SELF-REPRESENTED LITIGANT PETITION FOR DIVORCE (103) (WITH MINOR CHILDREN)

USE THESE FORMS ONLY IF YOU HAVE MINOR CHILDREN OF THE MARRIAGE, YOU HAVE ALREADY BEEN SEPARATED FOR AT LEAST ONE (1) YEAR, AND YOUR HUSBAND/WIFE NEEDS TO BE SERVED BY A SHERIFF'S DEPUTY.

If you have not been living apart from your husband/wife for at least (1) year or you do not have minor children of the marriage, do not use these forms. Please note that these forms are for a simple **uncontested divorce only**. The forms do **not** address child custody, child support, spousal support, domestic abuse, or community property. **You may need to address these issues using separate forms, or by finding an attorney to represent you. Visit www.LSBA.org/goto/FindLegalHelp for further assistance.**

You will be filing your divorce as a "self-represented litigant," which means you are responsible for your case and no attorney will be representing you. As the person suing for divorce, you will be known as the **Petitioner** and your spouse will be known as the **Defendant.** All the forms you need to file for a divorce are attached.

HOW TO COMPLETE FORMS:

1. Check that the blanks are filled in on the pages marked at the bottom with "Form 1B" titled "PETITION FOR 103(1) DIVORCE WITH MINOR CHILDREN". Be sure to use full names, including middle and maiden names.

2. Take all of the pages marked at the bottom with "Form 1B" to the Clerk of Court where you will file your case. Go to the Clerk of Court's "Civil" Department. Tell the clerk that you do not have a lawyer, and that you want to file your divorce.

3. Ask the clerk to file the forms marked at the bottom with "Form 1B." Also, ask the clerk to give you a copy of the Petition for Divorce for you to keep. Since a sheriff's deputy will serve the papers on your husband/wife, be sure to give the clerk a current home address and the best time(s) to find your husband/wife at that address.

4. You will need to check with your local Clerk of Court to determine the case "filing fee." If you cannot afford to pay the fee when you file your case, you can include an "**IN FORMA PAUPERIS AFFIDAVIT**," which asks the court to *delay* (but not eliminate) the cost of filing. Fill out all sections of the **IN FORMA PAUPERIS AFFIDAVIT**. Reference your check stubs to fill out section (7) and be sure to sign this document in the presence of a notary. This document can be found on the list of available forms and is labeled with the number "2" at the bottom. If you fill out this form, include it with the forms labeled "Form 1B." If you are able to pay the court fees when you file, you can skip this step.

5. Once the sheriff's deputy has served your husband/wife "personally" or "domiciliary", you must wait fifteen (15) days. Then take the completed form titled **"MOTION FOR PRELIMINARY DEFAULT"** marked "Form 3-DIVC" to the Clerk of Court's office. Ask the clerk to file it and give you a copy to keep.

6. You will receive a copy of the Preliminary Default in the mail signed by the judge. Check if the court will allow you to *confirm* the divorce through the mail. **If no, then you will need to have a hearing before the court to confirm your divorce, and you can ask the court when the case has been scheduled.** If yes, next fill in the form titled **"AFFIDAVIT OF CORRECTNESS"** marked with "Form 4-DIVC" at the bottom of the page. You must sign it in front of a notary public!

   Bring the completed Affidavit of Correctness "Form 4-SRL", and the "JUDGMENT OF 103(1) DIVORCE WITH MINOR CHILDREN" marked as "Form 5-DIVC" to the Clerk's office. Ask the clerk to have a judge sign your final divorce after you fill in the "Certification" at the bottom of the Judgment. You should also ask the Clerk of Court whether you are required to file the form titled "**APPENDIX 28.1B: LA. C.C.P. ART. 1702(E) DIVORCE CHECKLIST."**

Form provided as a courtesy the Louisiana Access to Justice Commission. No enrollment of counsel is expressed or implied. Every factual situation is different, and all litigants are encouraged to explore options for representation at www.LSBA.org/goto/FindLegalHelp.

7. Once a 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 "Form 5-DIVC". It is important that you keep this certified copy of your final divorce judgment for your records.

All litigants are better off when represented by a licensed attorney. For help finding representation, visit www.LSBA.org/goto/FindLegalHelp. **If you do not understand a legal term, need to have a hearing in open court, or need to clarify the correct response or application to your situation, you may want to seek more information or advice from the following resources:**

Louisiana LawHelp: www.louisianalawhelp.org

Free Legal Answers: LA.freelegalanswers.org

Law Library of Louisiana: lasc.libguides.com/resources-for-self-represented-litigants

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_____

VERSUS *** DOCKET NUMBER: _____**

_____ *** _____ PARISH, LOUISIANA**

*** ***

PETITION FOR 103(1) DIVORCE WITH MINOR CHILDREN

The petition of _____ *(your name)*, a major domiciled in _____ Parish, Louisiana, with respect represents:

1.

The Defendant is _____ *(spouse's name),* a major currently domiciled in _____ Parish, Louisiana.

2.

The parties were married on the _____ day of _____, _____, in _____ Parish/County, State of _____.

3.

Petitioner and Defendant began living separate and apart on the _____ day of _____, _____, and have continued to live separate and apart since that time with the intent to be divorced. The parties last lived together in _____ Parish/County, State of _____.

4.

Defendant is not an active member of the United States Armed Forces ***(you will need the assistance of an attorney if this is the case),*** nor is this a covenant marriage.

5.

There is/are _____ [*state the number*] of minor children of the marriage, whose names and ages, are: _____

6.

Petitioner seeks a divorce under the provisions of Civil Code Article 103(1), based on the parties having minor children of the marriage, and having lived separate and apart for more than one (1) year, without reconciliation before the filing date of this Petition for Divorce.

7.

Petitioner desires to confirm her name back to her maiden name of _____. *[If Petitioner is the wife and wants to confirm her name. If not, put a line across number 7.]*

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WHEREFORE, Petitioner prays that:

A. After all legal delays and due proceedings, Petitioner be granted a divorce;

B. Petitioner be allowed to change her name back to her maiden name; *[If Petitioner is the wife and wants to. If not, cross out this line.]*

C. Defendant be cast with all costs of these proceedings; and

D. For all general and equitable relief.

Respectfully Submitted By:

_____
PETITIONER, In Proper Person

_____
(Street Address)

_____
(City, State & Zip Code)

_____
(Phone Number)

PLEASE SERVE DEFENDANT, AT:

_____
(Spouse's Full Name)

_____
(Street Address of Home)

_____
(City, State & Zip Code)

_____
(Best times to find him/her at this address).

Note:

1. Service on the defendant at their place of employment must be made personally on the defendant.
2. If your spouse will accept service, then cross out "Please serve Defendant and write that Defendant will accept service. See the information booklet on the different types of service of process.

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_____ * ____ **JUDICIAL DISTRICT COURT**

VERSUS * **DOCKET NUMBER: _____**

_____ * _____**PARISH, LOUISIANA**

* *

MOTION 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 _____, 201___.

PLEASE CHECK ONE OF THE BOXES ON HOW SERVICE OF PROCESS WAS ACCOMPLISHED. SEE THE INFORMATIONAL BOOKLET.

☐ Defendant was served by the Sheriff's Office with a copy of the Petition for Divorce on the _____ day of _____, 201___, by (personal) or (domiciliary) service **(*Circle one).***

☐ Defendant accepted service of a certified copy of the Petition and Defendant's Affidavit of Waiver of Service and Citation, is being filed here with the Motion for Preliminary Default.

☐ Defendant was served alternatively, by: _____

_____

No answer or other responsive pleading has been filed, so Petitioner now asks for entry of a Preliminary Default under Code of Civil Procedure Article 1701, to be entered into the minutes of this Court.

On Motion of:

_____
PETITIONER, In Proper Person

ORDER

Considering the above Motion:

It is **HEREBY ORDERED** that a Preliminary Default be entered in the minutes of this Court, in the above captioned matter.

THUS, DONE AND SIGNED on this _____ day of _____, 201___, at _____, Louisiana.

_____
DISTRICT JUDGE

(Form 3-DIVC)

Form provided as a courtesy the Louisiana Access to Justice Commission. No enrollment of counsel is expressed or implied. Every factual situation is different, and all litigants are encouraged to explore options for representation at www.LSBA.org/goto/FindLegalHelp.

APPENDIX 28.1B: LA. C.C.P. ART. 1702(E) DIVORCE CHECKLIST

LOUISIANA CIVIL CODE ARTICLE 103(1) OR ARTICLE 103(5) DIVORCE
Certification for Default Confirmation under Louisiana Code of Civil Procedure Article 1702(E)

Note: Must be completed by Petitioner or his/her attorney and submitted/filed with the Judgment of Divorce.

_____ DOCKET NUMBER: _____
Petitioner

versus

_____ PARISH OF _____
Defendant

A. Dates

1. Petition for Divorce: _____ Date Petition Filed
2. Parties physically separated: _____ Date of Separation
3. Service of the Petition:
   a. If Sheriff's return is in the record, indicate date and type of service:
      Personal/Domiciliary (*Circle one*) _____ Date of Service
      If Domiciliary, then name of person served _____ and the relationship?:_____
      OR OR
   b. If a Waiver of Service is filed into the record, provide date of execution and filing : _____ Date Waiver Executed
      _____ Date Waiver Filed
4. Preliminary default entered: _____ Date PD Entered
   By Oral/Written Motion (*Circle one*)
5. Have two days, exclusive of holidays, elapsed since the entry of preliminary default, with no answer or other opposition having been filed? __ Yes

B. Pleadings

1. Is the Petition for Divorce in the record? __ Yes
2. Are proper jurisdiction and venue expressly alleged in the Petition? __ Yes
3. Does the petitioner's Affidavit submitted or filed with the Judgment specifically attest to the facts sufficient to obtain a divorce or will testimony be offered in lieu thereof? __ Yes
4. If the defendant has made an appearance in the case, was notice of the preliminary default sent to defendant by certified mail pursuant to La. C.C.P. Art. 1702(A) or is there a filed waiver of the notice by the defendant? __ Yes; or
   __ Yes (Waiver)
5. Are the original and at least one copy of the proposed final Judgment attached? Yes

C. Grounds for Divorce (La. C.C. Art. 103/ C.C.P. Art. 1702(E))

1. The parties have minor children, and have been living separate and apart **365 days or more** without reconciliation. __ Yes
   OR
2. The parties have no minor children and have been living separate and apart **180 days or more** without reconciliation. __ Yes
   OR
3. On __/__/20__, after a contradictory hearing, or consent decree, a protective order or an injunction was issued during the marriage in accordance with law, against the defendant in order to protect the petitioner who seeks the divorce or a child of one of the spouses from abuse. __ Yes

PETITIONER'S/ATTORNEY'S CERTIFICATION

I hereby certify that I have examined the record or conformed copies of all pleadings in the above-captioned case, and the information provided herein is true and correct based upon my personal knowledge, information, and belief.

_____	_____	_____
Date of Record Examination	Signed by Petitioner/Attorney for Petitioner	Attorney's Bar Number
_____	_____	_____
Date of Certification	Address	Telephone Number

CLERK'S CERTIFICATION

Two days, exclusive of holidays, have elapsed since the preliminary default was entered and no answer or opposition has been filed.

_____ _____
Date Signature of Minute Clerk

HEARING OFFICER RECOMMENDATION

Considering the record in this case, the submission of the petitioner/mover's counsel, it being the finding of the hearing officer that all legal requirements for granting a divorce under Louisiana Civil Code Article 103(1) or Article 103(5) have been met, **IT IS HEREBY RECOMMENDED** that the attached Judgment of Divorce be made the Order of this Court, no objection having been made by either party.

_____, Louisiana, this ____ day of _____, 20____.

_____
Hearing Officer

Save Form Print Form

_____ *** ____ JUDICIAL DISTRICT COURT**

VERSUS *** DOCKET NUMBER: _____**

_____ ***_____PARISH, LOUISIANA**

*** ***

AFFIDAVIT OF CORRECTNESS

STATE OF LOUISIANA

PARISH OF _____

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

_____

(Your Full Name)

Who, being after being sworn, did state that:

He/she is the Petitioner in the above matter, he/she is over the age of majority, and was domiciled in the Parish of _____ on the date of filing of the Petition for Divorce.

Defendant is over the age of majority, and was domiciled in the Parish of _____ on the date of the filing of the Petition for Divorce.

He/she and Defendant last lived together as husband and wife in the Parish/County of _____, State of _____.

He/she and Defendant were married on the _____ day of _____, _____.

He/she and Defendant began living separate and apart on the _____ day of _____, and have continued to live separate and apart without reconciliation since that time with the intent to be divorced.

There is/are _____ [*state the number*] of minor children of the marriage between the parties.

Defendant <u>is not</u> an active member of the military; nor is this a covenant marriage.

Petitioner desires to be divorced under Civil Code Article 103(1) and to confirm her name back to her maiden name of _____. *If Petitioner is wife, and wants to. If not, cross out this line.]*

He/She further attests that the facts alleged in the Petition for Divorce are true and correct to the best of his/her knowledge, information and belief.

_____

PETITIONER

SWORN TO AND SUBSCRIBED before me on this _____day of _____, 200___.

_____

NOTARY PUBLIC #_____

Printed Name: _____

Commission Expires: _____

(Form 4-DIVC)

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_____ * _____ **JUDICIAL DISTRICT COURT**

VERSUS * **DOCKET NUMBER: _____**

_____ * _____ **PARISH, LOUISIANA**

* *

CONFIRMATION OF DEFAULT AND JUDGMENT OF 103(1) DIVORCE
with **MINOR CHILDREN**

☐ _____This 103(1) Divorce with minor children matter came before the Court pursuant to *La. C.C.P. Art. 1702(E).* The Court ***did not require a hearing in open court***, and having considered the entire record of this matter, and the Petitioner's Affidavit of Correctness reflecting the facts in this case and that there are minor children of the marriage, and finding the law and evidence in favor thereof, rendered judgment:

OR…. **(please select one)**

☐ _____ This 103(1) Divorce with minor children matter came before the Court on the ____ day of _____, 201____, pursuant to *La. C.C.P. Art. 1702(E).* The Court ***did require a hearing in open court,*** and having considered the entire record of this matter, the testimony of the witnesses, and after finding the law and evidence in favor thereof, rendered judgment:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that a judgment of divorce is granted in favor of Petitioner and against Defendant, decreeing a divorce between the parties on the basis of their having lived separate and apart continuously and without reconciliation for a period of more than one (1) year prior to the filing of the Petition for Divorce, and that there are minor children of the marriage.

☐ _____ (Check if applicable) **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Petitioner's use of her maiden name of _____, is hereby confirmed.

Court costs are to be paid by _____.

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

_____
DISTRICT JUDGE

CERTIFICATION (by the Petitioner)

*I certify that my spouse (**CHECK ONE:**)*

☐ ***Signed** an Acceptance/Waiver of Service and Citation on _____, 20___*
☐ *Was served personally by a Sheriff's deputy on _____, 20___*
☐ *Was served domiciliary by a Sheriff's deputy on _____, 20___*

I also certify that a preliminary default was entered on _____, 20____, as the record will reflect.

_____ Today's Date: _____
Petitioner

(Form 5-DIVC)

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