

Petition for Divorce Article 103(1) (With Minor Children)

This form is intended for self-represented litigants who have minor children and do not have a covenant marriage. This material is provided as legal information. It cannot take the place of the advice a lawyer can give you. It is always best to speak with a lawyer before taking any legal action. When you represent yourself in court, you must follow all procedures and the law. It is your responsibility to see your case through the whole process.

You must meet all of the following conditions to use these forms:

- You and your spouse have children that are under 18 (born or adopted).
- You and your spouse have lived separate and apart for three hundred sixty five (365) days before filing for divorce.
- You or your spouse must have lived in Louisiana for at least six months and/or lived in Louisiana together when you decided to divorce.
- You did **not** enter a covenant marriage.
- Your spouse is not an active member of the United States armed forces or any of its allies.

Information you will need:

The exact date and location (parish) where you were married.

The location (parish) where you and your spouse last lived together.

The exact date when you and your spouse began living in separate homes.

The exact current address of your spouse.

The names and dates of birth of all children born of the marriage.

As the person suing for divorce you will be called the **Petitioner** and your spouse will be called the **Defendant**. All the forms you need to file for a divorce are attached.

The first form is titled “**PETITION FOR DIVORCE**”. The Petition for Divorce includes an area titled “**VERIFICATION**”. You must sign this Verification in front of a Notary Public.

Bring your original **Petition for Divorce and Verification**, along with two photocopies, to the Clerk of Court in the parish where you live. Go to the Civil Department and tell the clerk you do not have a lawyer, and that you want to file for divorce. Ask the clerk to **stamp the date** on the copy of the petition you brought to keep for yourself.

In order to proceed, your spouse needs to be given a **certified** copy of the petition **after it has been filed**. You can deliver it yourself if your spouse signs the **Acceptance of Service OR** you can have the Sheriff deliver (or “serve”) your spouse. An acceptance of service may only be signed after the petition has been filed with the clerk and the defendant has been given a certified copy. Also, the acceptance of service must be signed in front of a notary public. If your spouse cannot or will not sign the Acceptance of Service document, you will need to ask the sheriff to serve him/her.

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

- A. If your spouse signed the **Acceptance of Service**, you should bring the signed and notarized form along with a **MOTION FOR PRELIMINARY DEFAULT** to the Clerk’s Office.

If your spouse has been served by the sheriff, he/she is allowed fifteen (15) days from the date he/she was served to answer the suit. After 15 days, you will need to check with the Clerk’s office to make sure your spouse has not filed an answer

or other pleading. **If your spouse has filed a motion in opposition to the divorce, these forms are no longer applicable and you will need to come to Court.**

If your spouse has **NOT** filed anything in response to the petition you filed, **OR** if your spouse has signed the **Acceptance of Service**, take the form titled **MOTION FOR PRELIMINARY DEFAULT** to the Clerk's office. Be sure to bring two (2) copies of the Motion for Preliminary Default along with the original. You have the option of taking the motion with the record to the Judge/Commissioner's clerk to get the preliminary default signed or asking the clerk to forward it to the Judge/Commissioner. Either way, ask the Clerk to give you a copy **stamped with the date** for you to keep. If you choose to have the clerk forward the motion to the Judge/Commissioner, ask to have the other copy of the Motion for Preliminary Default which is marked with the date that the Judge/Commissioner signed it, sent to you.

- E. Once your preliminary default has been signed by the Judge/Commissioner complete the form titled **AFFIDAVIT OF FACTS**. You must sign this form in the presence of a Notary Public and it must be signed after your petition is filed but no more than 30 days before the final Judgment is signed. Also, complete the certification by self-represented litigant and sign it.

Bring the Affidavit of Facts, **the certification by self-represented litigant** and the **JUDGMENT OF DIVORCE** to the Clerk's office. **Take the complete record to the clerk of the Judge/Commissioner** and ask for the Judgment to be signed. Once the Judge/Commissioner has signed your **JUDGMENT OF DIVORCE**, the Clerk's office will **give** you a certified copy of it. You are divorced as of the date of the Judge's/Commissioner's signature at the bottom of the Judgment of Divorce. Keep this certified copy for your records.

- F. If, when you got married, you chose to use your spouse's name or a combination of you maiden name and your spouse's name and you want to return to using your maiden name or the name of your minor children from a previous marriage, then you should complete the form titled **MOTION TO RESUME USING MAIDEN NAME/NAME OF MINOR CHILDREN**. You may file this at the same time you file the affidavit of facts and the final judgment of divorce for the Judge/Commissioner to sign. Ask that the motion and order be presented to the Judge/Commissioner after s/he signs the judgment of divorce

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

Number:

Division:

VERSUS

FILED:

DEPUTY CLERK:

**PETITION FOR DIVORCE UNDER CIVIL CODE ARTICLE 103 WITH
MINOR CHILDREN**

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

1.

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

2.

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

3.

Petitioner and defendant physically separated on the _____ day of _____,
_____, and have lived continuously separate and apart since that date without reconciliation.

4.

The defendant is not an active member of the armed forces of the United States of
America or any of its allies.

5.

The parties did not contract a covenant marriage.

6.

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

Name _____ Date of Birth _____

Name _____ Date of Birth _____

Name _____ Date of Birth _____

Name _____ Date of Birth _____

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

Name _____ Date of Birth _____

Name _____ Date of Birth _____

Name _____ Date of Birth _____

Name _____ Date of Birth _____

7.

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

8.

(_____) Petitioner requests a Rule to Show Cause ordering defendant to appear to show why custody of the minor children should not be awarded as requested below. (Initials: _____)

(_____) Petitioner **does not** request a Rule to Show Cause regarding custody of the minor children. (Initials: _____)

9.

Petitioner believes it is in the best interest of the child(ren) that the Court render judgment awarding custody of the minor children as follows: *(please select one of the following)*

(_____) Petitioner requests parties be awarded joint custody, with _____ designated as domiciliary parent, and with custodial periods awarded to _____ as follows: _____

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

child(ren) as follows: _____

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

(_____) Petitioner requests that the Respondent be awarded reasonable visitation a follows: _____

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

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

10.

*(Please select **one** of the following.)*

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

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

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

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

11.

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

(_____) Petitioner does not have the ability to pre-pay the court costs or to pay the costs as they accrue, and requests that Petitioner be allowed to file *in forma pauperis* under the Code of Civil

Procedure Articles 5185-5188. Uniform IFP form provided by the Clerk of Court should be included with the petition.

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

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

(_____) Petitioner requests Defendant share equally in the court costs.

WHEREFORE, petitioner prays that after all legal delays and due proceedings, there be judgment granting petitioner a divorce in accordance with the provisions of Louisiana Civil Code Article 103. That a rule to show cause issue herein ordering the defendant to appear on a day and time to be determined by the court and to show cause why the petitioner should not be awarded custody as requested herein. That all other ancillary relief requested in this petition be granted in due course.

Respectfully submitted,

(Signature)

(Print Name)

(Street Address)

(City/State/Zip Code)

(Telephone Number)

CLERK OF COURT:

(_____) **DEFENDANT TO ACCEPT SERVICE** (and sign "Acceptance of Service")

(_____) **PLEASE SERVE:** *If out of state or incarcerated, please complete additional affidavit*

(DEFENDANT'S FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

ORDER

IT IS ORDERED that defendant appear on the ____ day of _____, 20__ at _____ o'clock a.m/p.m. why custody of the minor child/ren should not be awarded as follows: Joint Custody with _____ as domiciliary parent and custodial periods with defendant _____.

Sole Custody with (*circle one*) reasonable / supervised / no visitation with defendant.

Thus signed in New Orleans, Louisiana on this ____ day of _____, 20__.

JUDGE

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

VERIFICATION

STATE OF LOUISIANA
PARISH OF _____

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

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

AFFIANT

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

NOTARY PUBLIC

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

ACCEPTANCE OF SERVICE AND WAIVER OF CITATION AND ALL DELAYS

STATE OF _____
PARISH OF _____

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

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

Defendant acknowledges receipt of a certified copy of the above-captioned "Petition For Divorce Under Civil Code Article 103 With Children" entitled _____ v. _____, filed on ___ day of _____, 20___ with the case number _____ on the docket of the Civil District Court for the Parish of Orleans, State of Louisiana.

Defendant expressly and formally acknowledges and accepts service of a **certified** copy of the petition and waives the issuance of formal citation and service of process. Defendant further waives all legal delays allowed by law, particularly those delays allowed for answering and/or excepting to the pleadings provided in La. Code of Civil Proc. Art. 928, 1001, and 1002.

Defendant acknowledges that by signing here Petitioner will be allowed to go forward with this lawsuit in Defendant's absence, and Defendant understands that Petitioner intends to do so. Defendant further waives notice of trial and further waives their appearance in the event of a trial on this matter.

Defendant acknowledges they may be cast with some or all court costs in this proceeding.

Respectfully submitted,

(Signature)

(Print Name)

(Address)

(City/State/ZIP)

(Telephone Number)

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

NOTARY PUBLIC

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

MOTION AND ORDER FOR PRELIMINARY DEFAULT

ON MOTION OF petitioner, _____, and on suggesting to this Honorable Court that:

A verified Petition for Divorce was filed in this matter on ____ day of _____, 20__ (date Petition for Divorce was filed with the Clerk of Court). Defendant was served on the ____ day of _____, 20__ (date your spouse was served with a copy of the Petition).

OR

Defendant signed the Acceptance of Service which was filed with the Court on the ____ day of _____, 20__ (date you filed the Acceptance of Service document).

No answer or other responsive pleading having been filed, petitioner now moves for entry of Preliminary Default under Code of Civil Procedure Article 1702(E).

Respectfully submitted,

_____(Signature)
_____(Print Name)
_____(Street Address)
_____(City/State/Zip Code)
_____(Telephone Number)

CLERK’S CERTIFICATION

I hereby certify that a review of the record reveals that no answer or other responsive pleadings have been filed in this cause. Deputy Clerk: _____ Date: _____

ORDER

Considering the above Motion, **IT IS ORDERED** that a Preliminary Default be entered in the above captioned cause. **THUS DONE AND SIGNED** this _____ day of _____, 20__ at New Orleans, Louisiana.

JUDGE

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

**MOTION FOR CONFIRMATION OF DIVORCE JUDGMENT BY
DEFAULT WITHOUT A HEARING**

On motion of Petitioner, _____, and upon suggesting to the Court that:

1.

*(Please check **one** of the following)*

(_____) Defendant accepted service, waived citation, and all legal delays, as evidenced by the **Acceptance of Service** filed herein, executed by defendant on ___ day of _____, 20__.

(_____) Defendant was **served** with the Divorce Petition on the ___ day of _____, 20__.

(_____) Defendant was served under **long-arm statute by certified mail** and at least 30 days have elapsed since date Petitioner filed "Affidavit of Service" on ___ day of _____, 20__.

2.

A **preliminary default** was entered on the ___ day of _____, 20__.

3.

More than two days, exclusive of holidays, have elapsed since entry of the default judgment, and defendant has not filed an answer or other pleading or opposition.

4.

Petitioner has filed an affidavit attesting to and testifying as to the truth of the factual allegations contained in the petition.

5.

An original and not less than one copy of the proposed final judgment is attached to this motion.

WHEREFORE, Petitioner moves this Court to sign the attached Judgment of Divorce, without requiring a hearing in open court, in accordance with Code of Civil Procedure article 1702(E).

Respectfully submitted,

_____(Signature)
_____(Print Name)
_____(Street Address)
_____(City/State/Zip Code)
_____(Telephone Number)

PETITIONER'S CERTIFICATION

I hereby certify:

1.

That a Preliminary Default was entered on this matter on the ____ day of _____, 20____; and

2.

*(Please check **one** of the following)*

(_____) That _____ (*Defendant*) has executed a sworn Acceptance of Service and Waiver of Citation and all Delays in the above proceeding which as been filed herein on the ____ day of _____, 20____.

(_____) That _____ (*Defendant*) was served with the Divorce Petition on the ____ day of _____, 20____.

(_____) That _____ (*Defendant*) was served under **long-arm statute** by certified mail and at least 30 days have elapsed since the Petition filed an Affidavit of Service on the ____ day of _____, 20____.

(SIGNATURE)

(DATE)

CLERK'S CERTIFICATION

I hereby certify that as of _____ o'clock ___ m., on this _____ day of _____, 20 _____. According to my records of my office and the docket of the court, no answer or other opposition has been filed in this cause by the Defendant, _____.

(SIGNATURE)

(DATE)

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

AFFIDAVIT OF FACTS

STATE OF LOUISIANA
PARISH OF _____

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

Petitioner

Who, being duly sworn, did depose and state:

1. That Petitioner is a person of the full age of majority and who is domiciled in _____ Parish/County, State of _____;
2. That he/she is the petitioner in the above entitled and numbered action;
3. That the defendant is a major currently domiciled in the Parish/County of _____, State of _____ .
4. That petitioner and defendant were married on ____ day of _____, ____ ;
_____ child(ren) were born of the marriage, namely:
 - a. Name/Date of Birth: _____
 - b. Name/Date of Birth: _____
 - c. Name/Date of Birth: _____
5. That petitioner and defendant physically separated on ____ day of _____, ____ .and have remained living separate and apart without reconciliation since that time;
6. That petitioner desires to obtain a divorce under Civil Code Article 103(1) on the basis of the parties having lived separate and apart without reconciliation for three hundred sixty five days or more;
7. That defendant is not a member of the Armed Forces of the United States of America or any of its allies;

- 8. That the parties have not contracted a covenant marriage; and
- 9. Neither party is pregnant at this time.

(PETITIONER SIGNATURE)

(PRINTED FULL NAME)

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

NOTARY PUBLIC

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

CERTIFICATION BY SELF-REPRESENTED LITIGANT

I, _____, Petitioner hereby certify pursuant to code of Civil Procedure Article 1701(E) that (*circle how Sheriff served Defendant*)

Personal Service

/

Domiciliary Service

Was made on the defendant in this proceeding on the ____ day of _____, 20____. A preliminary default was entered on the ____ day of _____, 20____.

OR

The defendant **waived service of process** by authentic act Executed on the ____ day of _____, 20____.and, was filed in the record on the ____ day of _____, 20____.and, that a preliminary default was entered on the ____ day of _____, 20____.

(PETITIONER SIGNATURE)

(PRINTED FULL NAME)

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

JUDGMENT OF DIVORCE

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

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

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that there be a judgment in favor of petitioner _____, and against defendant, _____, decreeing a divorce between the parties on the basis of the parties having lived separate and apart continuously and without reconciliation for a period of three hundred and sixty-five days or more as per Civil Code Article 103(1).

Costs to be cast upon (*see Petition for Divorce; check both if costs were to be shared*):

(____) Petitioner, _____

(____) Defendant, _____

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

DISTRICT JUDGE/ COMMISSIONER

Judgment submitted by:

(Signature)
(Print Name)
(Street Address)
(City/State/Zip Code)
(Telephone Number)

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO.

DIVISION

VERSUS

FILED:

DEPUTY CLERK

MOTION AND ORDER TO RESUME USING MAIDEN NAME/MINOR CHILD'S NAME

ON MOTION OF petitioner/defendant (*circle one*), _____,
and on suggesting to this Honorable Court that a Judgment of Divorce was granted in this matter
on ____day of _____, 20__ mover wishes to resume using her maiden name/minor
children's name of _____.

Respectfully Submitted:

_____(Signature)
_____(Print Name)
_____(Street Address)
_____(City/State/Zip Code)
_____(Telephone Number)

ORDER

Considering the above Motion, **IT IS ORDERED** that mover s allowed to resume using
her (circle one) maiden name / minor children's name of _____.

THUS DONE AND SIGNED this ____day of _____, 20__ at New Orleans,
Louisiana.

DISTRICT JUDGE