



ACCESS CENTER DISSO A-Z

THINGS TO CONSIDER BEFORE FILING YOUR CASE

Q: How can I end my marriage and/or domestic partnership?

A: In California, there are three main ways to end a marriage and/or domestic partnership.

- Divorce
- Legal Separation
- Annulment

Q: Who can ask for a divorce, legal separation or annulment?

A: Either party can file for a divorce, legal separation or annulment. You do not need your spouse or domestic partner's consent or agreement to file.

Q: What do I have to prove to get a legal separation or divorce?

A: California is a "no fault" divorce state, you do not need to prove someone did something wrong. You just have to state that you cannot get along with the other party. Legally, this is called "irreconcilable differences."

Q: What is a divorce?

A: A divorce is a legal proceeding that ends your marriage and/or domestic partnership. After a divorce, you are single and can remarry or be in a domestic partnership again. You can ask the court to make orders on the following once you file your case:

- Custody and Visitation
- Child Support
- Spousal/Partner Support
- Property Division
- Domestic Violence Restraining Order
- Attorney's Fees

Q: What is a legal separation?

A: A legal separation does not end your marriage and/or domestic partnership. You cannot remarry or enter into a domestic partnership with someone else at the end of a legal separation. However, you can still ask the court to make the same orders as in a divorce.

Q: What is an annulment?

A: An annulment (or "nullity of marriage" and/or "nullity of domestic partnership") is when a court says your marriage and/or domestic partnership is NOT legally valid.

Annulments are difficult to prove and rarely granted. For further information regarding annulments, see <https://www.courts.ca.gov/1037.htm>.

Q: What are the requirements to file for a divorce in San Francisco?

A: You or your spouse must physically live in San Francisco for at least the last three months, and in California for at least the last six months at the time of filing your case.

Q: Are there residency requirements for filing a dissolution of a domestic partnership?

A: You can file in San Francisco if you or your domestic partner live in San Francisco for at least the last three months, and in California for at least the last six months at the time of filing your case, regardless of where your domestic partnership was registered. For domestic partnerships registered in California, you can file here even if you currently do not reside in California.

Q: Are there residency requirements for filing a dissolution of a same-sex marriage?

A: You can file in San Francisco if you or your spouse live in San Francisco for at least the last three months, and in California for at least the last six months at the time of filing your case, regardless of where you were married. For same-sex couples who were married in San Francisco, you may be able to file your divorce in San Francisco even if you do not live here. However, to file in San Francisco, you must both live somewhere that does not recognize your marriage and will not dissolve your marriage.

Q: We are married and are also registered domestic partners. Do we have to end both in separate court cases?

A: No. You can end your marriage and domestic partnership in the same case. Just make sure on the Petition you check the boxes to request a dissolution of marriage and domestic partnership.

Q: Are there residency requirements for filing a legal separation?

A: You can file a legal separation in California if at least one party resides in California at the time of filing.

Q: I filed for a legal separation and now I want to file for a divorce. What do I do?

A: You can amend your legal separation to a divorce once either party meets the residency requirements to file for divorce. To amend your case from legal separation to a divorce, you will need to file an amended Petition to request a divorce. You will then need to serve the other party with the amended Petition and take additional steps to finish your case.

Q: How long will a divorce take?

A: It depends, but the soonest you can become single is 6 months and a day from the time the other party was served with your divorce papers. Keep in mind you are responsible to complete all the required steps to finish your case. The sooner you complete each step, the sooner you can finish your case.

Q: Why would I file a legal separation instead of a divorce?

A: Some common reasons are:

- A couple wants to live apart but remain married. They want the court to make orders regarding division of assets and/or debts, child and spousal support, and parenting issues;
- For religious reasons;
- Due to their personal beliefs;
- They do not yet meet the residency requirements to file for divorce in California, but they want to start the process of separating and filing a court case;
- For financial reasons (e.g., to keep a spouse or partner on the other's health insurance plan, to keep certain benefits that require a couple to remain married, or certain tax benefits for married couples).

Q: What else should I consider before filing?

A: Filing for a divorce, legal separation or annulment is a big decision with potential consequences. The process can be complicated depending on your situation. Filing for divorce can affect an immigration or bankruptcy case, and can have certain tax implications. You may want to get some advice from an attorney before filing. You can contact the San Francisco Bar Association at (415)989-1616 to be referred to a family law attorney.