must Intend to Resolve Their Case by Agreement

The Joint Petition is designed for couples who reasonably believe they can resolve all issues without contested litigation. These issues include:

- Division of property
- Division of debts
- Child custody
- Parenting time (visitation)
- Child support
- Spousal support
- Retirement accounts
- Reimbursement claims
- Attorney's fees (if applicable)

The parties do not need to have reached a final agreement before filing, but they should genuinely intend to negotiate and settle these matters collaboratively.



Who Qualifies or Does not Qualify, cont.

4. Residency Requirements Must Be Met (for Divorce)

If filing for a dissolution of marriage, California's residency requirements still apply.

At least one spouse must have:

- Lived in California for at least six months, and
- Lived in the county where the case is filed for at least three months immediately before filing.

These residency rules are the same as for a traditional divorce.

5. Legal Separation Has No Residency Requirement

If the couple has not yet met California's residency requirements, they may still jointly file for a legal separation. Once the residency requirements are later satisfied, they may request that the court convert the case to a divorce.

Couples with Children Can Qualify

Unlike California's Summary Dissolution procedure, couples with minor children may use the Joint Petition. Parents simply must be willing to reach agreements regarding:

- Legal custody
- Physical custody
- Parenting schedules
- Holidays
- Decision-making responsibilities
- Child support

The court will still review these agreements to ensure they comply with California law and protect the best interests of the children.

Couples with Property Can Qualify

There are no limits on:

- The value of the family home
- Investment accounts
- Retirement plans
- Businesses
- Vehicles
- Personal property

Couples with significant assets may still use FL-700, provided they intend to resolve property issues through agreement.

Business Owners Can Qualify

Business owners are also eligible to file jointly.

Many mediators regularly assist couples in resolving issues involving:

- Family businesses
- Professional practices
- Partnerships
- Limited liability companies (LLCs)
- Stock ownership
- Buy-out arrangements
- Business valuations

Complex finances do not automatically disqualify a couple from using FL-700.



Who Qualifies or Does not Qualify, cont.

High-Net-Worth Couples Can Qualify

There is no income or asset limitation. Couples with:

- Multiple real estate properties
- Investment portfolios
- Retirement accounts
- Executive compensation
- Stock options
- Trust interests

High-Net -Worth couples may still file jointly if they are committed to negotiating a settlement.

Situations Where FL-700 May Not Be Appropriate

Although many couples qualify, the Joint Petition is not the best choice in every case.

It may not be appropriate if:

One spouse refuses to participate

If only one spouse wants the divorce or is unwilling to sign the petition, a traditional Petition (FL-100) must be filed or if

The couple expects litigation

If either spouse believes court intervention will be necessary to resolve major disputes, the traditional divorce process is generally more appropriate.

Temporary court orders are immediately needed

Couples who need immediate court orders regarding:

- Child custody & Child support
- Spousal support
- Exclusive use of the family home
- Payment of bills

You may find the traditional process more suitable because FL-700 does not provide the same pathway for requesting temporary relief while the joint petition remains in effect.

Domestic violence or coercive control exists

A Joint Petition should not be used if one spouse:

- Feels pressured to sign and cannot freely negotiate
- Has experienced domestic violence or/if is afraid of the other spouse
- Is unable to safely participate in mediation

In these situations, additional legal protections and individualized legal advice may be necessary.

One spouse is hiding financial information

The Joint Petition relies on honest financial disclosure. If there are concerns about:

- Hidden assets
- Concealed income
- Fraudulent transfers
- Financial misconduct

the traditional litigation process may provide stronger discovery tools and court oversight.



Is Mediation Still Helpful?

The introduction of **California's FL-700 Joint Petition** represents a significant shift toward a more collaborative model of divorce. Rather than requiring spouses to begin their case through an adversarial filing process, FL-700 allows couples who intend to work together to start their divorce together.

This procedural change naturally complements the principles of **divorce mediation**. Both spouses begin on equal footing. Instead of designating one spouse as the "Petitioner" and the other as the "Respondent," both parties file together as joint petitioners. This reinforces the idea that the divorce is a shared legal process rather than a contest with a winner and a loser.

It removes unnecessary emotional conflict.

For many families, one of the most stressful moments in a traditional divorce is the formal service of legal papers. Even when both spouses agree to divorce, being "served" can create feelings of embarrassment, resentment, or hostility. FL-700 eliminates this step entirely, allowing the couple to begin the process cooperatively.

It supports a mediation-first mindset.

The Joint Petition reflects the reality that many couples do not need a courtroom battle. Instead, they need guidance, education, and structured conversations that help them reach informed agreements. This aligns perfectly with mediation's emphasis on:

- collaboration,
- respectful communication,
- transparency,
- informed decision-making,
- creative problem-solving, and
- long-term family stability.

It reduces unnecessary procedural hurdles.

Because there is no formal service of process and no Response (FL-120), couples avoid several procedural steps that are required in a traditional dissolution case. Although all substantive legal requirements such as financial disclosures, settlement negotiations, and preparation of the judgment package still apply, the overall process is more streamlined. This can reduce administrative burdens, lower costs associated with procedural filings, and allow the parties to focus on resolving the issues that matter most.

It encourages durable, self-determined agreements.

Research in family dispute resolution has consistently shown that agreements developed voluntarily by the parties themselves are often more durable and more likely to be followed than orders imposed after contested litigation. When spouses actively participate in crafting solutions, they tend to have greater ownership of the outcome and are often better prepared to work together in the future, particularly as co-parents.

It preserves relationships where ongoing cooperation is necessary.

For parents, divorce marks the end of a marriage—but not the end of their shared responsibilities. FL-700 and mediation both encourage communication skills, mutual respect, and collaborative problem-solving that can benefit families long after the divorce is finalized.

FL-700 is an excellent fit for mediation, at Fehn Mediation, I emphasize amicable resolutions, education, and a structured five-step mediation process. FL-700 allows me to present mediation as the primary pathway for couples who are committed to resolving their divorce collaboratively from the very beginning. - Leticia



Role of Divorce Mediator and Joint Petition (FL-700)

Role of the Divorce Mediator in Determining Eligibility

One of a mediator's first responsibilities is to determine whether the Joint Petition is an appropriate option. During the intake process, a mediator typically evaluates:

- Whether both parties are participating voluntarily
- The ability of the parties to communicate respectfully
- Whether there are significant safety concerns or power imbalances
- The complexity of financial issues
- Whether immediate court intervention is needed
- Each party's willingness to provide complete financial disclosure

If the mediator concludes that FL-700 is not appropriate, they can explain other procedural options. A mediator remains a neutral facilitator and cannot decide eligibility for the court or provide legal advice to either spouse.

What Does a Divorce Mediator Do in an FL-700 Case?

This is where mediators provide significant value. A mediator does not represent either spouse or provide legal advice. Instead, the mediator acts as a neutral facilitator to help the couple reach informed agreements. A mediator will typically:

1. **Explain the process - review:**

- FL-700 process
- required court forms
- timelines
- disclosures
- mediation expectations

2. **Facilitate financial disclosure - help parties identify and exchange:**

- tax returns
- bank statements
- retirement accounts
- pensions
- investments
- business records
- real estate information
- debts

3. **Mediate all issues - guide discussions on:**

- property division & debts
- parenting plans & child support
- spousal support
- reimbursement claims
- future communication

4. **Draft or coordinate the settlement**

Many mediators prepare a Memorandum of Understanding or work with a Legal Document Assistant or attorney to prepare a formal Marital Settlement Agreement, depending on their practice model and legal authority.

5. **Coordinate filing**

Although mediators generally do not practice law unless they are licensed attorneys, they often coordinate with a Legal Document Assistant (LDA), a family law attorney, or a self-help center to ensure the judgment package is properly prepared and filed.



Role of Divorce Mediator and Joint Petition (FL-700), cont.

6. **Financial Disclosure: Both procedures** require the same exchange of financial disclosures:

- Declaration of Disclosure (FL-140)
- Schedule of Assets and Debts (FL-142 or FL-160)
- Income and Expense Declaration (FL-150), when required

Complete and accurate financial disclosure remains mandatory regardless of which filing process is used.

7. Settlement Negotiations

Joint Petition: The expectation from the beginning is that the parties will negotiate and reach agreements on all issues. Many couples participate in mediation throughout the process.

Traditional Divorce: Settlement is still encouraged, and many traditional cases ultimately resolve through negotiation or mediation. However, the process also provides a framework for litigation if agreements cannot be reached.

8. Court Hearings

Joint Petition: If the parties successfully resolve all issues, many cases proceed to judgment without contested hearings.

Traditional Divorce: Uncontested cases may also avoid hearings. However, contested cases often involve:

- Requests for Order hearings
- Discovery disputes
- Settlement conferences
- Trial

9. Time to Finalize

Both processes are subject to **California's mandatory six-month waiting period.**

Neither process allows a divorce to become final before:

- Six months have passed from the date the Respondent is served in a traditional case, or
- Six months have passed from the filing of the Joint Petition, which serves as notice to both parties under the joint filing procedure.

Choosing FL-700 does not shorten California's statutory waiting period.

10. Cost Considerations

Joint Petition cases often reduce costs associated with:

- Process servers
- Preparation of a Response
- Service-related filings
- Certain procedural disputes

When combined with mediation, couples may also reduce attorney fees by resolving issues outside of court.

Traditional divorce may involve additional costs if litigation becomes necessary.



Finance and Property



Chapter 5

Community, Separate, Mixed Property & Real Estate

Retirement Accounts

Business Ownership

Debts, Loans & Credit Cards

Taxes

Financial Disclosures & Declaration: FL-140, FL-142, FL-150, FL-160

FL-141

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



Community, Separate, Mixed & Real Estate

Community, Separate, Mixed Property & Real Estate

One of the most important aspects of any California divorce is determining **who owns what**. Before property can be divided, it must first be properly classified under California law. California is a **community property state**, meaning that, with certain exceptions, assets and debts acquired during the marriage belong equally to both spouses, regardless of whose name appears on the title or account. Not all property, however, is divided equally. Some assets remain the separate property of one spouse, while others may have both community and separate property interests. Understanding these classifications is essential because they directly affect how property, debts, retirement accounts, businesses, and real estate will be divided during the divorce.

Community Property

What Is Community Property? Community property generally includes all income, assets, and debts acquired by either spouse during the marriage and before the date of separation, regardless of whose name is on the title or who earned the income. California law presumes that property acquired during the marriage is community property unless proven otherwise.

Examples of community property include:

- Wages and salaries earned during the marriage
- Savings accumulated from marital earnings
- Retirement benefits earned during the marriage
- Homes purchased during the marriage
- Vehicles purchased during the marriage
- Household furnishings
- Investment accounts funded with marital income
- Businesses started during the marriage
- Credit card debt incurred for family expenses
- Mortgages obtained during the marriage

Unless the spouses agree otherwise or an exception applies, community property is generally divided equally between the parties.

Separate Property

What Is Separate Property? Separate property belongs exclusively to one spouse and is generally not divided during divorce. Separate property typically includes:

- Property owned before the marriage
- Gifts received individually during the marriage
- Inheritances received by one spouse
- Property acquired after the date of separation
- Compensation for certain personal injury claims (subject to exceptions)

For example: If one spouse owned a condominium before the marriage and maintained it as separate property, that property may remain theirs after divorce.

Likewise, if one spouse inherited money from a parent during the marriage and kept those funds separate, the inheritance is generally considered separate property.



Community, Separate, Mixed & Real Estate, Cont.

Mixed (Commingled) Property

What Is Mixed Property? Not every asset falls neatly into the category of community or separate property. Many couples have mixed property, sometimes called commingled property, where both community and separate funds have been invested in the same asset.

Common examples include:

- A home purchased before marriage but paid down with marital income.
- A retirement account that existed before marriage and continued to grow during the marriage.
- A business started before marriage but expanded using community labor or funds.
- Separate savings deposited into a joint bank account.
- An inheritance used as the down payment on the family home.

In these situations, the court or the spouses through mediation must determine:

- The community interest.
- The separate property interest.
- Any reimbursement rights.
- The appropriate division of equity.

Tracing financial records is often necessary to determine ownership accurately.

Ownership does not always determine who owns an asset in a California divorce. A home, bank account, vehicle, or business titled in one spouse's name may still have a community property interest. Before assuming an asset belongs solely to one spouse, it is important to understand when it was acquired, how it was paid for, whether community funds were used to improve or maintain it, and whether any separate property contributions can be traced. Proper classification is often the first—and most important—step in achieving a fair property division.

Mediation Tip

Property division is often one of the most emotional aspects of divorce because it involves more than financial value. Homes, businesses, heirlooms, and retirement accounts frequently represent years of shared memories, hard work, and future security. In mediation, couples work together to identify all community and separate property, exchange complete financial information, and develop creative solutions that meet the needs of both spouses. Rather than allowing a judge to determine how property should be divided, mediation gives couples the opportunity to maintain control over the outcome and create customized agreements tailored to their unique circumstances.



Retirement Accounts

Retirement Accounts in a California Divorce

Retirement accounts are often among the most valuable assets a couple owns and can represent years or even decades of savings. Many people are surprised to learn that retirement benefits earned during a marriage may be considered community property, even if the account is held in only one spouse's name or is associated with only one spouse's employer.

In California, retirement benefits are generally classified based on when they were earned, not whose name is on the account. This means that the portion of a retirement account accumulated during the marriage is typically considered community property and may be subject to division during the divorce. Any contributions made before the marriage or after the date of separation are generally the separate property of the account owner, unless they have become commingled or another legal exception applies. Retirement assets come in many forms. Some of the most common include:

- 401(k) plans
- 403(b) retirement plans
- Traditional IRAs
- Roth IRAs
- Pension plans
- Government retirement systems
- Military retirement benefits
- Deferred compensation plans
- Stock option and restricted stock plans (depending on when earned)

Each type of retirement plan has its own rules regarding valuation and division.

Community vs. Separate Interest

Not every dollar in a retirement account is automatically divided equally. Instead, the account is generally analyzed to determine which portion is community property and which portion is separate property. For example:

- Contributions made before the marriage are generally separate property.
- Contributions made during the marriage and before the date of separation are generally community property.
- Contributions made after the date of separation are generally separate property.

If an account existed before the marriage and continued to receive contributions during the marriage, it may contain both separate and community property interests. These mixed interests often require careful review of account statements and employment records.

How Retirement Accounts Are Divided

Retirement accounts may be divided in several ways depending on the spouses' agreement and the type of retirement plan involved. Common options include:

Dividing the Retirement Account

The community portion of the retirement account may be divided between the spouses according to their settlement agreement or court order.

Leaving the Account Undivided

In limited situations, spouses may agree that each person keeps their own retirement accounts without division. This agreement should be clearly documented in the Agreement.



Retirement Accounts, cont.

Qualified Domestic Relations Orders (QDROs)

Many employer-sponsored retirement plans cannot simply be divided by listing them in the divorce judgment. Instead, they require a separate court order called a Qualified Domestic Relations Order (QDRO). A QDRO is a legal order that instructs the retirement plan administrator how to divide the retirement benefits between the spouses while complying with federal law. A QDRO may be required for:

- 401(k) plans
- Pension plans
- Certain profit-sharing plans
- Other qualified employer-sponsored retirement plans

Not every retirement account requires a QDRO. For example, Individual Retirement Accounts (IRAs) are generally divided using a different legal process authorized under federal tax law rather than a QDRO. Because retirement plans have different rules, it is important to determine the specific requirements of each plan before finalizing the divorce.

Tax Considerations

Retirement assets are not all equal in value. For example:

- A \$100,000 traditional 401(k) may eventually be subject to income taxes when funds are withdrawn.
- A Roth IRA may provide tax-free qualified withdrawals if certain requirements are met.
- Pension benefits may be taxable when received.

For this reason, couples should consider the potential tax consequences before agreeing to offset retirement accounts with other assets. Two assets with the same current balance may have significantly different after-tax values. Because tax laws are complex, many couples consult a Certified Public Accountant (CPA), financial advisor, or tax professional before finalizing a property division agreement.

Do not assume that a retirement account belongs entirely to the spouse whose name appears on the account. In California, the community property interest is generally determined by when the retirement benefits were earned—not whose name is on the account.

Retirement Division in Mediation

Retirement accounts often represent a family's largest financial asset after the marital residence. Through mediation, spouses can openly discuss their long-term financial goals and explore creative options for dividing retirement benefits in a way that is fair and meets the needs of both parties. A mediator can help the parties:

- Identify all retirement accounts.
- Distinguish community and separate property interests.
- Discuss valuation and division options.
- Coordinate with financial professionals when necessary.
- Determine whether a QDRO or other retirement division order will be required.

While mediators facilitate productive discussions, they do not provide legal or tax advice. Couples are encouraged to consult independent legal counsel or qualified financial professionals regarding the legal and tax consequences of any proposed retirement division.



Business Ownership

A closely held business is often one of the most valuable and most complex assets involved in a divorce. Whether one spouse owns a small family business, a professional practice, an online business, or an ownership interest in a corporation or limited liability company (LLC), it is important to determine whether the business is community property, separate property, or a combination of both before deciding how it will be divided. Under California's community property laws, a business or an interest in a business may be subject to division if it was established, acquired, or increased in value during the marriage. However, every business is unique, and determining each spouse's interest often requires careful analysis of when the business was created, how it was financed, and how it grew over time. Is the Business Community or Separate Property? The first step is determining how the business should be classified.

Community Property

A business may be considered community property if:

- It was started during the marriage using community funds.
- It was purchased during the marriage.
- Both spouses contributed marital income to its operation or growth.
- The ownership interest was acquired during the marriage.

If the business is community property, its value is generally subject to equal division unless the spouses agree otherwise.

Separate Property

- It was established before the marriage.
- It was inherited by one spouse.
- It was received as a gift.
- It was acquired after the date of separation.

However, even if a business began as separate property, the community may acquire an interest if community funds, labor, or efforts contributed to its growth during the marriage.

Mixed (Community and Separate) Interests

Many businesses contain both separate and community property interests.

For example:

- A spouse started a consulting firm before marriage.
- During the marriage, the business expanded significantly through the owner's labor and community investments.
- Additional employees were hired.
- Revenue increased substantially.

Although the business existed before marriage, part of its increased value may belong to the community. Determining these interests often requires specialized legal and financial analysis.



Business Ownership, cont.

Businesses involved in divorce may include:

- Sole proprietorships
- Partnerships
- Limited Liability Companies (LLCs)
- Corporations
- Professional practices
- Family-owned businesses
- Online businesses
- Franchise operations
- Real estate investment companies

Each type of business presents unique valuation and ownership issues.

Business Valuation

Before a business can be divided, it must first be valued. Business valuation is the process of determining the fair market value of the ownership interest. Depending on the circumstances, valuation may consider:

- Business income
- Assets
- Liabilities
- Equipment
- Inventory
- Accounts receivable
- Goodwill
- Customer relationships
- Contracts
- Future earning potential

Many couples retain a qualified business valuation expert, forensic accountant, or Certified Public Accountant (CPA) to provide an independent valuation. A neutral valuation expert is often especially helpful in mediation because both spouses can rely on the same objective information during negotiations.

Professional Goodwill

Certain businesses, such as law firms, medical practices, dental offices, accounting firms, and other professional practices, may include professional goodwill. Professional goodwill generally refers to the intangible value of a business that arises from:

- Reputation
- Established client relationships
- Referral sources
- Brand recognition
- The expectation of continued patronage

California courts recognize that professional goodwill may have value and, in some circumstances, may be considered when valuing a community business interest.

Because goodwill can be difficult to measure, qualified valuation professionals are frequently involved.



Business Ownership, cont.

Options for Dividing a Business

Every business is different, and there is no single solution that works for every family.

One Spouse Keeps the Business

The most common solution is for one spouse to retain ownership while compensating the other spouse for their community interest. Compensation may occur through:

- A cash payment
- Installment payments
- Other marital assets
- Equity in the family home
- Retirement accounts

Sell the Business

If neither spouse wishes to continue operating the business, the business may be sold and the proceeds divided according to the settlement agreement.

Although this option provides a clean financial separation, it is not always practical or financially advantageous.

Continue as Co-Owners

In limited situations, former spouses may choose to continue owning and operating the business together after the divorce.

This option generally works best when:

- The parties communicate well.
- Clear management responsibilities are established.
- A detailed operating agreement addresses future decision-making and dispute resolution.

Because ongoing co-ownership requires continued cooperation, it is not appropriate for every couple.

Buy-Out Over Time

Rather than making a single lump-sum payment, spouses may agree to a structured buy-out over several years.

A payment schedule may include:

- Fixed installment payments
- Interest
- Security for payment
- Default provisions

This option may be appropriate when the business does not have sufficient cash flow to fund an immediate buy-out.



Business Ownership, cont.

Tax Considerations

Business division can have significant tax consequences. Potential issues include:

- Capital gains taxes
- Business deductions
- Depreciation
- Future income tax obligations
- Transfer taxes
- Basis adjustments

The tax consequences of different settlement options can vary considerably. Couples should consult qualified tax professionals before finalizing any agreement involving a business.

Business Ownership and Mediation

Business owners often worry that divorce will disrupt daily operations, affect employees, or threaten the future of the company. Mediation provides a confidential setting where spouses can discuss these concerns, evaluate valuation information, and develop practical solutions without the uncertainty of trial. A mediator can help the parties:

- Identify the business interests involved.
- Gather the financial information needed for valuation.
- Explore buy-out options.
- Discuss tax and cash-flow considerations.
- Coordinate with neutral valuation experts, accountants, and attorneys.
- Develop creative settlement options tailored to the family's needs.

By focusing on collaboration rather than litigation, mediation often helps preserve both the value of the business and the professional relationships that support its continued success.

Mediation Tip

Owning a business does not mean it must be sold during a divorce. In many California divorces, the business remains intact while the spouses negotiate a fair division of its value. With accurate financial information, professional valuations, and thoughtful planning, many business owners can continue operating their companies while reaching a comprehensive settlement that protects both the business and the family's financial future.

At Fehn Mediation, I am business valuation trained and can give you access to experts from the National Association of Certified Valuators and Analysts who can provide the specialization and the help needed for your business. - Leticia



Debts, Loans, and Credit Cards

Debts

Dividing assets is only one part of a California divorce. Couples must also determine how to divide the debts they accumulated during the marriage. Just as California law distinguishes between community property and separate property, it also distinguishes between community debts and separate debts. Understanding these differences is essential because responsibility for a debt does not always depend on whose name appears on the account. In California, debts incurred during the marriage are generally presumed to be community obligations, meaning both spouses may share responsibility for them regardless of who made the purchase or signed the credit application. However, there are exceptions, and each debt should be carefully reviewed **before a final settlement is reached**.

Community Debts: Community debts are generally obligations incurred by either spouse during the marriage and before the date of separation for the benefit of the marriage or family.

- Credit card balances
- Home mortgages
- Home equity loans
- Vehicle loans
- Personal loans
- Medical bills
- Tax liabilities
- Student loans incurred for marital benefit
- Business loans obtained during the marriage
- Household utility balances

As with community property, California generally presumes these debts belong to both spouses.

Separate Debts: Separate debts are generally obligations that belong to only one spouse.

- Incurred before the marriage.
- Incurred after the date of separation.
- Related solely to one spouse's separate property.
- Associated with certain non-marital obligations.

For example:

- A student loan obtained before the marriage.
- A personal credit card opened after separation.
- Debt associated with separate investment property.

The classification of a debt depends on the facts surrounding when and why it was incurred.

Tax Debts: Outstanding tax liabilities should never be overlooked during divorce.

Tax obligations may include:

- Federal income taxes
- California state income taxes
- Property taxes
- Payroll taxes
- Business taxes

Even if one spouse primarily handled the family's finances, both spouses may have responsibility for certain tax obligations.



Debts, Loans, and Credit Cards, cont.

Business Debts: If either spouse owns a business, additional financial obligations may exist, including:

- Business loans
- Equipment financing
- Vendor obligations
- Lines of credit
- Commercial leases
- SBA loans

Business debts should be evaluated together with the business itself to determine whether they are community obligations, separate obligations, or associated with the business entity.

Credit Cards: Credit card debt is one of the most frequently disputed financial issues during divorce. Questions often include:

- Which purchases benefited the family?
- Which charges were personal?
- Were any charges made after separation?
- Were community funds used to pay separate obligations?

When negotiating credit card debt, couples should review:

- Current balances
- Interest rates
- Account ownership
- Date charges were incurred
- Purpose of the charges

Obtaining current account statements before mediation can help simplify discussions.

Protecting Your Credit During Divorce

Divorce can significantly affect both spouses' credit if financial obligations are not addressed carefully.

Practical steps may include:

- Obtaining a copy of your credit report.
- Identifying all joint accounts.
- Closing joint credit cards when appropriate.
- Freezing or limiting new charges on joint accounts.
- Refinancing loans whenever possible.
- Monitoring credit reports after the divorce.
- Updating mailing addresses with creditors.

Taking these steps early can help reduce financial disputes and protect both spouses' credit after the divorce.



Debts, Loans, and Credit Cards, cont.

Home Mortgages and Home Equity Loans

If the couple owns a home, the mortgage is often the largest debt in the marriage.

Options may include:

- Selling the home and paying off the mortgage.
- One spouse refinancing the loan into their own name.
- Continuing joint ownership for a period of time.
- Offsetting the mortgage responsibility with other assets.

If one spouse is awarded the home, refinancing is often recommended to remove the other spouse from future liability whenever possible.

Vehicle Loans

Vehicle loans are generally addressed together with the vehicle itself.

Common solutions include:

- The spouse keeping the vehicle assumes responsibility for the loan.
- Selling the vehicle and paying off the loan.
- Refinancing the loan into one spouse's name.
- Trading equity through other marital assets.

The settlement agreement should clearly identify who is responsible for each vehicle loan.

Student Loans

Student loans are treated differently depending on when they were incurred and how the borrowed funds were used. For example:

- Loans obtained before marriage are generally separate obligations.
- Loans obtained during the marriage may require additional analysis depending on whether the education primarily benefited the community or one spouse individually.

Because these situations can be fact-specific, couples should obtain legal advice when necessary.

Does Whose Name Is on the Debt Matter? One of the most common misconceptions is that only the person whose name appears on a loan or credit card is responsible for the debt. In reality, California family law and creditor rights are two separate issues. For purposes of dividing property in a divorce, a debt incurred during the marriage may be allocated between the spouses regardless of whose name appears on the account. However, the divorce judgment does not change the contractual relationship with the lender. For example: If both spouses agree that one spouse will pay a jointly held credit card after the divorce but both names remain on the account, the credit card company may still pursue either. For this reason, couples should consider closing joint accounts, refinancing loans, or removing one spouse from joint obligations whenever possible.

Mediation Tip

A divorce judgment determines how spouses divide responsibility for debts between themselves, but it does not automatically change your agreement with the lender. If your name remains on a mortgage, loan, or credit card after the divorce, the creditor may still hold you responsible if payments are not made. Whenever possible, consider refinancing, paying off joint debts, or closing shared accounts before the divorce is finalized to protect your financial future.



Taxes

Taxes are an important part of every California divorce and can have a significant impact on the overall financial settlement. Decisions about property division, retirement accounts, real estate, child-related tax benefits, and support payments may all carry tax consequences that should be considered before a settlement agreement is finalized. While California's community property laws determine how assets and debts are divided, federal and state tax laws determine how those decisions are taxed. Because every family's financial situation is unique, couples are encouraged to consult a Certified Public Accountant (CPA), Enrolled Agent (EA), or tax professional before making final decisions.

Filing Status

One of the first tax questions divorcing couples face is how they should file their income tax returns. Your filing status generally depends on your marital status as of December 31 of the tax year. Common filing options include:

- Married Filing Jointly
- Married Filing Separately
- Single
- Head of Household (if eligible)

If your divorce is not final by December 31, you are generally still considered married for federal and California income tax purposes for that tax year. Eligibility for a particular filing status depends on tax law and each spouse's circumstances.

Joint Tax Returns

Many couples choose to file a joint tax return during the divorce process because it may provide certain tax benefits. However, filing jointly also generally means both spouses are jointly responsible for:

- Taxes owed
- Interest
- Certain penalties
- Accuracy of the tax return

Before signing a joint return, both spouses should review the information carefully and understand the potential legal and financial consequences.

Tax Refunds and Tax Liabilities

Couples should decide how they will handle:

- Expected income tax refunds
- Outstanding tax balances
- Future tax assessments
- Estimated tax payments

Many settlement agreements include provisions explaining:

- How refunds will be divided.
- Who will pay any taxes due.
- Responsibility for future audits related to jointly filed returns.

Clearly addressing these issues can help prevent disputes after the divorce is finalized.



Taxes, cont.

Child-Related Tax Benefits: Parents should discuss how child-related tax benefits will be allocated after the divorce. These may include:

- The federal Child Tax Credit
- Other available child-related tax benefits
- Eligibility to claim a qualifying child
- Head of Household filing status, when applicable
- Child and dependent care tax benefits

The allocation of these benefits should be consistent with the parties' parenting arrangements and applicable tax laws. Parents should understand that the right to claim a child for tax purposes is governed by federal tax law, and a state court order does not automatically override IRS requirements.

Spousal Support and Taxes: Federal tax law changed significantly for divorces finalized after December 31, 2018. For most divorces finalized after that date:

- Spousal support (alimony) payments are generally not deductible by the paying spouse for federal income tax purposes.
- The spouse receiving spousal support generally does not include those payments as taxable income for federal income tax purposes.

California tax law may differ in certain respects. Because tax rules can change and individual circumstances vary, couples should obtain current tax advice before finalizing support agreements.

Property Transfers Between Spouses: Many property transfers made incident to divorce are generally not treated as taxable events at the time of transfer under federal law. Examples include:

- Transferring ownership of the family residence.
- Dividing investment accounts.
- Assigning vehicles.
- Transferring ownership interests in certain assets.

Although the transfer itself may not create an immediate tax liability, future sales of those assets may have tax consequences based on their cost basis and appreciation.

Keep Good Records

Throughout the divorce process, it is important to maintain complete financial records. Documents that may be helpful include:

- Federal and California tax returns
- W-2s and 1099s
- Pay stubs
- Business tax returns
- Property tax statements
- Mortgage interest statements
- Investment account statements
- Retirement account statements
- Records of estimated tax payments

Having organized records makes financial disclosure easier and can help avoid delays during mediation or court proceedings.



Taxes, cont.

Real Estate and Taxes: Selling or transferring a home during divorce may have tax consequences. Issues to consider include:

- Capital gains taxes
- Cost basis
- Mortgage interest deductions
- Property tax reassessment
- Timing of a home sale

Although many transfers between spouses incident to divorce are not immediately taxable, future tax consequences should still be considered when evaluating settlement options.

Retirement Accounts and Taxes: Retirement accounts often involve deferred taxes.

For example:

- Traditional retirement accounts are generally taxed when funds are withdrawn.
- Roth retirement accounts may qualify for tax-free withdrawals if legal requirements are met.
- Improper transfers may result in taxes or penalties.

Many employer-sponsored retirement plans require a Qualified Domestic Relations Order (QDRO) before assets can be divided without triggering unintended tax consequences.

Business Tax Issues: If the spouses own a business, additional tax considerations may arise, including:

- Business income
- Depreciation
- Capital gains
- Payroll taxes
- Estimated tax payments
- Transfer of ownership interests

Business owners should work closely with qualified tax professionals when negotiating a settlement involving a business.

Mediation and Tax Planning

Although divorce mediators do not provide tax advice, they often help couples identify tax issues that should be considered before finalizing a settlement. By discussing potential tax consequences early in the process, couples can make more informed decisions about property division, retirement accounts, support, and the sale or transfer of assets.

Mediators frequently encourage clients to consult with a CPA, Enrolled Agent, tax attorney, or financial advisor when specialized tax guidance is needed. Coordinating with these professionals can help ensure that the settlement reflects not only the current value of assets and debts but also their potential after-tax value.

Mediation Tip

The value of an asset is not always the same as its after-tax value. Two assets with identical market values may have very different tax consequences when they are sold or withdrawn. Before agreeing to divide retirement accounts, investment property, or business interests, consider how taxes may affect the true value of each asset. Careful tax planning during the divorce process can help prevent costly surprises in the future.



Financial Disclosures

One of the Most Important Steps in a California Divorce

After your divorce case has been filed and your spouse has been served, California law requires both spouses to exchange detailed financial information. This process is known as **Preliminary Financial Disclosures** or the **Preliminary Declaration of Disclosure**. The purpose of these disclosures is to ensure that **both spouses have complete and accurate financial information before making decisions about property division, child support, spousal support, or a settlement agreement**. California law is based on the principle that both parties should negotiate and make decisions with full knowledge of the family's financial situation. Neither spouse is allowed to hide assets, minimize income, or keep financial information from the other. Unlike many court forms, **these documents are generally exchanged directly between the spouses (or their attorneys)** and are **not filed with the court**, except for the Declaration Regarding **Service of Declaration of Disclosure (Form FL-141)**, which confirms that the exchange took place.

Why Are Financial Disclosures Required?

Financial disclosures promote transparency and fairness throughout the divorce process. They help both spouses:

- Understand the family's complete financial picture.
- Identify community and separate property.
- Determine income available for support.
- Calculate child support and spousal support.
- Value assets and debts.
- Negotiate informed settlement agreements.
- Reduce future disputes over hidden or omitted assets.

A settlement reached without complete financial disclosure can later be challenged or even set aside by the court.

California's Fiduciary Duty Between Spouses

Even though you are divorcing, California law continues to impose a fiduciary duty on spouses until all marital assets and debts have been divided. This means each spouse has a legal obligation to:

- Act honestly and in good faith.
- Provide complete and accurate financial information.
- Disclose all assets and debts.
- Avoid hiding, transferring, or wasting community property.
- Correct any disclosure that later proves inaccurate or incomplete.

Failing to meet these duties can result in significant court sanctions, monetary penalties, or an unequal division of property.



Financial Disclosures

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What Forms Are Included in the Preliminary Declaration of Disclosure?

Most couples will prepare several required forms as part of their financial disclosures.

Form FL-140 – Declaration of Disclosure: This form serves as the cover sheet for your financial disclosures. It identifies:

- The forms you are providing.
- Whether additional schedules are attached.
- Whether you are using a Schedule of Assets and Debts (FL-142) or a Property Declaration (FL-160).

Think of FL-140 as a checklist confirming that your complete financial disclosure package has been assembled.

Form FL-142 – Schedule of Assets and Debts

This is one of the most detailed forms in the divorce process. It requires you to list virtually everything you own and owe, including whether each item is community property, separate property, or partly both. Common assets include:

Real Estate

- Family home
- Rental properties
- Vacation homes
- Timeshares
- Vacant land

Financial Accounts

- Checking accounts
- Savings accounts
- Credit union accounts
- Money market accounts
- Certificates of deposit (CDs)



Financial Disclosures

Whenever possible, list current balances and estimated fair market values. Supporting statements help verify the information you provide.

Retirement Accounts

- 401(k) and 403(b)
- Pension plans
- IRA and Roth IRA accounts
- Deferred compensation plans

Investments

- Stocks and Bonds
- Mutual funds
- Brokerage accounts
- Cryptocurrency
- Stock options
- Restricted stock units (RSUs)

Business Interests

- Sole proprietorships
- Partnerships
- Limited liability companies (LLCs)
- Corporations
- Professional practices

Vehicles

- Cars and Trucks
- Motorcycles
- Boats
- Recreational vehicles (RVs)

Personal Property

- Jewelry
- Firearms
- Collectibles
- Artwork
- Furniture
- Electronics
- Antiques

Debts

You must also disclose:

- Mortgages
- Vehicle loans
- Student loans
- Credit cards
- Personal loans
- Medical debt
- IRS or Franchise Tax Board obligations
- Home equity lines of credit



Financial Disclosures

Form FL-150 – Income and Expense Declaration

The Income and Expense Declaration provides a snapshot of your current financial circumstances. Be as accurate as possible. If your income varies from month to month, explain why and provide documentation. You will disclose:

Employment Information

- Employer name
- Job title
- Date hired
- Occupation

Income

- Salary or wages
- Overtime
- Bonuses
- Commissions
- Self-employment income
- Rental income
- Pension income
- Social Security benefits
- Disability benefits
- Investment income
- Unemployment benefits
- Any other recurring income

Monthly Expenses

You'll estimate your regular monthly expenses, including:

- Housing
- Utilities
- Groceries
- Transportation
- Insurance
- Medical expenses
- Childcare
- School expenses
- Entertainment
- Debt payments
- Other recurring household costs

Supporting Documentation

The FL-150 is typically accompanied by documents such as:

- Recent pay stubs
- W-2s or 1099s
- Recent federal and state tax returns
- Proof of self-employment income, if applicable

These documents help verify the income reported on the form.



Financial Disclosures

The more organized your financial information is, the more efficient your divorce or mediation process.

Additional Documents You Should Gather

Although not all of these documents are attached to the court forms, collecting them early will make the disclosure process much easier. Consider gathering:

Tax Returns

- Federal tax returns (last two years, or more if helpful) and State tax returns

Banking Records

- Checking and Savings account statements
- Credit union statements

Retirement Statements

- 401(k)
- IRA
- Pension statements

Investment Statements

- Brokerage accounts
- Mutual funds
- Cryptocurrency accounts

Employment Records

- Recent pay stubs
- Bonus statements
- Commission reports
- Employment contracts

Business Records (Business Owners, Business Partners)

- Business tax returns
- Profit and loss statements
- Balance sheets
- Payroll records
- Business bank statements
- Buy-sell agreements
- Partnership agreements
- Business valuation reports

Real Estate Records

- Mortgage statements
- Property tax bills
- Appraisals
- Loan balances
- Home equity loan statements

Insurance

- Life insurance policies
- Health insurance
- Disability insurance
- Long-term care insurance



Financial Disclosures

In mediation, these disclosures help negotiations be based on facts rather than assumptions.

What Happens After the Financial Disclosures Are Exchanged?

Once both spouses have exchanged their disclosures, they have a much clearer understanding of the family's financial situation.

This information becomes the foundation for discussing:

- Division of community property
- Allocation of debts
- Child support
- Spousal support
- Retirement division
- Business interests
- Tax considerations
- Settlement proposals

Common Mistakes to Avoid:

- Forgetting retirement accounts.
- Omitting stock options or cryptocurrency.
- Underestimating the value of assets.
- Failing to disclose debts.
- Guessing about income without documentation.
- Forgetting business interests.
- Not updating disclosures if financial circumstances change.
- Hiding assets or transferring property after filing.

Remember, honesty and complete disclosure are not only ethical—they are required by California law.

Mediation Tip

One of the greatest advantages of mediation is that financial disclosures become a tool for collaboration rather than conflict. Instead of using financial information to gain leverage over one another, couples work together to fully understand their assets, debts, income, and future financial needs. This transparency helps build trust, encourages productive discussions, and allows spouses to create customized solutions that meet the needs of both parties and their family. Couples who prepare complete and organized financial disclosures often spend less time in mediation, reduce professional fees, and reach agreements more efficiently.



Child Custody, Co-Parenting & Parenting Plans



Chapter 6

Legal Custody & Physical Custody

Best Interests Standard, Parenting Plans & Holiday Schedules

Child Exchanges. Co-Parenting & Parallel Parenting

Parenting Apps & The Role of Mediation



Legal Custody & Physical Custody

For parents, child custody is often the most important and emotionally challenging aspect of a divorce. California courts recognize that, while a marriage may end, a child's need for a stable, loving relationship with both parents usually continues. For this reason, California law encourages parents to work together to develop parenting arrangements that promote the health, safety, and well-being of their children whenever possible. Whether custody issues are resolved through mediation, a Joint Petition, or court proceedings, the primary focus is always the best interests of the child. Understanding the different types of custody, how parenting plans are created, and the tools available to support successful co-parenting can help parents make informed decisions that benefit their children both during and after divorce.

Legal Custody vs. Physical Custody: Many parents believe "**custody**" simply means where a child lives. In California, however, custody has two separate components: **legal custody and physical custody**.

Legal Custody: Legal custody refers to a parent's right and responsibility to make important decisions regarding a child's upbringing. These decisions may include:

- Education
- Medical and dental care
- Mental health treatment
- Religious upbringing
- Extracurricular activities
- General health and welfare

Joint Legal Custody: In many California cases, parents share joint legal custody, meaning they consult one another and make major decisions together. **Joint legal custody** does not necessarily mean the child spends equal time with each parent. Instead, it reflects shared decision-making responsibilities.

Sole Legal Custody: In some situations, the court may award one parent sole legal custody, giving that parent the authority to make major decisions without the other parent's consent. This may occur when:

- Parents cannot communicate effectively.
- One parent is unavailable.
- Domestic violence is present.
- Significant safety concerns exist.

Physical Custody: Physical custody refers to where the child lives and who provides the child's day-to-day care.

Joint Physical Custody. Joint physical custody means the child spends significant periods of time with both parents. This does not necessarily require a 50/50 schedule. Parenting time may be divided in many different ways depending on the family's circumstances. Examples include:

- Alternating weeks
- 2-2-5-5 schedule or 2-2-3 schedule
- Week-on/week-off
- Extended weekends
- Customized parenting schedules

Sole Physical Custody

Sole physical custody means the child primarily resides with one parent while the other parent typically has visitation or parenting time according to a court order or parenting agreement.



Best Interest, Parenting Plans & Holiday Schedules

The Best Interests of the Child Standard

Whenever parents cannot agree on custody arrangements, California courts decide custody based on the best interests of the child. Rather than focusing on what is most convenient for either parent, the court evaluates what arrangement will best support the child's health, safety, welfare, and overall development. Factors the court may consider include:

- The child's health, safety, and welfare
- Any history of abuse or domestic violence
- The nature and amount of contact each parent has had with the child
- Each parent's ability to care for the child
- The child's need for stability and continuity
- The willingness of each parent to encourage a positive relationship with the other parent
- Any other factors affecting the child's well-being

Depending on the child's age and maturity, the court may also consider the child's preferences when appropriate.

Parenting Plans: A parenting plan is a written agreement that explains how parents will share responsibilities for raising their children after separation or divorce.

A well-designed parenting plan helps reduce misunderstandings and provides consistency for children. Parenting plans commonly address:

- Weekly parenting schedules
- Transportation responsibilities
- Exchange locations
- School schedules
- Summer vacation
- Holidays
- Birthdays
- Mother's Day and Father's Day
- Communication with the children
- Telephone and video calls
- Medical decisions
- Educational decisions
- Extracurricular activities
- Travel
- Relocation procedures
- Future dispute resolution

The more detailed the parenting plan, the less likely future disagreements will arise

Holiday Schedules: Holiday schedules are often separate from the regular parenting schedule. Parents frequently alternate holidays each year or divide holidays by specific times including:

- New Year's Day, Easter or Passover
- Memorial Day, Fourth of July, Labor Day
- Halloween, Thanksgiving
- Christmas Eve, Christmas Day, Hanukkah
- Children's birthdays, Parents' birthdays
- Mother's Day, Father's Day
- School breaks, Winter vacation, Spring break, Summer vacation



Child Exchanges, Co-Parenting & Parallel Parenting

Child Exchanges: The transition between households can be one of the most stressful moments for children. Planning safe, predictable exchanges helps reduce anxiety.

Parents should consider:

- Exchange location
- Pick-up and drop-off times
- Transportation responsibilities
- School exchanges
- Public exchange locations when appropriate
- Procedures for delays
- Emergency contacts

Children benefit when exchanges are calm, respectful, and free from parental conflict.

Parents should avoid discussing legal disputes or financial issues during exchanges.

Co-Parenting: Co-parenting occurs when parents continue working together to raise their children after separation or divorce. Successful co-parenting emphasizes:

- Respectful communication
- Consistency
- Cooperation
- Shared problem-solving
- Flexibility
- Child-focused decision-making

Children generally adjust better when they experience positive relationships with both parents and are not exposed to ongoing conflict. Healthy co-parenting often includes:

- Keeping children out of adult disputes
- Speaking respectfully about the other parent
- Sharing important information
- Attending school events together when appropriate
- Supporting the child's relationship with both parents

Parallel Parenting: Not every family is able to co-parent successfully. In situations involving:

- High conflict
- Poor communication
- Domestic violence
- Ongoing hostility
- Significant trust issues

parallel parenting may be more appropriate. Rather than requiring frequent interaction, parallel parenting minimizes direct contact between parents while allowing each parent to independently care for the child during their parenting time. Parallel parenting plans include:

- Highly detailed schedules
- Limited communication
- Written communication through parenting apps
- Clearly defined decision-making responsibilities
- Structured exchange procedures
- Reduced opportunities for conflict

Although parents interact less frequently, the focus remains on providing stability and minimizing children's exposure to conflict.



Parenting Apps and The Role of Mediation

Parenting Apps: Technology has become an important tool for many co-parents. Parenting applications provide secure platforms for communication, scheduling, expense tracking, and information sharing. Popular parenting apps include:

- OurFamilyWizard
- TalkingParents
- AppClose
- 2Houses
- Cozi Family Organizer

These applications can help parents:

- Share calendars
- Exchange messages
- Track parenting time
- Record expenses
- Upload medical records
- Store school information
- Reduce misunderstandings
- Create a documented communication history

Many family courts encourage or even require the use of parenting apps in high-conflict cases.

The Role of Mediation

California strongly encourages parents to resolve custody disputes outside of the courtroom whenever possible. Mediation provides a confidential and child-focused environment where parents can discuss concerns, explore options, and develop parenting plans tailored to their family's unique needs. A mediator does not decide who receives custody. Instead, the mediator helps parents:

- Improve communication.
- Identify their children's needs.
- Develop practical parenting schedules.
- Resolve disagreements.
- Create holiday schedules.
- Address future decision-making.
- Build long-term co-parenting strategies.

Because parents know their children better than anyone else, they are often in the best position to create parenting plans that fit their family's routines, values, and goals.

Mediation Tip

Children thrive on stability, consistency, and loving relationships with both parents whenever it is safe and appropriate. The most successful parenting plans focus less on what is "fair" for the parents and more on what helps children feel secure, supported, and connected. Whether through cooperative co-parenting or structured parallel parenting, reducing conflict and maintaining predictable routines can have a lasting positive impact on a child's emotional well-being and adjustment after divorce.



Child Support



Chapter 7

Child Support

California Guideline Formula

Income & Timeshare Percentages

Health Insurance, Daycare & Add-On Expenses

Modifications to Child Support

Mediation and Child Support

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



California Guideline Formula

Every parent has a legal obligation to support their children financially. In California, child support is intended to ensure that children continue to receive financial support from both parents after separation or divorce. Child support is the right of the child **NOT** the parent—and the amount ordered is designed to help meet the child's reasonable needs while allowing the child to share in the standard of living of both parents. Unlike many financial issues that can be negotiated freely, California uses a **statewide guideline formula** to calculate child support. Courts begin with this formula in nearly every case, and the resulting amount is presumed to be the correct amount of support unless a legal reason exists to deviate from the guideline.

What Is Child Support? Child support is a court-ordered payment made by one parent to the other to help pay for the costs of raising a child. Child support is intended to contribute toward expenses such as:

- Food
- Housing
- Clothing
- School supplies
- Transportation
- Health care
- Daily living expenses
- Other ordinary costs associated with raising a child

Child support generally continues until a child turns 18 and graduates from high school, or turns 19 if still a full-time high school student and living with a parent. Certain exceptions may apply under California law.

California's Guideline Child Support Formula: California does not allow judges to simply choose an amount they believe is fair. Instead, the law requires courts to begin with a statewide uniform guideline formula that calculates support based on several financial and parenting factors.

The statutory formula is:

$$CS = K [HN - (H\% \times TN)]$$

Where:

- CS = Child support
- K = Percentage of income allocated for child support
- HN = Higher-earning parent's net disposable income
- H% = Higher-earning parent's parenting time percentage
- TN = Combined net disposable income of both parents

Although the formula appears simple, it incorporates numerous financial variables and is typically calculated using specialized child support software approved for use in California. mandatory payroll deductions, to determine each parent's net disposable income.



Income and Timeshare Percentages

Income: One of the most important factors in determining child support is each parent's net disposable income. The court may consider income from many different sources, including:

- Wages and salaries
- Overtime (when appropriate)
- Bonuses
- Commissions
- Self-employment income
- Rental income
- Pension income
- Investment income
- Unemployment benefits (in some situations)
- Disability benefits (depending on the source)

To calculate child support, the court generally begins with gross income and subtracts allowable deductions, such as taxes and certain mandatory payroll deductions, to determine each parent's net disposable income.

Timeshare Percentages: Parenting time, often referred to as the timeshare percentage, is another significant factor in calculating child support.

California measures timeshare based on the approximate percentage of time each parent has primary physical responsibility for the child. While overnight visits are important, courts may also consider the actual hours each parent is responsible for the child. Examples include:

- One parent has the child 80% of the time.
- Parents share a 50/50 parenting schedule.
- One parent has alternating weekends and one evening each week.

In general:

- The more parenting time a parent has, the greater their direct financial responsibility for the child's day-to-day needs.
- Parenting time is only one factor; income differences between the parents also significantly affect the support calculation.

Even when parents share equal parenting time, child support may still be appropriate if one parent earns substantially more than the other.

Can Parents Agree to a Different Amount?

Parents are encouraged to work together and may reach agreements regarding child support. However, because child support belongs to the child, the court must review the agreement to ensure it complies with California law and adequately protects the child's interests. If parents propose an amount different from the guideline calculation, the court may require additional findings before approving the agreement. In many cases, the guideline amount remains the starting point for negotiations.



Healthcare, Childcare, and Add-On Expenses

Health Insurance: California law requires every child support order to address medical support whenever health insurance is available at a reasonable cost. The court may order one or both parents to:

- Maintain health insurance coverage for the child.
- Share the cost of insurance premiums attributable to the child.
- Divide uninsured medical, dental, orthodontic, vision, counseling, or prescription expenses.

Parents should identify:

- Which parent currently provides coverage.
- Monthly premium costs attributable to the child.
- Available employer-sponsored insurance.
- Anticipated uninsured medical expenses.

These expenses are often addressed separately from the basic child support calculation.

Childcare (Daycare) Expenses: Work-related childcare expenses are often referred to as child support add-ons. Examples include:

- Daycare
- Preschool
- Before-school care
- After-school care
- Summer day camp needed because a parent is working
- Childcare required while attending education or job training related to employment

California courts generally allocate these reasonable and necessary expenses between the parents based on their financial circumstances. These costs are typically added to the basic guideline child support amount rather than included within it.

Other Child Support Add-Ons: In addition to health insurance and childcare, the court may order parents to share other approved expenses. Depending on the circumstances, these may include:

- Uninsured medical expenses
- Extraordinary educational expenses
- Special needs expenses
- Travel costs related to visitation
- Other court-approved child-related expenses

These items are evaluated on a case-by-case basis.

How Parents Should Handle Add-On Expenses: One of the most effective ways to avoid future disputes is to establish clear procedures for managing shared expenses.

Parents should discuss:

- Which expenses require prior approval.
- How receipts will be exchanged.
- Deadlines for requesting reimbursement.
- Payment methods.
- How disagreements will be resolved.
- Whether reimbursement requests must be submitted within a certain number of days.

Many parents also use co-parenting applications to upload receipts, track expenses, and maintain an organized payment history.



Modification of Child Support and Mediation

Modifying Child Support: Child support orders are not necessarily permanent. Either parent may request a modification if there has been a material change in circumstances since the current order was entered. Common reasons for modification include:

- Significant increase or decrease in income
- Job loss
- New employment
- Retirement
- Disability
- Substantial change in parenting time
- Increased childcare expenses
- Changes in health insurance costs
- A child reaching the age of majority
- Other significant financial changes

The parent requesting the modification generally must file the appropriate court paperwork and demonstrate that circumstances have changed sufficiently to justify modifying the existing order. The court will then recalculate support using the current statewide guideline formula.

Child Support and Mediation: Although child support is calculated using California's statewide guideline formula, mediation remains an important part of the process. Mediators help parents gather accurate financial information, discuss parenting schedules that affect the guideline calculation, identify childcare and health insurance costs, and understand how different parenting arrangements may influence support. While a mediator cannot alter California's child support formula or provide legal advice, they can facilitate productive conversations, reduce misunderstandings, and help parents reach agreements regarding parenting plans, expense sharing, reimbursement procedures, and other financial issues that accompany child support.

Mediation Tip

Accurate financial information leads to accurate child support calculations. Before negotiating or calculating support, gather recent pay stubs, tax returns, proof of health insurance premiums, childcare receipts, and documentation of your parenting schedule. Providing complete and current financial information helps ensure that child support reflects your family's actual circumstances and reduces the likelihood of future disputes or modifications.



Spousal Support



Chapter 8

Spousal Support and Gavron Warning

Temporary Support and Permanent Support

Modification of Spousal Support

Termination of Spousal Support

Length of Marriage, Taxes and Mediation

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



Spousal Support and Gavron Warning

Spousal support commonly referred to as ***alimony*** is financial assistance that one spouse may be ordered to pay the other during or after a divorce. Unlike child support, which is intended to meet the needs of a child and is calculated using a statewide guideline formula, spousal support is based on the unique circumstances of each marriage and the financial needs and abilities of the spouses. Not every divorce results in a spousal support order. In some cases, neither spouse requests support, while in others, the spouses agree to waive support altogether. When support is requested, California courts consider numerous statutory factors to determine whether support is appropriate, how much should be paid, and how long payments should continue.

What Is Spousal Support? Spousal support is intended to help a lower-earning spouse transition toward financial independence after separation or divorce. Depending on the circumstances, support may be awarded on a temporary basis while the divorce is pending or on a longer-term basis after the divorce is finalized. The purpose of spousal support is not to punish one spouse or reward the other. Instead, it seeks to balance the financial impact of divorce while considering each spouse's earning capacity, standard of living during the marriage, and ability to become self-supporting.

The Gavron Warning: One unique feature of California spousal support law is the Gavron Warning. A Gavron Warning is a notice from the court advising the supported spouse that they are expected to make reasonable, good-faith efforts to become self-supporting within a reasonable period of time. This may include:

- Seeking employment
- Completing education or vocational training
- Updating professional licenses
- Improving job skills
- Returning to the workforce after caring for children

The warning does not require immediate employment, nor does it guarantee that support will end on a particular date. Instead, it reminds the supported spouse that long-term financial independence is generally an important goal under California law.

Whether a Gavron Warning is appropriate depends on the facts of each case, including the length of the marriage, the parties' circumstances, and the supported spouse's ability to work.

Can Spouses Agree on Support? Yes. Many couples resolve spousal support through mediation rather than asking a judge to decide. Possible agreements include:

- No spousal support
- Monthly support payments
- Lump-sum support
- Step-down support that decreases over time
- Limited-duration support
- Non-modifiable support (when legally appropriate)
- Reservation of jurisdiction for future decisions

When spouses reach an agreement, the court generally reviews it before incorporating it into the final judgment.



Temporary and Permanent Spousal Support

Temporary Spousal Support: Temporary spousal support is financial support ordered while the divorce case is pending. Its primary purpose is to maintain financial stability until the court enters a final judgment. Temporary support may help pay for:

- Housing
- Utilities
- Food
- Transportation
- Insurance
- Other necessary living expenses

In many California counties, temporary support is calculated using guideline software that considers both spouses' incomes and certain deductions. These guideline calculations are different from the factors the court considers when making a final spousal support determination.

Temporary support generally ends when:

- The final judgment is entered,
- A new support order is issued, or
- The court modifies or terminates the order.

Permanent (Post-Judgment) Spousal Support: Despite its name, permanent spousal support does not necessarily mean support lasts forever. Permanent support refers to the support ordered after the divorce judgment is entered. Unlike temporary support, there is no mathematical formula that automatically determines permanent support. Instead, the court evaluates numerous factors listed in California Family Code section 4320. These factors include:

- The length of the marriage
- The marital standard of living
- Each spouse's earning capacity
- Employment history
- Education and job skills
- Age and health of each spouse
- Assets and debts
- Contributions to the other spouse's education or career
- Ability of the supporting spouse to pay
- Balance of hardships
- Tax consequences
- Any history of domestic violence
- The goal that the supported spouse become self-supporting within a reasonable period of time

Because every family's circumstances are different, permanent support is highly individualized.



Modification of Spousal Support

Modification of Spousal Support: Unlike many provisions in a divorce judgment, **spousal support is often subject to future modification unless the parties have entered into a valid agreement making it non-modifiable.** Life circumstances can change significantly after a divorce, and California law recognizes that support orders may need to be adjusted to reflect those changes. Unless the parties have entered into a valid written agreement making spousal support non-modifiable, either spouse may ask the court to increase, decrease, suspend, or terminate support. A court will generally modify spousal support only after finding that there has been a **material change in circumstances** since the last support order was entered. The party requesting the modification has the burden of proving that such a change has occurred. Either spouse may request a modification if there has been a **material change in circumstances**, which is a significant change affecting either spouses' situation or ability to pay or receive support. Examples include:

- Job loss
- Retirement - one of the most common reasons requesting modification
- Disability
- Significant increase or decrease in income
- Completion of education or vocational training
- Substantial improvement in earning capacity
- Serious illness
- Other significant financial changes

The party requesting the modification generally has the burden of demonstrating that circumstances have materially changed since the previous order was entered.

The Gavron Warning and Modification: If the court previously issued a Gavron Warning, it may later consider whether the supported spouse made reasonable efforts to become self-supporting. Examples of good-faith efforts include:

- Applying for employment
- Completing educational programs
- Obtaining professional licenses
- Participating in vocational training
- Updating job skills

Failure to make reasonable efforts after receiving a Gavron Warning may become one factor the court considers when deciding whether support should continue, although it is not the only factor.

Can Parents Modify Child Support Without Changing Spousal Support? Yes. Although child support and spousal support often appear in the same judgment, they are separate legal obligations. A modification of child support does not automatically change spousal support, and vice versa. Each issue is evaluated independently.



Termination of Spousal Support

Termination of Spousal Support: Spousal support does not always continue indefinitely. Many support orders include a specific termination date, while others remain subject to future court review. Support may end automatically, by agreement, or through a subsequent court order.

Common Reasons Spousal Support Ends: Completion of the Support Period - Many settlement agreements specify a termination date. Examples include:

- Five years after judgment
- Upon completion of educational training
- After a scheduled step-down period
- On a specific calendar date

If the agreement clearly establishes a termination date, support generally ends as provided.

Death of Either Party: Unless the parties have agreed otherwise in very limited circumstances, spousal support generally terminates upon:

- The death of the supporting spouse, or the death of the supported spouse.

Future support obligations ordinarily do not survive death.

Remarriage of the Supported Spouse: Under California law, the remarriage of the supported spouse generally terminates future spousal support unless the parties have entered into a written agreement providing otherwise. Once remarriage occurs, the obligation to pay future support usually ends without the need for further analysis regarding financial need.

Court Order: The court may terminate support after reviewing updated financial circumstances. This commonly occurs when:

- The supported spouse has become self-supporting.
- The supporting spouse can no longer reasonably pay support.
- The parties' financial circumstances have substantially changed.
- Continued support is no longer equitable under California law.

Written Agreement of the Parties: Former spouses may agree to terminate support through a written agreement approved by the court. Many mediation settlements include negotiated termination provisions tailored to the family's circumstances.

Cohabitation: A common question is whether living with a new partner automatically ends spousal support. **The answer is no.** However, if the supported spouse is cohabiting with another person, California law creates a rebuttable presumption that the supported spouse's need for support has decreased. The court may consider:

- Shared living expenses
- Financial contributions from the new partner
- Overall financial circumstances

Cohabitation does not automatically terminate support, but it may provide grounds for seeking a modification or reduction.



Length of a Marriage, Taxes and Mediation

Length of Marriage: The duration of the marriage is one of the most important factors in determining how long spousal support may continue.

Short-Term Marriages: A marriage lasting less than 10 years is generally considered a marriage of shorter duration. Although every case is different, support is often ordered for approximately one-half the length of the marriage. For example:

- A six-year marriage may result in support lasting approximately three years.

This is not an automatic rule, but rather a general guideline often considered by courts.

Long-Term Marriages: A marriage lasting 10 years or more is generally presumed to be a marriage of long duration under California law. In these cases, the court may retain jurisdiction over spousal support, meaning there is no automatic termination date solely because the marriage lasted ten years or more. This does not mean support is permanent or lifelong. Instead, the court maintains the authority to modify or terminate support in the future based on changing circumstances.

Tax Considerations: Federal tax law changed significantly for divorces finalized after December 31, 2018. For most divorces finalized after that date:

- The spouse paying spousal support generally cannot deduct those payments for federal income tax purposes.
- The spouse receiving spousal support generally does not report those payments as taxable income for federal income tax purposes.

California tax treatment may differ in certain situations. Because tax laws may change, couples should consult a qualified tax professional before finalizing any support agreement.

Mediation and Future Modifications

One advantage of mediation is that spouses can proactively address future changes before they occur. Rather than leaving every issue for future litigation, couples may negotiate provisions addressing:

- Retirement
- Future reductions in support
- Step-down schedules
- Employment expectations
- Educational goals
- Review dates
- Termination events
- Procedures for future modifications

By discussing these issues during mediation, couples often reduce the likelihood of returning to court and create greater financial certainty for both parties.

Mediation Tip:

A change in circumstances does not automatically change your spousal support order. Until the court signs a new order—or approves a written agreement modifying support—the existing order remains legally enforceable. If your financial situation changes significantly, act promptly. Delaying a request for modification can result in ongoing support obligations that continue to accrue and generally cannot be retroactively adjusted for periods before a proper request is filed.



Negotiating a Settlement Agreement



Chapter 9

Negotiate a Settlement Agreement or Participate in Mediation

Issues Resolved In Mediation

Benefits of Mediation

When Mediation May Not Be Appropriate

Marriage Settlement Agreement (MSA)

Divorce Judgment Package

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



Negotiate a Settlement Agreement or Participate in Divorce Mediation

Most California Divorces Settle Without Going to Trial: Many people believe that once they file for divorce, they will eventually have to appear before a judge and fight over every issue. In reality, the overwhelming majority of divorce cases in California are resolved through negotiation, mediation, or settlement rather than a trial. After both spouses have exchanged their financial disclosures, they are in a much better position to begin discussing how they want to divide their property, make parenting decisions, and resolve financial issues. At this stage, couples generally have several options:

- Negotiate directly with one another.
- Work through their attorneys.
- Participate in divorce mediation.
- Attend a court settlement conference if necessary.
- Proceed to trial if no agreement can be reached.

What Is Divorce Mediation? Divorce mediation is a confidential, voluntary process in which a neutral third party the mediator helps spouses communicate, identify issues, explore options, and negotiate mutually acceptable agreements. Unlike a judge, the mediator does not make decisions for either spouse. Instead, the mediator guides productive conversations, helps manage conflict, keeps discussions focused, and assists both spouses in developing practical solutions that work for their family. The goal is to help couples reach their own agreements rather than having decisions imposed by the court.

The Mediator's Role: A divorce mediator remains **neutral** throughout the process. The mediator does not:

- Take sides.
- Decide who is right or wrong.
- Represent either spouse.
- Provide legal advice to one party.
- Force anyone to settle.

Instead, the mediator helps both spouses:

- Improve communication.
- Clarify misunderstandings.
- Exchange information.
- Identify priorities.
- Explore settlement options.
- Understand the practical consequences of different decisions.
- Develop creative solutions tailored to their family's needs.

A skilled mediator focuses on problem-solving rather than assigning blame. The more issues resolved together, the less time, money & emotional stress you will experience.



What Happens During a Divorce Mediation

What Happens During a Mediation Session?

Although every mediator has a unique style and approach, most divorce mediation sessions follow a similar structure designed to encourage productive communication, informed decision-making, and collaborative problem-solving. Rather than arguing positions or presenting evidence to a judge, spouses work together with the assistance of a neutral mediator to identify issues, exchange information, explore options, and negotiate solutions that meet the needs of both parties and, when applicable, their children.

Unlike a courtroom, mediation is generally informal and conversational. The goal is not to determine who is right or wrong, but to help spouses have productive discussions that lead to practical, mutually acceptable agreements. The mediator manages the process, keeps the conversation focused, encourages respectful communication, and helps the parties move through difficult issues one step at a time.

While every case is different, most mediation sessions include the following stages:

Step 1: Identify the Issues

The mediator helps both spouses identify the topics that need to be resolved.

Step 2: Gather Information

Financial documents, parenting concerns, and other relevant information are reviewed so everyone is working from the same facts.

Step 3: Discuss Priorities

Each spouse has an opportunity to explain what is most important to them and why. Often, couples discover they share many of the same goals, such as protecting their children, preserving financial stability, and avoiding unnecessary conflict.

Step 4: Explore Options

The mediator helps generate possible solutions. Rather than focusing on positions ("I want the house"), the discussion often shifts to interests ("I want stability for the children" or "I need financial security"). This approach opens the door to more creative and flexible solutions.

Step 5: Negotiate Agreements

As agreements begin to emerge, the mediator helps refine the details, address remaining concerns, and ensure both spouses understand the terms being discussed.

Step 6: Prepare the Settlement

Once all issues have been resolved, the mediator or a related professional prepares a written settlement agreement that reflects the parties' decisions. The agreement can then be reviewed, signed, and submitted to the court as part of the final divorce paperwork.



Issues Resolved in a Divorce Mediation

Issues Commonly Resolved in a Divorce Mediation

Every family is different, but mediation frequently addresses the following topics. The goal is to create a clear understanding of each parent's financial responsibilities.

Property Division: Couples decide how to divide:

- The family home
- Investment properties
- Bank accounts
- Retirement accounts
- Vehicles
- Furniture and personal belongings
- Businesses
- Stock options
- Cryptocurrency
- Debts and loans

Rather than asking a judge to divide everything, spouses have the flexibility to create customized solutions that fit their financial goals.

Child Custody: Parents *work together to develop a parenting plan* that addresses:

- Legal custody
- Physical custody
- Parenting schedules and Holidays
- School vacations
- Transportation
- Decision-making responsibilities
- Communication expectations

Instead of a judge determining how children will spend their time, parents remain actively involved in designing a plan that reflects their children's unique needs.

Child Support: Parents review California's child support guidelines while also discussing practical issues such as:

- Health insurance
- Childcare costs
- Extracurricular activities
- Educational expenses
- Uninsured medical costs
- Future financial planning

Spousal Support: Spouses review California's spousal support laws and the factors courts consider such as:

- Each spouse's income and earning capacity
- Monthly living expenses and budgets
- The marital standard of living
- Temporary versus permanent spousal support
- Employment, education, and career goals
- The Gavron Warning and expectations for becoming self-supporting
- Retirement planning and future financial security
- Tax considerations and Duration of support and termination events



Benefits of Divorce Mediation

Many couples choose mediation because it offers significant advantages over traditional litigation. Rather than asking a judge, who may know very little about your family, to make important decisions, mediation empowers spouses to work together with the guidance of a neutral mediator to develop practical, customized solutions. While mediation is not appropriate for every situation, it has become one of the most effective and widely used methods for resolving divorce and family law disputes.

Greater Control: One of the greatest advantages of mediation is that you and your spouse, **NOT a judge** make the decisions affecting your family's future. Rather than having outcomes imposed by the court, you retain control over issues such as:

- Property division
- Parenting schedules
- Child support
- Spousal support
- Holiday schedules
- Future communication

This often results in agreements that better reflect your family's unique needs and priorities.

Lower Cost: Litigation can quickly become expensive due to attorney fees, court appearances, discovery, expert witnesses, and trial preparation. Because mediation focuses on resolving disputes collaboratively rather than fighting them in court, many couples spend significantly less on the divorce process. The money saved through mediation can often be redirected toward:

- Purchasing a new home
- Paying off debt
- College savings
- Retirement
- Children's expenses

Faster Resolution: Court calendars are often crowded, and litigated divorces can take many months or even years to resolve. Mediation allows couples to schedule sessions at their convenience and move forward as quickly as they are able to make decisions. Many mediated divorces are completed substantially faster than contested court cases.

Privacy: Unlike court hearings, which are generally open to the public, mediation sessions are confidential. This allows spouses to openly discuss:

- Financial concerns
- Parenting issues
- Business interests
- Personal matters
- Future goals

without presenting those conversations in a courtroom.

Better Communication: Mediation encourages respectful communication and constructive problem-solving. Instead of arguing through attorneys, spouses work directly with a neutral mediator who helps facilitate productive discussions. These improved communication skills often continue long after the divorce has been finalized.



Benefits of Divorce Mediation, cont.

Customized Solutions: Judges must follow statutory guidelines and may have limited flexibility. Mediation allows couples to create agreements specifically designed for their family. For example, parents may develop creative parenting schedules that better accommodate:

- Work schedules
- Children's activities
- Holidays
- Vacations
- Special family traditions

Less Stress and Emotional Conflict: Divorce is one of life's most stressful events. Mediation helps reduce unnecessary conflict by focusing on collaboration instead of confrontation. Many couples report that mediation feels:

- Less intimidating
- More respectful
- More productive
- Less emotionally exhausting than traditional litigation.

Better for Children: Children often experience less emotional stress when parents cooperate during divorce. Mediation encourages parents to:

- Keep children out of conflict.
- Develop child-focused parenting plans.
- Improve communication.
- Make decisions based on their children's best interests.

Research has consistently shown that reducing parental conflict is one of the most important factors supporting children's adjustment after divorce.

Preserves Relationships: Although the marriage may be ending, many relationships continue. Parents will often remain connected through:

- School activities
- Graduations
- Weddings
- Grandchildren
- Family celebrations

Mediation helps preserve respectful relationships that benefit everyone involved.

Higher Compliance with Agreements: People are generally more likely to follow agreements they helped create. Because mediated settlements result from mutual decision-making rather than court orders imposed by a judge, they often experience:

- Better long-term compliance
- Fewer misunderstandings
- Reduced enforcement actions
- Greater satisfaction with the outcome

Supports Long-Term Financial Stability: Every dollar spent on unnecessary litigation is a dollar that cannot be used for your family's future. By reducing legal fees and encouraging efficient settlements, mediation allows many couples to preserve more of their marital assets. This can improve each spouse's financial stability after divorce and leave more resources available for their children.



Benefits of Divorce Mediation, cont.

Allows the Use of Neutral Experts: When specialized knowledge is needed, mediation allows both spouses to jointly retain neutral professionals rather than hiring competing experts.

Examples include:

- Certified Public Accountants (CPAs)
- Business valuation experts
- Real estate appraisers
- Financial planners
- Child specialists
- Mortgage professionals

Using neutral experts often reduces costs, increases trust in the information provided, and helps both parties make informed decisions.

Flexible Scheduling: Court hearings are scheduled based on the court's calendar. ***Fehn Mediation sessions can often be scheduled:***

- Evenings
- Weekends
- Virtual appointments
- Around work schedules
- Around children's activities

This flexibility is especially valuable for busy families.

Encourages Creative Problem Solving: Mediation is not limited to choosing between two legal positions. Instead, spouses can develop innovative solutions that may never be ordered by a court. Examples include:

- Flexible holiday schedules
- Gradual buy-outs of the family home
- Customized parenting transitions
- Business ownership arrangements
- College expense agreements
- Future mediation clauses

Improves Long-Term Co-Parenting: For parents, mediation often establishes healthier communication patterns that continue after the divorce. Parents learn how to:

- Resolve disagreements respectfully.
- Focus on their children's needs.
- Communicate more effectively.
- Make future parenting decisions together.

This foundation can benefit children for many years.

Mediation Tip:

Successful mediation is not about "winning" or "losing." It is about creating durable solutions that allow both spouses—and their children—to move forward with greater financial security, healthier communication, and less conflict. While mediation requires honesty, cooperation, and a willingness to negotiate in good faith, it often provides families with greater control, lower costs, and more satisfying outcomes than traditional courtroom litigation.



When Mediation May Not Be Appropriate

When Mediation May Not Be Appropriate

Although mediation is highly effective for many families, it is not the right choice in every situation.

- Ongoing domestic violence or credible threats of harm.
- Serious concerns about coercion or intimidation.
- A party who is unwilling to participate in good faith.
- Active concealment of significant assets.
- Severe substance abuse or mental health issues that prevent meaningful participation.
- An inability to communicate safely, even with professional assistance.

If safety is a concern, speak with an attorney or domestic violence advocate before deciding whether mediation is appropriate.

Common Misconceptions About Mediation

"Mediation means we have to agree on everything."

No. The purpose of mediation is to help you work through disagreements. It is common to begin mediation with many unresolved issues.

"The mediator decides who wins."

No. The mediator remains neutral and does not make decisions for either spouse.

"Mediation is only for couples who get along."

Not at all. Many couples who struggle to communicate successfully reach agreements through mediation because the mediator provides structure, guidance, and tools for productive conversations.

"Choosing mediation means giving up my legal rights."

No. Each spouse retains the right to consult with an attorney at any time during the mediation process. Many couples choose to have an attorney review their final settlement agreement before signing.

Mediation Tip

Approach mediation with an open mind and a willingness to listen. Successful mediation is not about one person "winning" and the other "losing." Instead, it is about finding balanced, practical solutions that allow both spouses—and especially their children—to move forward with greater stability and less conflict. The more prepared you are with financial documents, realistic goals, and a problem-solving mindset, the more productive your mediation sessions are likely to be.

Remember, the end of a marriage does not have to begin a battle. For many California families, mediation provides a respectful path toward resolution, allowing couples to preserve relationships, protect their finances, and create a solid foundation for their next chapter.



Marital Settlement Agreement (MSA)

Marital Settlement Agreement (MSA)

One of the most important documents in a mediated divorce is the **Marital Settlement Agreement, often called the MSA**. This written agreement outlines every single decision in detail the spouses have made. Topics commonly included are:

Property Division

- Family home and any Rental properties
- Bank accounts
- Retirement plans
- Vehicles
- Personal property
- Business interests
- Investments

Debt Allocation: The agreement identifies responsibility for:

- Credit cards
- Mortgages
- Vehicle loans
- Student loans and Personal Loans
- Tax obligations

Child Custody: If children are involved, the agreement generally includes:

- Legal custody and Physical custody
- Parenting schedule, Holiday schedule, Vacation schedule
- Transportation arrangements
- Decision-making responsibilities
- Communication guidelines

Child Support: The agreement explains:

- Monthly support amount and Payment dates
- Health insurance responsibilities
- Childcare expenses and Educational expenses
- Uninsured medical expenses
- Future modification provisions when permitted by law

Spousal Support: Couples discuss whether spousal support is appropriate and, if so:

- Amount and Duration
- Payment schedule
- Modification provisions
- Termination events

Understanding each spouse's financial needs and future earning potential often leads to more thoughtful agreements.

Business Interests: If one or both spouses own a business, mediation may address:

- Business valuation
- Buyout options and/or Co-ownership status after divorce
- Cash-flow planning
- Division of ownership interests
- Tax considerations
- Future management responsibilities

Business-owner divorces often benefit from the collaborative nature of mediation because preserving the value of the business is usually in everyone's best interest.



Divorce Judgment Package

Bringing Your Divorce to a Successful Conclusion

After you and your spouse have exchanged your financial disclosures and reached agreements on all of the issues in your divorce, the next step is preparing your **Judgment Package**. This is the collection of documents that asks the court to approve your agreements and officially end your marriage.

Think of the Judgment Package as the final chapter of your divorce case. Up to this point, you have completed the work of identifying assets and debts, discussing parenting arrangements, determining support, and resolving other important issues. Now those decisions must be organized into legally required court forms so a judge can review them. If everything has been completed correctly, the judge may approve the paperwork without requiring either spouse to appear in court.

What Is a Divorce Judgment?

A Judgment of Dissolution is the court's final order that legally ends your marriage. The judgment:

- Officially dissolves your marriage or registered domestic partnership.
- Confirms the terms of your property division.
- Establishes custody and parenting orders, if applicable.
- Sets child support and spousal support orders.
- Divides retirement benefits when appropriate.
- Becomes an enforceable court order once signed by the judge.

Even if you and your spouse agree on every issue, your divorce is not final until the court signs the judgment, and the required waiting period has passed.

What Is Included in a Judgment Package?

Although every case is different, a typical uncontested California divorce Judgment Package may include many of the following forms.

FL-180 – Judgment: This is the primary document that the judge signs. It summarizes the court's orders and officially ends the marriage. The Judgment identifies:

- Names of the parties
- Date of separation (when applicable)
- Date marital status will terminate
- Custody orders
- Child support orders
- Spousal support orders
- Property division
- Whether agreements are attached

The FL-180 serves as the cover document for your entire judgment package.



Divorce Judgment Package, cont.

Spousal Support

If applicable, the agreement specifies:

- Amount
- Payment frequency
- Duration
- Termination events
- Whether the court retains jurisdiction to modify support

Tax Matters

Many settlement agreements also address:

- Dependency exemptions (subject to applicable law)
- Filing status
- Allocation of refunds
- Responsibility for prior tax liabilities

Future Dispute Resolution

Many mediated agreements include a provision requiring the parties to attempt mediation before returning to court for future disputes involving parenting or interpretation of the agreement.

Additional Court Forms

Depending on your circumstances, your Judgment Package may also include forms such as:

- Notice of Entry of Judgment (FL-190)
- Child Support Information and Order Attachment (FL-342)
- Child Custody and Visitation Order Attachment (FL-341 series)
- Spousal or Family Support Order Attachment (FL-343)
- Property Order Attachment
- Declaration for Default or Uncontested Dissolution (FL-170), if applicable
- Declaration Regarding Service of Declaration of Disclosure (FL-141), confirming that financial disclosures were exchanged
- Income Withholding for Support (FL-195), when required
- Other local county forms

The exact forms required depend on whether your case is a default, uncontested, or stipulated judgment, whether children are involved, and the issues being resolved.



Divorce Judgment Package, cont.

Organizing Your Judgment Package

Before submitting your paperwork to the court, review everything carefully.

Use the following checklist:

- ☐ All required court forms are complete.
- ☐ Every required signature has been obtained.
- ☐ Dates are accurate and consistent throughout the documents.
- ☐ Property descriptions match your settlement agreement.
- ☐ Parenting schedules are complete and easy to understand.
- ☐ Support amounts are clearly stated.
- ☐ Required attachments are included.
- ☐ Financial disclosure requirements have been satisfied.
- ☐ Copies have been made for both spouses.

Careful preparation reduces the likelihood that the court will reject the paperwork for corrections.

Filing the Judgment Package

Once the documents are complete, they are submitted to the Superior Court where the divorce case was filed. The court will:

1. Receive the Judgment Package.
2. Review the paperwork for completeness.
3. Ensure all required forms have been included.
4. Verify that mandatory disclosures were completed.
5. Confirm the settlement complies with California law.
6. Submit the package to a judicial officer for review.

If the judge approves the paperwork, the Judgment will be signed and entered by the court clerk. If corrections are needed, the court may return the package with instructions describing what must be fixed before it can be approved.

Do We Have to Go to Court?

In many uncontested or mediated California divorces, no court appearance is required.

If all required forms have been properly completed, all issues have been resolved, and the court approves the Judgment Package, the judge may finalize the divorce based solely on the written paperwork.

However, certain cases especially those involving disputes or complex legal issues may require one or more court appearances.



Divorce Judgment Package, cont.

How Long Does Court Review Take?

The time required for the court to review a Judgment Package varies by county and by the court's workload. Some courts review uncontested judgments within a few weeks, while others may take several months. Be patient during this stage. Delays do not necessarily mean there is a problem with your case.

Can Someone Help Prepare the Judgment Package?

Yes. Many people choose to receive professional assistance with preparing the final paperwork. Depending on your situation, you may work with:

- A divorce mediator.
- A family law attorney.
- **A Legal Document Assistant (LDA) registered in California**
- A self-help center provided by the Superior Court.

Fehn Divorce Mediation uses an LDA who prepares legal documents at our direction but cannot provide legal advice to our clients unless they are also a licensed attorney. If you are unsure about your legal rights or the terms of your settlement agreement, consider consulting a qualified family law attorney before signing.

Common Reasons Judgment Packages Are Rejected

The court may return a Judgment Package if it contains errors such as:

- Missing signatures.
- Incomplete forms.
- Inconsistent dates.
- Missing attachments.
- Unclear parenting schedules.
- Incorrect support calculations.
- Failure to file required disclosure forms.
- Mathematical or clerical errors.

Reviewing your documents carefully before filing can save weeks—or even months—of additional processing time.

Mediation Tip

One of the greatest benefits of mediation is that by the time you prepare your Judgment Package, the difficult decisions have already been made. Instead of asking a judge to resolve disputes, you are submitting an agreement that you and your spouse created together. Because the settlement reflects your family's unique needs and priorities, many couples find greater satisfaction and long-term success with mediated agreements than with orders imposed after litigation.

Once the court approves your Judgment Package, you are one step closer to closing this chapter and beginning the next with confidence and clarity.



California's 6-Month Waiting Period



Chapter 10

Understanding California's 6-Month Waiting Period

Community, Separate, Mixed Property & Real Estate

Retirement Accounts

Business Ownership

Debts, Loans & Credit Cards

Taxes

Financial Disclosures & Declaration: FL-140, FL-142, FL-150, FL-160

FL-141

Important: This guide provides general educational information about California divorce procedures and is not legal advice.



Understanding California's 6-Month Waiting Period

Why Isn't My Divorce Final Right Away?

One of the biggest surprises for many people filing for divorce in California is learning that your divorce cannot become final immediately—even if you and your spouse agree on everything. California law requires a mandatory six-month waiting period before a divorce can be finalized. This is often referred to as the "cooling-off period."

The purpose of this waiting period is to give couples time to carefully consider their decision, resolve important issues, and ensure that all legal requirements have been completed before the marriage is officially dissolved.

Even if your paperwork is perfect, your settlement agreement is complete, and the judge signs your judgment, your marital status generally cannot terminate until at least six months have passed.

When Does the Six-Month Waiting Period Begin?

A common misconception is that the six-month period begins when you file your divorce papers. It does not. Instead, the six-month waiting period generally begins on the date the Respondent (the spouse who did not file first) is served with:

- The Petition (FL-100)
- The Summons (FL-110)
- or when the Respondent files a Response (FL-120), whichever occurs first. This means that delaying service also delays the earliest possible date your divorce can become final.

Example

Suppose the following timeline:

- January 10: Petition is filed.
- January 20: Spouse is personally served.
- March 15: Financial disclosures are completed.
- April 10: Settlement agreement is signed.
- May 5: Judgment Package is submitted to the court.
- June 1: Judge signs the Judgment.

Even though the judge signed the Judgment in June, the marriage **cannot legally terminate before July 20**, because six months must pass from the date the spouse was served.

The court will identify the effective date of termination of marital status in the Judgment.



Understanding California's 6-Month Waiting Period, cont.

Why Does California Require a Waiting Period?

California adopted the six-month waiting period to encourage thoughtful decision-making and to provide time for spouses to address important legal and financial matters.

The waiting period allows couples to:

- Exchange complete financial disclosures.
- Negotiate a fair settlement.
- Participate in mediation.
- Develop a parenting plan.
- Resolve support issues.
- Divide property and debts.
- Prepare for their financial futures.
- Reduce the likelihood of rushed decisions.

While some couples reconcile during this period, many use the time to organize their lives and complete the legal process in an orderly manner.

Can We Finish All the Paperwork Before Six Months?

Yes. In fact, many couples complete every required document well before the waiting period expires. During the six months, you can:

- Exchange financial disclosures.
- Participate in mediation.
- Negotiate all terms of your settlement.
- Sign a Marital Settlement Agreement.
- Prepare your Judgment Package.
- Submit your paperwork to the court.
- Receive the judge's approval.

The only thing you cannot do is legally end the marriage before the six-month minimum period has elapsed. This means your case can be "ready" well before your marital status officially terminates.

Are We Still Married During the Waiting Period?

Yes. Until the effective date listed in the Judgment arrives, you remain legally married. During this time:

- You cannot legally marry someone else.
- Certain legal and financial rights associated with marriage may continue.
- The Automatic Temporary Restraining Orders (ATROS) generally remain in effect unless modified by the court or otherwise terminated according to law.
- Existing court orders regarding custody, support, or property remain enforceable.



Understanding California's 6-Month Waiting Period

Using the waiting period productively can make the transition after divorce much smoother.

Can We Live Apart During the Waiting Period? Absolutely.

Many spouses begin living separately long before the divorce is finalized.

Living apart does not affect the six-month waiting period.

Likewise, continuing to live in the same residence for financial or parenting reasons does not necessarily prevent you from obtaining a divorce if you otherwise meet the legal requirements.

Can We Reconcile During the Waiting Period?

Yes. Some couples decide to reconcile after filing for divorce.

If you choose to stay married, you may be able to dismiss your divorce case before the Judgment becomes final, provided certain legal requirements are met.

If reconciliation is only temporary, you should seek legal advice before taking any action that could affect your case.

What If My Spouse Doesn't Respond?

Your spouse's failure to respond does not eliminate the six-month waiting period.

If your spouse does not file a Response within the required time, you may still be able to proceed by default, but California's minimum waiting period still applies.

Even default divorces cannot be finalized sooner than six months after service or appearance.

What Happens During These Six Months?

Many important tasks are completed during this period.

Financial Matters

- Exchange financial disclosures.
- Value community assets.
- Obtain appraisals if needed.
- Divide retirement accounts.
- Address tax considerations.

Parenting Matters

- Develop parenting schedules.
- Establish holiday plans.
- Determine child support.
- Create communication guidelines.

Property Division

- Refinance or sell the family home if appropriate.
- Transfer vehicle ownership.
- Divide bank accounts and allocate debts.
- Close or separate joint accounts.

Planning for the Future - Many people also begin:

- Creating a post-divorce budget.
- Updating their estate planning documents.
- Reviewing insurance coverage.
- Updating beneficiaries where legally appropriate.
- Establishing new financial goals.
- Building healthy co-parenting routines.



Understanding California's 6-Month Waiting Period

Can the Court Waive the Six-Month Waiting Period?

No. The six-month waiting period is established by California law. Neither the judge nor the spouses can shorten it simply because:

- Both spouses agree.
- The divorce is uncontested.
- There are no children.
- There are no assets.
- The paperwork was completed quickly.

Every California divorce is subject to the minimum waiting period unless a specific legal exception applies.

What Happens After the Waiting Period Ends?

Once:

- The six-month waiting period has expired,
- The court has approved your judgment,
- All required documents have been filed,

your marital status terminates on the date specified in the Judgment. From that date forward:

- You are legally divorced.
- Court orders regarding property, custody, and support become enforceable according to their terms.
- You may remarry if you choose.
- You can begin implementing the agreements contained in your judgment.

Keep certified copies of your final Judgment in a safe place, as you may need them when changing your name, updating financial accounts, transferring property, or modifying legal documents.

Common Misconceptions About the Waiting Period

"We agree on everything, so we'll be divorced in a few weeks."

Not necessarily. Even complete agreement does not eliminate California's six-month waiting period.

"The waiting period starts when I file the Petition."

Incorrect. It generally begins when the Respondent is served with the Petition and Summons or first appears in the case.

"The judge signed my judgment, so I'm divorced."

Not always. Check the Judgment carefully. Your marriage ends on the termination date listed in the Judgment, which cannot generally be earlier than six months after service or appearance.

"Nothing happens during the six months."

In reality, this is often the busiest stage of the divorce process. Most negotiations, financial disclosures, parenting discussions, and settlement preparations occur during this period.



Understanding California's 6-Month Waiting Period

Mediation Tip

Many couples initially view the six-month waiting period as an inconvenience. In reality, it can be one of the most valuable parts of the divorce process. Rather than rushing life-changing decisions, use this time to organize your finances, develop a thoughtful parenting plan, and work through unresolved issues in mediation. Couples who approach the waiting period as an opportunity, not simply a delay, often reach more durable agreements, experience less conflict, and begin their next chapter with greater confidence and stability.

Important: This guide provides general educational information and is not legal advice. Although California law generally requires a six-month minimum waiting period, individual circumstances and court procedures may affect your case. Always review your signed Judgment carefully to determine the official date your marital status terminates and consult a qualified family law attorney or mediator if you have questions.



Know Your Rights



Chapter 11

Understanding California's 6-Month Waiting Period

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Know Your Rights

Knowledge Gives You Confidence

Divorce can feel overwhelming, especially when you're uncertain about your legal rights. One of the most empowering things you can do is understand how California divorce laws work before making important decisions. Whether your divorce is amicable or contested, involves children, significant assets, or a family business, you have legal rights throughout the divorce process. Knowing these rights allows you to make informed decisions, ask the right **questions, and confidently participate in mediation, negotiations, or court proceedings.**

Your Right to Equal Treatment Under California Law

California law gives both spouses equal legal standing throughout the divorce process. Neither spouse automatically has greater rights because they:

- Earn more money
- Earn less money
- Stayed home to raise children
- Managed the household finances
- Filed for divorce first
- Own the family business
- Was the primary breadwinner

The spouse who files first (the Petitioner) does not receive special rights or advantages simply because they started the case.

Your Right to Full Financial Disclosure

One of the most important protections in California divorce law is the requirement that both spouses provide complete and honest financial disclosures. You have the right to receive accurate information about:

- Income
- Bank accounts
- Retirement accounts
- Real estate
- Investments
- Business interests
- Debts
- Credit card balances
- Stock options
- Cryptocurrency
- Other assets and liabilities



Know Your Rights

Likewise, you have the responsibility to provide the same information to your spouse. California law imposes a fiduciary duty on spouses, requiring honesty, transparency, and good faith throughout the divorce process. If a spouse intentionally hides assets or provides false financial information, the court may impose significant penalties.

Your Right to a Fair Division of Community Property

California is a community property state. In general, Community property consists of assets and debts acquired during the marriage before the date of separation, regardless of whose name appears on the title. Examples include:

- Wages earned during the marriage
- Retirement contributions earned during the marriage
- Homes purchased during the marriage
- Vehicles
- Bank accounts
- Businesses started during the marriage
- Investments purchased with community funds

Community property is generally divided equally unless the spouses agree otherwise. However, equal does not always mean every asset is split in half. Instead, spouses often receive different assets of equal overall value. For example, one spouse may keep the family home while the other receives additional retirement assets or investment accounts to achieve an equal division.

Your Right to Keep Separate Property

Not everything belongs to both spouses, separate property generally includes:

- Property owned before marriage
- Gifts received individually during marriage
- Inheritances received individually
- Certain personal injury recoveries
- Property specifically agreed to remain separate

Separate property is generally not divided during divorce unless it has become mixed (commingled) with community property. If separate property has increased in value or has been combined with community funds, additional legal analysis may be necessary.

Your Rights Regarding Children

If you have children together, California courts focus on one primary principle: The best interests of the child. When possible, California encourages children to have frequent and continuing contact with both parents when it is safe and appropriate. The court does not automatically favor mothers or fathers. Parents generally have equal rights to request:

- Joint legal custody
- Sole legal custody
- Joint physical custody
- Sole physical custody
- Parenting time
- Holiday and Vacation schedules



Know Your Rights

Your Right to Participate in Parenting Decisions

Legal custody refers to a parent's authority to make important decisions regarding a child's:

- Education
- Medical care
- Mental health treatment
- Religious upbringing
- Extracurricular activities

Parents may share legal custody jointly or one parent may be granted sole legal custody depending on the circumstances.

Your Right to Child Support

Every child has the right to receive financial support from both parents. Child support belongs to the child, not to either parent. California uses a statewide guideline formula that considers factors such as:

- Each parent's income
- Parenting time
- Health insurance costs
- Childcare expenses
- Certain tax considerations

Parents cannot simply waive child support if doing so would not serve the child's best interests.

Your Right to Request Spousal Support

Depending on the circumstances of your marriage, either spouse may request spousal support. Either spouse may receive support regardless of gender. The court considers numerous factors, including:

- Length of the marriage
- Each spouse's earning capacity
- Standard of living during the marriage
- Contributions to education or career advancement
- Age and health of each spouse
- Ability to become self-supporting
- Financial needs and resources

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Know Your Rights

Your Right to Request Spousal Support, cont.

- Age and health of each spouse
- Ability to become self-supporting
- Financial needs and resources

Your Right to Be Treated Respectfully During the Divorce Process

Divorce is often emotional, but every person deserves to be treated with dignity and respect. You have the right to:

- Ask questions.
- Understand documents before signing them.
- Participate in decisions affecting your future.
- Seek professional guidance.
- Express concerns during mediation.
- Decline settlement proposals that you do not understand or believe are unfair.

No one should pressure you into signing an agreement without having the opportunity to review it carefully.

Your Right to Choose Mediation

Many people are surprised to learn that they do not have to fight their divorce in court. You have the right to explore alternatives such as:

- Divorce mediation
- Collaborative divorce
- Attorney-assisted negotiations
- Settlement conferences

Mediation allows couples to maintain greater control over decisions affecting their family while often reducing costs, delays, and conflict.

Your Right to Consult an Attorney

Even if you participate in mediation, you may consult with an independent attorney at any time. Many mediation clients choose to have an attorney:

- Explain their legal rights.
- Review settlement agreements.
- Answer legal questions.
- Provide advice before signing final documents.

Seeking legal advice does not mean your case must become adversarial.

Your Right to Privacy

Many aspects of divorce mediation are confidential. Unlike courtroom proceedings, mediation discussions generally occur in a private setting designed to encourage open communication and problem-solving. This privacy often allows couples to discuss sensitive financial and parenting issues more comfortably.



Know Your Rights

Your Right to a Safe Process

If you are experiencing domestic violence, coercive control, threats, intimidation, or fear for your safety, additional legal protections may be available. These may include:

- Domestic Violence Restraining Orders (DVROs)
- Emergency protective orders
- Temporary custody orders
- Exclusive use of the family residence
- Supervised visitation when appropriate

Your safety—and the safety of your children—should always come first.

Your Responsibilities During Divorce

Along with important legal rights come important responsibilities. You are expected to:

- Provide truthful financial information.
- Follow court orders.
- Participate in good faith.
- Preserve community assets.
- Act in your children's best interests.
- Respect parenting schedules.
- Complete required paperwork accurately.

Working cooperatively whenever possible often results in a smoother and less expensive divorce.

Frequently Asked Questions

Does filing first give me an advantage?

No. Filing first simply begins the legal process. It does not provide additional property, custody, or financial rights.

Can my spouse hide money from me?

No. California law requires complete financial disclosure. Intentional concealment of assets can result in serious legal consequences.

Will everything automatically be split 50/50?

Not necessarily. While community property is generally divided equally, spouses may agree on different arrangements that are fair and equitable overall.

Can we create our own agreements?

Yes. As long as your agreements comply with California law and are approved by the court when required, you and your spouse have considerable flexibility to design solutions that fit your family's unique needs.



Know Your Rights

Mediation Tip

Knowing your rights does not mean preparing for a fight—it means preparing to make informed decisions. The more you understand California divorce law, the more confident you'll feel during mediation and negotiations. Couples who are informed about their rights are often better equipped to communicate effectively, resolve disagreements, and create lasting agreements that work for everyone involved. Remember, divorce is not about "winning" or "losing." It is about creating a fair path forward that protects your future, your finances, and, most importantly, your family.



Moving Forward After Divorce



Your Next Chapter Begins Here

Finalizing your divorce is a significant milestone, but it is not the end of your journey, it is the beginning of a new chapter. While it's natural to experience a range of emotions, many people discover that divorce also creates space for personal growth, renewed confidence, and a fresh start. There is no "right" way to move forward. Everyone heals at their own pace. The important thing is to take one step at a time, make thoughtful decisions, and build a future that reflects your values, goals, and the life you want to create.

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Give Yourself Time to Heal

Divorce is more than a legal process—it is a life transition. Even when a divorce is the right decision, it is common to experience:

- Sadness
- Relief
- Anxiety
- Uncertainty
- Anger
- Hope
- Loneliness
- Optimism

Some days you may feel confident about your future, while other days may feel overwhelming. Both experiences are normal. Give yourself permission to grieve the relationship you once had while also looking forward to the opportunities ahead. Healing doesn't happen overnight, and comparing your journey to someone else's rarely helps.

Create a New Financial Foundation

One of the biggest adjustments after divorce is managing your finances independently. Now is an excellent time to review your financial picture and create a plan for the future. Consider:

Creating a New Budget - Review your:

- Income
- Monthly expenses
- Housing costs
- Utilities
- Insurance
- Child-related expenses
- Savings goals

A realistic budget helps reduce financial stress and provides a roadmap for your future.

Build an Emergency Fund

If possible, begin setting aside savings for unexpected expenses. Even small monthly contributions can create financial stability over time.

Review Your Credit

After divorce, obtain copies of your credit reports and verify that:



Moving Forward After Divorce

Update Important Legal and Financial Documents

Divorce often requires updating many personal records. Consider reviewing:

- Your will or trust.
- Powers of attorney.
- Advance health care directives.
- Life insurance beneficiaries.
- Retirement account beneficiaries.
- Bank account ownership.
- Investment account beneficiaries.
- Vehicle titles.
- Real estate ownership records.
- Emergency contacts.

Completing these updates helps ensure your documents reflect your current wishes.

Establish Healthy Co-Parenting Habits

If you have children, your marriage may have ended—but your parenting relationship continues. Successful co-parenting focuses on your children's well-being rather than past marital conflicts. Helpful practices include:

- Communicating respectfully.
- Following the parenting schedule.
- Keeping children out of adult disagreements.
- Supporting your children's relationship with the other parent when it is safe and appropriate.
- Being flexible when reasonable.
- Addressing concerns calmly and directly.

Children thrive when parents work together, even if they no longer live together.

Take Care of Your Emotional Well-Being

Divorce can be emotionally exhausting. Make your well-being a priority. Consider:

- Speaking with a therapist.
- Joining a divorce support group.
- Working with a divorce coach.
- Spending time with trusted family and friends.
- Journaling your thoughts.
- Practicing prayer or meditation.
- Exercising regularly.
- Spending time outdoors.
- Developing healthy daily routines.

Seeking support is a sign of strength—not weakness.



Moving Forward After Divorce

Rediscover Who You Are

Many people spend years identifying themselves primarily as a spouse or parent. After divorce, you have the opportunity to rediscover yourself. Ask yourself:

- What brings me joy?
- What goals have I postponed?
- What kind of life do I want to create?
- What values will guide my future?

Consider:

- Taking a class.
- Learning a new skill.
- Volunteering.
- Traveling.
- Starting a new hobby.
- Growing professionally.
- Reconnecting with old friends.

Your future is not limited by your past.

Focus on Your Physical Health

Stress can take a toll on your body as well as your emotions.

Take time to care for yourself by:

- Getting adequate sleep.
- Eating nutritious meals.
- Staying hydrated.
- Exercising regularly.
- Scheduling routine medical appointments.
- Limiting alcohol and unhealthy coping habits.

Healthy habits improve both physical and emotional resilience.

Build a Strong Support Network

No one should go through divorce alone. Surround yourself with people who encourage and support your growth. Your support network may include:

- Family members.
- Friends.
- Faith community.
- Therapist.
- Divorce coach.
- Financial advisor.
- Mediator.
- Attorney.
- Support groups.

Don't be afraid to ask for help when you need it.



A Message From Leticia

If there is one thing I hope you take away from this guide, it is this:

Divorce does not define you.

It is one chapter in your life—not your entire story.

Throughout my career, I have had the privilege of helping individuals, families, and professionals navigate conflict and life-changing transitions. One lesson has remained constant: ***people are far more resilient than they realize.***

While you cannot change the past, you have complete control over the choices you make moving forward.

Choose healing over bitterness.

Choose growth over fear.

Choose peace over conflict.

Choose hope over uncertainty.

Most importantly, choose to believe that your best days may still be ahead.

Thank you for allowing me to be part of your journey. It has been my honor to walk alongside you during this important season of your life. I sincerely wish you peace, strength, and every success as you begin your next chapter.

With encouragement,

Leticia Fehn

Certified Divorce Mediator | Certified Divorce Specialist | Mediation Advocate

Founder, Fehn Divorce Mediation

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