

SELF-REPRESENTED LITIGANT

PETITION FOR DIVORCE UNDER ARTICLE

103 |with children|

This form is intended for litigants who:

v' Have children and wish to ask the court for a divorce under Louisiana Civil Code Article 103.

Information you will Need:

- 1 The exact date and location (parish) where you were married.
2. The location (parish) where you and your spouse last lived together.
3. The exact date when you and your spouse began living in separate homes.
4. The exact current address of your spouse.
5. The names and dates of birth of all children born of the marriage.

These instructions are meant to guide you through the process of **asking the court for a divorce**. There are multiple types of divorce in Louisiana and these forms address Article 103 only.

This packet of forms is not legal advice and cannot take the place of the advice that 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 the proper procedures and the law. It is your responsibility to see your case through the whole process.**

1. Be sure you have the correct form.
2. Read all instructions before you begin.
3. Fill in the blanks with 100% accurate information. *Any false statement made in court or written in a court document may constitute perjury.*
4. Check all options that pertain to your situation.
5. If you have trouble reading, writing, or understanding what is in this motion, seek help at the 21st Judicial District Court at 20300 Government Blvd. in Livingston (for Livingston Parish); 369 Sitman Street in Greensburg (for St. Helena Parish); and 110 N. Bay Street in Amite (for Tangipahoa Parish). The offices are open 8am-4pm (closed between 12pm-1pm). For more information, including fees, you can call (225) 686-2216 (Livingston); (225) 222-4514 (Greensburg); and (985) 748-4146 (Amite).

INSTRUCTIONS FOR FILING PETITION FOR ARTICLE 103 DIVORCE WITH CHILDREN

These instructions are meant to guide you through the process of asking the court for a divorce under Article 103 of the Louisiana Civil Code.

This packet of forms is not legal advice and cannot take the place of the advice that 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 the proper 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 want to divorce your spouse with whom you have children (born or adopted).
- You must live separate and apart from your spouse for at least 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 must **not** have entered into a covenant marriage.
- You nor your spouse are active members of the United States armed forces.

You will be filing your divorce In Proper Person, which means without any attorney representing you. 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.

HOW TO COMPLETE THE FORMS

PLEASE PRINT ALL INFORMATION CLEARLY! Make sure all of the blanks are filled in on all pages.

- A.** 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*.
- B.** Bring your original **Petition for Divorce and Verification**, along with one photocopy, 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.
- C.** In order to proceed, your spouse needs to be given a copy of the petition. You can deliver it yourself if your spouse signs the **Acceptance of Service** **OR** you can have the Sheriff deliver (or "serve") your spouse. 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.

- D.** If your spouse signed the **Acceptance of Service**, you should bring the signed 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 an answer or other pleading 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. Ask the Clerk to give you a copy **stamped with the date** for you to keep, and to file the original. Ask to have the other copy of the Motion for Preliminary Default, which is marked with the date that the Judge signed it, sent to you.

- E.** You will receive a copy of the Preliminary Default in the mail. It should show the date the Preliminary Default was signed by the Judge. Now complete the form titled **AFFIDAVIT OF FACTS**. You must sign this form in the presence of a Notary Public. Bring the Affidavit of Facts and the **JUDGMENT OF DIVORCE** to the Clerk's office. Ask the Clerk to have a Judge sign them. Once the Judge has signed your **JUDGMENT OF DIVORCE**, the Clerk's office will send you a certified copy of it. You are divorced as of the date of the Judge's signature at the bottom of the Judgment of Divorce. Keep this certified copy for your records.

(PETITIONER)

NO: _____ DIV. _____

VERSUS

21ST JUDICIAL DISTRICT COURT

LIVINGSTON PARISH

(DEFENDANT)

STATE OF LOUISIANA

PETITION FOR DIVORCE UNDER CIVIL CODE ARTICLE 103

WITH MINOR CHILDREN

The petition of _____ (*print your name*), a major domiciled in _____ (*Parish where you permanently reside*) Parish 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/Count, 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 _____ (month), _____ (year), and have continued to live separate and apart with the intent to divorce since that time.

4.

Neither party is an active member of the United States armed forces.

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.

_____ [NUMBER] of children are minors, namely:

| | |
|------|------------|
| Name | <u>DOB</u> |
| Name | <u>DOB</u> |
| Name | <u>DOB</u> |
| Name | <u>DOB</u> |

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

| | |
|------|------------|
| Name | <u>DOB</u> |
| Name | <u>DOB</u> |
| Name | <u>DOB</u> |
| Name | <u>DOB</u> |

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 believes it is in the best interest of the child(ren) that the custody order be set as follows: *(please select one of the following)*

_____ Petitioner requests that the 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 that Petitioner be 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 as follows: _____

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

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

9.

*(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 _____

10.

_____ Petitioner / Defendant [*circle one*] keep the maiden name / married name [*circle one*]

of _____ (Note: The wife must request or agree to any name change.)

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 and tax.

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

_____ Petitioner requests that 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.

Respectfully submitted,

(SIGNATURE)

(PRINTED FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

CLERK OF COURT:

_____ **DEFENDANT TO ACCEPT SERVICE (AND SIGN "ACCEPTANCE OF SERVICE")**

OR

_____ **PLEASE SERVE:**

(DEFENDANT'S FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

(PETITIONER)

NO: _____ DIV. _____

VERSUS

21ST JUDICIAL DISTRICT COURT

LIVINGSTON PARISH

(DEFENDANT)

STATE OF LOUISIANA

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

(PETITIONER)

NO: _____ DIV. _____

VERSUS

21ST JUDICIAL DISTRICT COURT

LIVINGSTON PARISH

(DEFENDANT)

STATE OF LOUISIANA

ACCEPTANCE OF SERVICE AND WAIVER OF CITATION AND ALL DELAYS

STATE OF _____ [STATE WHERE SIGNED AND NOTARIZED]

PARISH OF _____ [PARISH WHERE SIGNED AND NOTARIZED]

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. _____ (*Party Names*),

filed _____ (*Filing Date*) with the docket number _____ (*Case Number*) on the docket of the 21st Judicial District Court for the Parish of Livingston, 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 Louisiana Code of Civil Procedure Articles 928, 1001, and 1002.

Defendant further waives notice of trial, and waives Defendant's appearance at trial of this matter.

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 acknowledges that Defendant may be cast with some or all of the court costs in this proceeding.

Respectfully submitted,

BY:

(Signature)

IN PROPER PERSON

Address

City

State

Zip

Telephone Number

SWORN TO AND SUBSCRIBED

before me, on this ____ day of _____, 20 ____

NOTARY PUBLIC, No.:

Printed Name:

My Commission Expires:

(PETITIONER)

NO: _____ DIV. _____

VERSUS

21ST JUDICIAL DISTRICT COURT

LIVINGSTON PARISH

(DEFENDANT)

STATE OF LOUISIANA

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 the ____ day of _____ (month), 20__ (*date the Petition for Divorce was originally 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 _____ (month), 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 1402(E).

Respectfully submitted,

PETITIONER, In Proper Person

(PRINTED FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

CLERK'S CERTIFICATION

(PETITIONER)

NO: _____ DIV. _____

VERSUS

21ST JUDICIAL DISTRICT COURT
LIVINGSTON PARISH
STATE OF LOUISIANA

(DEFENDANT)

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, Louisiana;
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 of _____, State of _____
4. That petitioner and defendant were married on _____ (date);
5. Of the marriage, ___ child(ren) were born of the marriage, namely:
 - (a). _____, d/o/b _____, who resides with _____(print name of party)
 - (b). _____, d/o/b _____, who resides with _____(print name of party) (c) _____, d/o/b _____, who resides with _____(print name of party) (d) _____, d/o/b _____, who resides with _____(print name of party) (e) _____, d/o/b _____, who resides with _____(print name of party)
5. That petitioner and defendant physically separated on _____ (day/month/year) 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 or any of its allies;
8. That the parties have not contracted a covenant marriage;
9. That defendant was served on ___/___/___ (dd/mm/yyyy) by _____ (method of service);
10. That a preliminary default judgment was entered on ___/___/___ (dd/mm/yyyy); and
11. That all factual allegations contained in the Petition for Divorce and this affidavit are true to the best of petitioner's knowledge and beliefs.

(PETITIONER SIGNATURE)

(PRINTED FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)

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

NOTARY PUBLIC

CLERK'S CERTIFICATION

I hereby certify that service was made on the defendant on ___/___/___ (date), a judgment for preliminary default was entered on ___/___/___ (date), and that no answer or opposition has been filed by the defendant as of ___/___/___ (date) at ___ ___ (am/pm).

Deputy Clerk

Date

(PETITIONER)

NO: _____ DIV. _____

VERSUS

21ST JUDICIAL DISTRICT COURT
LIVINGSTON PARISH
STATE OF LOUISIANA

(DEFENDANT)

JUDGMENT OF DIVORCE

This matter was considered pursuant to the provisions of Louisiana Civil Code Article 103(1) and Code of Civil Procedure Article 1402(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). It should be **further ordered, adjudged and decreed** that Petitioner / Defendant [*circle one*] keep the maiden name / married name [*circle one*] of _____

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

JUDGE, 21st JUDICIAL DISTRICT COURT

JUDGMENT SUBMITTED BY:

(SIGNATURE)

(PRINTED FULL NAME)

(STREET ADDRESS)

(CITY/STATE/ZIP CODE)

(TELEPHONE NUMBER)