

JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 14-15, 2016

Title

Family Law: Changes to Petition and

Response

Rules, Forms, Standards, or Statutes Affected

Revise forms FL-100, FL-120, and FL-160

Recommended by

Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Agenda Item Type

Action Required

Effective Date

July 1, 2016

Date of Report March 24, 2016

Contact

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Executive Summary

The Family and Juvenile Law Advisory Committee recommends revising *Petition—Marriage/Domestic Partnership* (form FL-100) and *Response—Marriage/Domestic Partnership* (form FL-120) to reflect a 2015 U.S. Supreme Court decision that requires all states in the United States to license marriage between two people of the same sex and also to recognize a lawful same-sex marriage that was performed out-of-state. The committee also recommends substantive changes in response to suggestions from court professionals and attorneys about other areas of these forms. In addition, the committee recommends technical changes to *Property Declaration* (form FL-160) that are needed to reflect the numbered subject headings in the *Petition* and *Response*.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective July 1, 2016:

- 1. Revise *Petition—Marriage/Domestic Partnership* (form FL-100) and *Response—Marriage/Domestic Partnership* (form FL-120), as follows:
 - a. Revise the language in item 2 to clarify the residence requirements of a marriage as specified in Family Code section 2320;
 - b. Include a statement under the heading "Minor Children" that the court has the authority to determine that a child listed on the form born before the marriage or domestic partnership is a child of the marriage or partnership;
 - c. Delete item 6.d., to avoid requiring a parent to request that the court determine parentage of children born before the marriage or domestic partnership; and
 - d. Add a new notice on page 3 that includes a link to information about the process for divorce and legal separation (*Legal Steps for a Divorce or Legal Separation* (form FL-107-INFO)), as well as an online guide for parents and children involved in the family court system (*www.familieschange.ca.gov*).
- 2. Make technical changes to *Property Declaration* (form FL-160) on page 4 to reflect the renumbering of the Separate Property and Community and Quasi-Community Property provisions of the Petition and Response.

Copies of the revised forms are attached at pages 10–19.

Previous Council Action

Effective January 1, 2015, the Judicial Council revised forms FL-100 and FL-120 to reflect the changes to federal and state law relating to same-sex marriages and to streamline procedures in family court.

Forms FL-100 and FL-120 were also revised to include a new item for a party to list a child who is not yet born at the time the action is filed. This revision made forms FL-100 and FL-120 more consistent with the child custody provisions in *Petition to Establish Parental Relationship* (form FL-200).

Effective July 1, 2013, the Judicial Council revised *Property Declaration* (form FL-160) as part of a larger proposal to conform declaration-of-disclosure forms to the amendments to Family Code section 2104 as mandated by Assembly Bill 1406 (Stats. 2011, ch.107).

Rationale for Recommendation

Petition and Response (forms FL-100 and FL-120)

The committee's recommendation to revise forms FL-100 and FL-120 implements the U.S. Supreme Court decision in *Obergefell v. Hodges* by replacing language that reflected that same-sex marriages were not legal in all states of this nation.¹

Forms FL-100 and FL-120 contain a provision in item 2(b) based on Family Code section 2320(b)(1).² Section 2320 allows same-sex couples who married but no longer reside in California to file for divorce in this state if the jurisdiction where they live does not recognize their marriage, in which case the code includes a rebuttable presumption that the jurisdiction will not dissolve the same-sex marriage.

Forms for dissolution are commonly used by self-represented litigants, and the forms currently use the term "state or nation" instead of "jurisdiction" because those terms are more commonly understood. However, in light of the Supreme Court's decision in *Obergefell v. Hodges*, no longer will any state in the United States *not* recognize same-sex marriages; hence, the Judicial Council is required to revise the forms to remove the term *state*.

Property Declaration (form FL-160)

The committee's recommendation to revise form FL-160 will make the form consistent with the revisions to the *Petition* and *Response* forms, effective January 1, 2015. The changes to form FL-160 are to the instructions on page 4. They were developed to provide important information to litigants and attorneys about how to use and complete form FL-160, which is a multipurpose form. For example, it can be attached to a *Petition* (form FL-100), *Response* (form FL-120), *Declaration of Disclosure* (form FL-140), *Request to Enter Default* (form FL-165), or *Judgment* (form FL-180).

The specific changes are to the instructions under the heading, "When using this form only as an attachment to a *Petition* or *Response*." Currently, the instructions are incorrect because they direct the party or attorney to "[a]ttach a *Separate Property Declaration* to respond to item 4" and "[a]ttach a *Community or Quasi-Community Property Declaration* to respond to item 5." These items should have been renumbered from 4 and 5 to 9 and 10, respectively, when the *Petition* and *Response* were revised effective January 1, 2015.

The committee did not identify the need to include *Property Declaration* (form FL-160) when the *Petition* and *Response* circulated for comment in April 2014. Including the technical changes to form FL-160 with this report is appropriate because they relate directly

¹ Obergefell v. Hodges (2015) 576 U.S. ____ (135 S.Ct. 2071).

² The complete text of Family Code section 2320 is at https://leginfo.legislature.ca.gov/faces/codes displaySection.xhtml?lawCode=FAM§ionNum=2320.

to the *Petition* and *Response* and will help to avoid confusion when completion of the *Property Declaration* is necessary in a family law case.

Comments, Alternatives Considered, and Policy Implications

The current proposal circulated for comment as part of the winter 2016 invitation to comment cycle, from December 11, 2015, to January 22, 2016, to the standard mailing list for family and juvenile law proposals. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, family law facilitators and self-help center staff, legal services attorneys, social workers, probation officers, Court Appointed Special Advocate (CASA) programs, and other juvenile and family law professionals.

The committee received comments from 10 individuals or organizations. Of these commentators, 4 agreed with the proposal, 4 agreed if modified, and 2 expressed no position but included comments; no one disagreed with the proposal. A chart with the full text of the comments received and the committee's responses is attached at pages 20–27.

Petition and Response—Changes to Residence Requirements

The committee received four comments relating to the proposed changes to item 2. The committee proposed changing item 2 to state: "We are the same sex and were married in California, but are not residents of California. Neither of us lives in a <u>jurisdiction</u> that will dissolve the marriage. This case is filed in the county in which we married. Petitioner's residence (<u>specify</u>): Respondent's residence (<u>specify</u>): ." The committee asked for input about whether <u>jurisdiction</u> could be replaced by another term that self-represented litigants would understand better.

Two commentators agreed with the changes proposed in the invitation to comment. The other two commentators suggested alternative language. Of these commentators:

- One stated that use of the word *jurisdiction* replacing old language does not really clarify what is meant by *residence* when the parties are asked to provide "residence" information. The commentator then suggested "...break[ing] up residence question into 'city, state and country' where Petitioner and Respondent live. . ., [or] stating 'jurisdiction' or 'nation' instead of merely 'jurisdiction' [since this] may help to clarity [sic] the term to lay people."
- The other stated that "[t]he proposed language could be too technical for some members of the public. While 'jurisdiction' is an accurate term to use, [the commentator] supports use of 'resides in a location' or 'lives in a location' instead of 'lives in a jurisdiction' . . . [because it is] more user friendly for self-represented litigants than the existing language. If however, the proposed language is not used, [the commentator] supports the use of the term 'jurisdiction.' Jurisdiction may be

confusing, however, it is a more accurate term than the others terms suggested by the Invitation to Comment."

The committee considered revising the forms using terms other than *jurisdiction*. It considered but rejected the term *country* because the word is often misread as *county* and could cause confusion. The committee also considered maintaining *nation*, but was concerned that it could appear to exclude geographic regions that are considered territories, commonwealths, or kingdoms. Because the commentator's suggestions added additional questions to the form and might add to the confusion, the committee recommends that item 2(b) be revised to state:

We are the same sex, were married in California, but currently live in a jurisdiction that does not recognize, and will not dissolve, our marriage. This *Petition* is filed in the county where we were married.

Petitioner lives in (*specify*):

Respondent lives in (*specify*):

The committee believes that the above language better addresses the residence requirements of Family Code section 2320 than does the language that circulated for comment. Although it retains the word *jurisdiction*, this word more accurately covers persons who live abroad (in a nation, commonwealth, kingdom, or territory) or who are members of an Indian tribe (as defined under federal and state law).

Finally, the committee recommends a technical change to item 2(b)—specifically, that it be renumbered as item 2(c) and appear as the last entry under "Residence Requirements." Changing the order of this listing will increase the readability of this section when a party completes this part of the form.

Petition and Response—Additional comments sought about item 4

Background. The committee also asked for public input on suggestions received outside of the regular public comment cycles relating to item 4 on these forms; specifically, children born before the marriage. The suggestions were received from judges and court staff, who noted that many people fail to check the box to determine parentage of children born before the marriage (item 6d on forms FL-100 and FL-120). Court staff suggested that the form be modified to state that "if any children listed above were born before the marriage, the court will have the jurisdiction to determine those children to be children of the marriage."

Another court professional suggested that Family Code section 7540 should be amended and the petition and response forms revised to allow a party to request that the court determine parentage for children conceived before the marriage. She noted that (1) there is a gap in the *Petition* and the *Response* because neither mentions that the court has the authority to determine parentage of children conceived before the parties were married; (2) the Department of Child Support Services defines parentage by conception, not marriage; and

(3) Family Code section 7540 is unclear because it does not clarify whether the conclusive presumption of parentage includes conception of a child during marriage.³

Based on the above suggestions, the committee asked whether:

- 1. The heading for "Minor Children" should be changed to add the term "conceived" to the parenthetical so that it would state, "Minor Children (children conceived before (or born or adopted during) the marriage or domestic partnership)," and
- 2. There are any objections to revising item 4 to include the following statement below the list of children: "If any child listed above was born or conceived before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage."

Comments. Four commentators specifically agreed with the proposed changes (noted above as 1 and 2), and four commentators opposed and one commentator agreed with the proposed changes to item 4 without specifically responding to the question.

The four commentators who agreed with expanding the language in the forms to include the word "conceived" stated that they did so because:

- "It is similar to the language regarding support already in use";
- "This change covers all the possibilities and is consistent with applicable law"; and
- "[C]onception is a key consideration as it relates to the determination of parentage."

In addition, these commentators suggested other revisions. One stated that changing the wording in item 4 would require changing item 6.d. to, "Determine the parentage of children conceived or born to petitioner and respondent before the marriage or domestic partnership." Another recommended revising Judicial Council form FL-107-INFO and its translations to reflect this change. A court professional also recommended inserting an exception regarding signed voluntary declaration of paternity: "If any child listed above was born or conceived before the marriage or domestic partnership, and a voluntary declaration of paternity is not signed, the court has the authority to determine those children to be children of the marriage."

Those who opposed the changes to item 4 stated the following reasons:

³ Family Code section 7540 provides: "Except as provided in Section 7541, the child of a wife cohabitating with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage.

- "[W]hen the children are conceived is not the basis for presumption of paternity. The standard is that the husband of children born to wife and husband who are cohabitating (assuming husband is not infertile) is presumed to be the father. This should not be changed."
- "[T]here is no need for the change in the word, as it has the tendency to confuse and because the applicable codes already address the necessary and pertinent provisions for this type of procedure in such situations."
- "Conceived is a more complex word than born, and there is no legal need to refer to children who were conceived before marriage. If a child is born prior to marriage, it is important to establish paternity. However, Family Code section 7611(a) establishes a presumption of paternity for any child born to a married couple, so the date of conception is less relevant than the date of birth. [¶] The word conceived will cause uncertainty with self-represented litigants. . . . [¶] [T]he word conceived is unnecessary as paternity is presumed for any children born during marriage, regardless of when they were conceived under Family Code section 7611(a)."
- "This section does not correspond with the forms or comments, and thus, is a violation of the normal process. This section should not be considered."

In response to the above comments, the committee does not recommend that the form be modified to include the term "conception." Rather, it recommends keeping the language in the *Petition* and *Response* simple and focused on the fundamental point of simplifying the establishment of parentage for children born to the couple before the marriage or domestic partnership. Doing so would allow the court to make a determination based on the applicable law.

Therefore, the committee recommends revising forms FL-100 and FL-120 as follows:

- Simplify the heading for item 4 to state "Minor Children" and deleting the current language in the parentheses;
- Adding a section 4.c. below the list of children to state, "If any children listed above were born before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage or domestic partnership"; and
- Deleting item 6.d. because a party will no longer have to specifically request that the court determine parentage in the case.

Property Declaration (form FL-160)

This form was not circulated for comment. The modifications to form FL-160 are minor substantive changes and unlikely to create controversy. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

Forms FL-100 and FL-120. The committee considered not making changes to these forms. However, because the current forms are legally incorrect, the committee concluded that it should recommend changes and seek recommendations regarding simplification of language and procedures.

Property Declaration (form FL-160).

The committee considered including the minor, technical changes to this form in a separate report of other rules or forms that required technical changes. The committee decided that it would be better to include the technical changes to form FL-160 with this report because the changes are associated with the *Petition* and *Response*.

Implementation Requirements, Costs, and Operational Impacts

The committee anticipates that this proposal will result in some costs incurred by the courts to revise forms, update forms packets, and train court staff about the changes to the forms included in this proposal. However, the committee expects that ultimately the changes will save resources for the courts by clarifying and simplifying procedures.

The committee anticipates savings to the courts by eliminating the need for the parents to check the box indicating that they wish parentage to be determined for the minor children born to the couple before the marriage or domestic partnership. This change should eliminate the need to amend petitions that do not include this box and also eliminate the need for separate filings regarding parentage in these cases.

One court reported that implementation requirements could include changes to the e-filing system and require more than two months to implement because it is an Odyssey court. Other courts noted that two months from Judicial Council approval of this proposal until its effective date should be sufficient time for implementation and that training would be minimal because no new codes need to be created.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendations in the report support the policies underlying Goal I, Access, Fairness, and Diversity, because they help remove barriers to the courts for all parties, especially for same-sex couples who were married in California but are unable to dissolve their marriages where they currently live. The changes also help remove barriers in resolving parentage issues in actions for dissolution of a marriage or domestic partnership. Simplifying the process for courts to acquire jurisdiction over parentage issues with standard language on the

form will preclude parties from having to amend their petition on discovering that they failed to check a box on the form before filing it with the court.

The new notice on page 3 of forms FL-100 and FL-120 also increase access to the courts by informing parties about free information that can help them understand the process of a divorce and legal separation (*Legal Steps for a Divorce or Legal Separation* (form FL-107-INFO)) and connecting parents and their children to important information and resources while they are involved in the family court system (*www.familieschange.ca.gov*).

These recommendations also serve Goal III, Modernization of Management and Administration, by adopting streamlined practices for a court to obtain jurisdiction over the issue of parentage in a dissolution action.

Attachments

- 1. Forms FL-100, FL-120, and FL-160, at pages 10–19
- 2. Chart of comments, at pages 20–27

| PARTY WITHOUT ATTORNEY OR ATTORNEY | STATE BAR NO.: | | | FOR COURT USE OF | VLY |
|---|----------------------------------|--|----------------|-------------------|-----------------|
| NAME: | | | | | |
| FIRM NAME: | | | | | |
| STREET ADDRESS: | | | | | |
| CITY: | STATE: | ZIP CODE: | | | |
| TELEPHONE NO.: | FAX NO.: | | DDAI | F T | |
| E-MAIL ADDRESS: | | | DRA | r I | |
| ATTORNEY FOR (name): | | | | | |
| | | | NOT | APPROV | ED |
| SUPERIOR COURT OF CALIFORNIA, CO | OUNTY OF | | | HE JUDIO | |
| STREET ADDRESS: MAILING ADDRESS: | | | | | |
| CITY AND ZIP CODE: | | | COU | NCIL | |
| BRANCH NAME: | | | | | |
| | | | 4 | | |
| PETITIONER: | | | | | |
| RESPONDENT: | | | | | |
| PETITION FOR | | AMENDED | CASE NUMBE | | |
| | Mauriaga | | O/IOE INDIVIDE | -14. | |
| Dissolution (Divorce) of: | Marriage | Domestic Partnership | | | |
| Legal Separation of: | Marriage | Domestic Partnership | | | |
| Nullity of: | Marriage | Domestic Partnership | | | |
| 4 LECAL BELATIONSHIP (shooks | Il that apply) | | • | | |
| 1. LEGAL RELATIONSHIP (check a | н тасарруу). | | | | |
| a. We are married. | | | | | |
| b. We are domestic partners | s and our domestic partr | ership was established in Califo | rnia. | | |
| c. We are domestic partners | s and our domestic partr | ership was NOT established in | California. | | |
| • | · | • | | | |
| 2. RESIDENCE REQUIREMENTS (C | heck all that apply): | | | | |
| a. Petitioner Respond | dent has been a reside | ent of this state for at least six m | onths and o | f this county for | at least |
| three months immediately | preceding the filing of the | nis Petition. (For a divorce, at lea | ast one pers | on in the legal r | elationship |
| described in items 1a and | I 1c must comply with thi | is requirement.) | | | |
| b. Our domestic partnership | was established in Calif | fornia. Neither of us has to be a | resident or h | nave a domicile | in California |
| to dissolve our partnersh | | | | | |
| c. We are the same sex. we | re married in California, b | out currently live in a jurisdiction the | nat does not | recognize, and | will not |
| dissolve, our marriage.Thi | | | | 3 2, 2 | |
| Petitioner lives in (specify | | Respondent lives in (| specify): | | |
| | · /· | respondent investin (| <i></i> | | |
| 3. STATISTICAL FACTS | | | | | |
| a. (1) Date of marriage (spe | ecify): | (2) Date of separation (s | specify): | | |
| (3) Time from date of ma | arriage to date of separat | ion (specify): Years | Mon | iths | |
| b. (1) Registration date of o | domestic nartnershin with | h the California Secretary of Sta | te or other s | tate equivalent | (specify helow |
| b (1) Registration date of t | Joinesuc partifersing with | • • • • • • • • • • • • • • • • • • • | | tate equivalent | (Specify below) |
| | | (2) Date of separation (s | , | | |
| (3) Time from date of reg | gistration of domestic par | tnership to date of separation (s | specify): | Years | Months |
| 4 MINOR CHILDREN | | | | | |
| 4. MINOR CHILDREN | | | | | |
| a. There are no minor childr | en. | | | | |
| b The minor children are: | | | | | |
| Child's name | | <u>Birthdate</u> | <u>Age</u> | <u>Sex</u> | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| (1) continued on A | ttachment 4h | (2) a child who i | s not vat har | rn | |
| | | | | | |
| | | ge or domestic partnership, the | court has th | e authority to de | etermine |
| those children to be children of | - | | | | |
| | | t, a completed Declaration Unde | er Uniform C | hild Custody Ju | risdiction |
| and Enforcement Act (UCCJEA | l) (form <u>FL-105</u>) must be | attached. | | | |
| e. Petitioner and Responder | nt signed a voluntary dec | laration of paternity. A copy | is | is not atta | ched. |
| | | | | _ | Page 1 of 3 |

FL-100

| | PE | ETITIONER: | CASE NUMBER: | | | | | |
|----|---|--|--|--|--|--|--|--|
| | RESPONDENT: | | | | | | | |
| Pe | Petitioner requests that the court make the following orders: | | | | | | | |
| 5. | LEGAL GROUNDS (Family Code sections 2200–2210, 2310–2312) | | | | | | | |
| | a. | | artnership based on <i>(check one):</i> incapacity to make decisions. | | | | | |
| | b. | Nullity of void marriage or domestic partnership based on (1) incest. (2) bigamy. | | | | | | |
| | C. | Nullity of voidable marriage or domestic partnership based on (1) petitioner's age at time of registration of domestic partnership or marriage. (2) prior existing marriage or domestic partnership. (5) | fraud. | | | | | |
| | | (3) unsound mind. (6) | physical incapacity. | | | | | |
| 6. | CHII | LD CUSTODY AND VISITATION (PARENTING TIME) Petitioner Respo | ondent Joint Other | | | | | |
| | a. | Legal custody of children to | | | | | | |
| | b. | Physical custody of children to | | | | | | |
| | c. | Child visitation (parenting time) be granted to | | | | | | |
| | | | orm <u>FL-341(C)</u> Attachment 6c(1) | | | | | |
| 7 | | | Machine Co(1) | | | | | |
| 7. | a. b. c. | LD SUPPORT If there are minor children born to or adopted by Petitioner and Respondent before partnership, the court will make orders for the support of the children upon reques requesting party. An earnings assignment may be issued without further notice. Any party required to pay support must pay interest on overdue amounts at the "le | t and submission of financial forms by the | | | | | |
| | d. | Other (specify): | | | | | | |
| 8. | spo a. b. c. d. | DUSAL OR DOMESTIC PARTNER SUPPORT Spousal or domestic partner support payable to Petitioner Terminate (end) the court's ability to award support to Petitioner Reserve for future determination the issue of support payable to P Other (specify): | Respondent Respondent etitioner Respondent | | | | | |
| 9. | SEP a. b. | PARATE PROPERTY There are no such assets or debts that I know of to be confirmed by the coulombian Confirm as separate property the assets and debts in Property Deciminal Property Dec | urt. <i>laration</i> (form <u>FL-160</u>). Attachment 9b. <u>Confirm to</u> | | | | | |
| | | | | | | | | |

Date: (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER) Date: (TYPE OR PRINT NAME) (SIGNATURE OF ATTORNEY FOR PETITIONER)

FOR MORE INFORMATION: Read Legal Steps for a Divorce or Legal Separation (form FL-107-INFO) and visit "Families Change" at <u>www.familieschange.ca.gov</u> — an online guide for parents and children going through divorce or separation.

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child, spousal or partner support.

NOTICE—CANCELLATION OF RIGHTS: Dissolution or legal separation may automatically cancel the rights of a domestic partner or spouse under the other domestic partner's or spouse's will, trust, retirement plan, power of attorney, pay-on-death bank account, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the right of a domestic partner or spouse as beneficiary of the other partner's or spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance polices, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions. Some changes may require the agreement of your partner or spouse or a court order.

| PARTY WIT | HOUT ATTORNEY OR ATTORNEY | STATE BAR NO.: | | | | |
|----------------|----------------------------------|-------------------------------|--|-------------------|------------------------|------------|
| | HOOT ATTORNET OR ATTORNET | | | FOI | R COURT USE ONLY | |
| NAME: | | | | | | |
| FIRM NAME | | | | | | |
| STREET AD | DRESS: | | | | | |
| CITY: | | STATE: | ZIP CODE: | DRAFT | I | |
| TELEPHONE | E NO.: | FAX NO.: | | DIALL | | |
| E-MAIL ADD | RESS: | | | | | |
| ATTORNEY | FOR (name): | | | NOT AT | PPROVED | |
| | | | | | E JUDICIAL | |
| SUPERIO | OR COURT OF CALIFORNIA, COL | JNTY OF | | | | 1 |
| STREE | ET ADDRESS: | | | COUNC | CIL | |
| MAILIN | IG ADDRESS: | | | | | |
| CITY AN | ND ZIP CODE: | | | | | |
| BR | ANCH NAME: | | | | | |
| PF. | ΓΙΤΙΟΝΕR: | | | | | |
| | | | | | | |
| KE5P | ONDENT: | | | | | |
| RESPO | NSF AND R | EQUEST FOR | AMENDED | CASE NUMBER: | | |
| | _ | | | | | |
| | issolution (Divorce) of: | Marriage | Domestic Partnership | | | |
| Le | egal Separation of: | Marriage | Domestic Partnership | | | |
| N | ullity of: | Marriage | Domestic Partnership | | | |
| | | age | Berneede i dianeremp | | | |
| 1. LEGA | AL RELATIONSHIP (check all | that apply): | | | | |
| a. | We are married. | | | | | |
| | | | | ., . | | |
| b. | | <u>-</u> | nership was established in Cal | | | |
| C. | We are domestic partner | s and our domestic partr | nership was NOT established i | n California. | | |
| 2 DEG I | DENCE REQUIREMENTS (ch | ock all that apply): | | | | |
| | | | | | | |
| a. | | | ent of this state for at least six | | - | |
| | | | this <i>Petition. (For a divorce, at</i> | least one perso | on in the legal relati | ionship |
| | described in items 1a an | d 1c must comply with th | nis requirement.) | | | |
| b. | Our domestic partnership | was established in Cali | fornia. Neither of us has to be | a resident or ha | ave a domicile in Ca | alifornia |
| | to dissolve our partnersh | | | | | |
| c. | | • | but currently live in a jurisdicti | on that does no | t recognize and w | ill not |
| ٠. ا | | | | on that does no | t recognize, and w | III HOL |
| | _ | | county where we married. | (a.a.a.if). | | |
| | Petitioner lives in (specify | у): | Respondent lives in | (specify). | | |
| 3. STA | FISTICAL FACTS | | | | | |
| а. Г | (1) Date of marriage (spec | cify): | (2) Date of separation (| snecify). | | |
| a | | | | | | |
| | (3) Time from date of mar | riage to date of separation | on (specify): Years | Months | i | |
| b. [| (1) Registration date of do | mestic nartnershin with t | he California Secretary of State | or other state | equivalent (specify | helow): |
| о | (1) Registration date of de | mestic partifership with t | (2) Date of separation (| | squivalent (specify | DGIOW). |
| | | | , , | | | |
| | (3) Time from date of regis | stration of domestic part | nership to date of separation (| specify): | Years M | onths |
| 4. MINC | OR CHILDREN | | | | | |
| _ | <u> </u> | _ | | | | |
| a | There are no minor children | n. | | | | |
| b. 🗀 | The minor children are: | | | | | |
| | Child's name | | <u>Birthdate</u> | <u>Age</u> | Sex | |
| | | | Diffidate | <u>Age</u> | <u>OGX</u> | |
| | | | | | | |
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| | | | | | | |
| | | | | | | |
| | (1) continued on A | ttachment 4b. (2) | a child who is not yet bor | n. | | |
| . 12 | · <i>·</i> | () = | | | storming these skill | dron to |
| | any children were born before | | c partnership, the court has the | e authority to de | stermine those child | aren to |
| | e children of the marriage or do | | | | | |
| | there are minor children of Pet | | | er Uniform Child | d Custody Jurisdict | ion |
| а | nd Enforcement Act (UCCJEA) | (form <u>FL-105</u>) must be | attached. | | | |
| e. | Petitioner and Responden | t signed a voluntary dec | laration of paternity. A copy | is | is not attached | l. |
| | | J,, | 1 3 1-7 | | l | age 1 of 3 |

| | PETITIONER: | CASE NUMBER: | | | | | | |
|----------|---|--|--|--|--|--|--|--|
| | RESPONDENT: | | | | | | | |
| <u> </u> | | | | | | | | |
| Re | espondent requests that the court make the following orders: | | | | | | | |
| 5. | LEGAL GROUNDS (Family Code sections 2200–2210; 2310–2312) | | | | | | | |
| | a. Respondent contends that the parties never legally married or registered | a domestic partnership. | | | | | | |
| | b. Respondent denies the grounds set forth in item 5 of the petition. | | | | | | | |
| | c. Respondent requests | | | | | | | |
| | | stic partnership based on tlegal incapacity to make decisions. | | | | | | |
| | (2) nullity of void marriage or domestic partnership based on (a) incest. (b) bigamy. | | | | | | | |
| | (3) nullity of voidable marriage or domestic partnership based on | | | | | | | |
| | (a) respondent's age at time of registration of domestic partnership or marriage. | (d) fraud. | | | | | | |
| | (b) prior existing marriage or domestic partnership. | (e) force. | | | | | | |
| | (c) unsound mind. | (f) physical incapacity. | | | | | | |
| 6. | CHILD CUSTODY AND VISITATION (PARENTING TIME) | | | | | | | |
| | Petitioner | Respondent Joint Other | | | | | | |
| | a. Legal custody of children to | | | | | | | |
| | b. Physical custody of children to | | | | | | | |
| | c. Child visitation (parenting time) be granted to | | | | | | | |
| | | rm <u>FL-341(C)</u> | | | | | | |
| | form <u>FL-341(D)</u> form <u>FL-341(E)</u> At | ttachment 6c(1) | | | | | | |
| 7. | CHILD SUPPORT | | | | | | | |
| | If there are minor children born to or adopted by Petitioner and Respondent before partnership, the court will make orders for the support of the children upon request requesting party. | | | | | | | |
| | b. An earnings assignment may be issued without further notice.c. Any party required to pay support must pay interest on overdue amounts at the "le | egal" rate, which is currently 10 percent. | | | | | | |
| | d. Other (specify): | | | | | | | |
| | | | | | | | | |
| 8. | SPOUSAL OR DOMESTIC PARTNER SUPPORT | | | | | | | |
| | a. Spousal or domestic partner support payable to Petitioner | Respondent | | | | | | |
| | b. Terminate (end) the court's ability to award support to Petitioner | Respondent | | | | | | |
| | | Petitioner Respondent | | | | | | |
| | d. Other (specify): | Treepondent | | | | | | |
| | u outer (eposity). | | | | | | | |
| 9. | SEPARATE PROPERTY | | | | | | | |
| ٥. | a. There are no such assets or debts that I know of to be confirmed by the co | urt. | | | | | | |
| | | claration (form FL-160). Attachment 9b. Confirm to | | | | | | |
| | | | | | | | | |

| PETITIONER: | CASE NUMBER: |
|---|---|
| RESPONDENT: | |
|). COMMUNITY AND QUASI-COMMUNITY PROPERTY | |
| a. There are no such assets or debts that I know of to be d | livided by the court. |
| b. Determine rights to community and quasi-community as | • |
| in <i>Property Declaration</i> (form <u>FL-160</u>). | in Attachment 10b. |
| as follows (specify): | |
| ac tenente (opeany). | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| ATUED DEGUESTS | |
| OTHER REQUESTS | |
| a. Attorney's fees and costs payable by Petitione | Respondent |
| | Respondent |
| a. Attorney's fees and costs payable by Petitione | Respondent |
| a. Attorney's fees and costs payable by Petitione Begin Respondent's former name be restored to (specify): | r Respondent |
| a Attorney's fees and costs payable by Petitioneb Respondent's former name be restored to (specify): | r Respondent |
| a Attorney's fees and costs payable by Petitioneb Respondent's former name be restored to (specify): | r Respondent |
| a. Attorney's fees and costs payable by Petitione Begin Respondent's former name be restored to (specify): | r Respondent |
| a Attorney's fees and costs payable by Petitione b Respondent's former name be restored to (specify): c Other (specify): | r Respondent |
| a. Attorney's fees and costs payable by Petitioneb Respondent's former name be restored to (specify): | r Respondent |
| a. Attorney's fees and costs payable by Petitione b Respondent's former name be restored to (specify): c. Other (specify): Continued on Attachment 11c. | |
| a. Attorney's fees and costs payable by Petitione b Respondent's former name be restored to (specify): c. Other (specify): Continued on Attachment 11c. eclare under penalty of perjury under the laws of the State of Californ | |
| a. Attorney's fees and costs payable by Petitione b Respondent's former name be restored to (specify): c. Other (specify): Continued on Attachment 11c. eclare under penalty of perjury under the laws of the State of Californ | |
| a. Attorney's fees and costs payable by Petitione Bespondent's former name be restored to (specify): C. Other (specify): Continued on Attachment 11c. Continued on Petitione Petitione Continued on Attachment 11c. | |
| a Attorney's fees and costs payable by Petitione b Respondent's former name be restored to (specify): c Other (specify): Continued on Attachment 11c. eclare under penalty of perjury under the laws of the State of Californate: (TYPE OR PRINT NAME) | nia that the foregoing is true and correct. |
| a Attorney's fees and costs payable by Petitione b Respondent's former name be restored to (specify): c Other (specify): Continued on Attachment 11c. eclare under penalty of perjury under the laws of the State of Californate: (TYPE OR PRINT NAME) | nia that the foregoing is true and correct. |
| b Respondent's former name be restored to (specify): c. Other (specify): Continued on Attachment 11c. declare under penalty of perjury under the laws of the State of Californate: | nia that the foregoing is true and correct. |

at <u>www.familieschange.ca.gov</u> — an online guide for parents and children going through divorce or separation.

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child, spousal or partner support.

NOTICE—CANCELLATION OF RIGHTS: Dissolution or legal separation may automatically cancel the rights of a domestic partner or spouse under the other domestic partner's or spouse's will, trust, retirement plan, power of attorney, pay-on-death bank account, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the right of a domestic partner or spouse as beneficiary of the other partner's or spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance polices, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions. Some changes may require the agreement of your partner or spouse or a court order.

The original response must be filed in the court with proof of service of a copy on Petitioner.

| PARTY WITHOUT ATTORNEY OR ATTORNEY | STATE BAR NO.: | | |
|--|----------------|-----------|--|
| NAME: | | | |
| FIRM NAME: | | | |
| STREET ADDRESS: | | | |
| CITY: | STATE: | ZIP CODE: | |
| TELEPHONE NO.: | FAX NO.: | | |
| E-MAIL ADDRESS: | | | |
| ATTORNEY FOR (name): | | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | OF | | |
| PETITIONER'S RESPONDE COMMUNITY AND QUASI-COI SEPARATE PROPERTY DECL | CASE NUMBER: | | |

See *Instructions* on page 4 for information about completing this form. For additional space, use *Continuation of Property Declaration* (form FL-161).

| A | В | С - | D | = E | F |
|--|------------------|-------------------------------|-------------------|-----------------------------|--|
| ITEM BRIEF DESCRIPTION NO. | DATE ACQUIRED | GROSS FAIR MARKET VALUE | AMOUNT OF DEBT | NET FAIR MARKET VALUE | PROPOSAL FOR DIVISION Award or Confirm to: PETITIONER RESPONDENT |
| 1. REAL ESTATE | | \$ | \$ | \$ | \$ |
| 2. HOUSEHOLD FURNITURE, FURNISHINGS, APPLIANCES | | | | | |
| 3. JEWELRY, ANTIQUES, ART, COIN COLLECTIONS, etc. | | | | | |
| 4. VEHICLES, BOATS, TRAILERS | | | | | |
| 5. SAVINGS ACCOUNTS | | | | | |
| 6. CHECKING ACCOUNTS | | | | | |

| A | В | С | - D | = E | | F TE-100 |
|--|------------------|-------------------------------|-------------------|-----------------------------|----------|---|
| ITEM BRIEF DESCRIPTION NO. | DATE ACQUIRED | GROSS FAIR MARKET VALUE | AMOUNT OF DEBT | NET FAIR MARKET VALUE | Award or | FOR DIVISION Confirm to: RESPONDENT |
| 7. CREDIT UNION, OTHER DEPOSITORY ACCOUNTS | | \$ | \$ | \$ | \$ | \$ |
| 8. CASH | | | | | | |
| 9. TAX REFUND | | | | | | |
| 10. LIFE INSURANCE WITH CASH SURRENDER OR LOAN VALUE | | | | | | |
| 11. STOCKS, BONDS, SECURED NOTES, MUTUAL FUNDS | | | | | | |
| 12. RETIREMENT AND PENSIONS | | | | | | |
| 13. PROFIT-SHARING, IRAS, DEFERRED COMPENSATION, ANNUITIES | | | | | | |
| 14. ACCOUNTS RECEIVABLE, UNSECURED NOTES | | | | | | |
| 15. PARTNERSHIP, OTHER BUSINESS INTERESTS | | | | | | |
| 16. OTHER ASSETS | | | | | | |
| 17. ASSETS FROM CONTINUATION SHEET | | | | | | |
| 18. TOTAL ASSETS | | | | | | |

| Α | В | С | | D | | |
|---|---------------|-------------|------------------------------------|---|--|--|
| ITEM DEBTS— NO. SHOW TO WHOM OWED | DATE INCURRED | TOTAL OWING | PROPOSAL Award or PETITIONER | FOR DIVISION Confirm to: RESPONDENT | | |
| 19. STUDENT LOANS | | \$ | \$ | \$ | | |
| 20. TAXES | | | | | | |
| 21. SUPPORT ARREARAGES | | | | | | |
| 22. LOANS—UNSECURED | | | | | | |
| 23. CREDIT CARDS | | | | | | |
| 24. OTHER DEBTS | | | | | | |
| 25. OTHER DEBTS FROM CONTINUATION SHEET | | | | | | |
| 26. TOTAL DEBTS | | | | | | |
| A Continuation of Property Declaration (form FL-161) is attached and incorporated by reference. I declare under penalty of perjury under the laws of the State of California that, to the best of my knowledge, the foregoing is a true and correct listing of assets and obligations and the amounts shown are correct. | | | | | | |
| Date: | | <u> </u> | | | | |
| (TYPE OR PRINT NAME) | | | SIGNATURE | | | |

INFORMATION AND INSTRUCTIONS FOR COMPLETING FORM FL-160

Property Declaration (form FL-160) is a multipurpose form, which may be filed with the court as an attachment to a Petition or Response or served on the other party to comply with disclosure requirements in place of a Schedule of Assets and Debts (form FL-142). Courts may also require a party to file a Property Declaration as an attachment to a Request to Enter Default (form FL-165) or Judgment (form FL-180).

When filing a Property Declaration with the court, do not include private financial documents listed below.

Identify the type of declaration completed

- 1. Check "Community and Quasi-Community Property Declaration" on page 1 to use *Property Declaration* (form FL-160) to provide a combined list of community and quasi-community property assets and debts. Quasi-community property is property you own outside of California that would be community property if it were located in California.
- Do not combine a separate property declaration with a community and quasi-community property declaration. Check "Separate Property Declaration" on page 1 when using *Property Declaration* to provide a list of separate property assets and debts.

Description of the Property Declaration chart

Pages 1 and 2

- 1. Column A is used to provide a brief description of each item of separate or community or quasi-community property.
- 2. Column B is used to list the date the item was acquired.
- 3. Column C is used to list the item's gross fair market value (an estimate of the amount of money you could get if you sold the item to another person through an advertisement).
- 4. Column D is used to list the amount owed on the item.
- 5. Column E is used to indicate the net fair market value of each item. The net fair market value is calculated by subtracting the dollar amount in column D from the amount in column C ("C minus D").
- 6. Column F is used to show a proposal on how to divide (or confirm) the item described in column A. Page 3
- 1. Column A is used to provide a brief description of each separate or community or quasi-community property debt.
- 2. Column B is used to list the date the debt was acquired.
- 3. Column C is used to list the total amount of money owed on the debt.
- 4. Column D is used to show a proposal on how to divide (or confirm) the item of debt described in column A.

When using this form only as an attachment to a Petition or Response

- 1. Attach a Separate Property Declaration (form FL-160) to respond to item 9. Only columns A and F on pages 1 and 2 and columns A and D on page 3 are required.
- 2. Attach a Community or Quasi-Community Declaration (form FL-160) to respond to item 10, and complete column A on all pages.

When serving this form on the other party as an attachment to Declaration of Disclosure (form FL-140)

- 1. Complete columns A through E on pages 1 and 2, and columns A through C on page 3.
- 2. Copies of the following documents must be attached and served on the other party:
 - (a) For real estate (item 1): deeds with legal descriptions and the latest lender's statement.
 - (b) For vehicles, boats, trailers (item 4): the title documents.
 - (c) For all bank accounts (item 5, 6, 7): the latest statement.
 - (d) For life insurance policies with cash surrender or loan value (item 10): the latest declaration page.
 - (e) For stocks, bonds, secured notes, mutual funds (item 11): the certificate or latest statement.
 - (f) For retirement and pensions (item 12): the latest summary plan document and latest benefit statement.
 - (g) For profit-sharing, IRAs, deferred compensation, and annuities (item 13): the latest statement.
 - (h) For each account receivable and unsecured note (item 14): documentation of the account receivable or note.
 - (i) For partnerships and other business interests (item 15): the most current K-1 and Schedule C.
 - (j) For other assets (item 16): the most current statement, title document, or declaration.
 - (k) For support arrearages (item 21): orders and statements.
 - (I) For credit cards and other debts (items 23 and 24): the latest statement.
- 3. Do not file copies of the above private financial documents with the court.

When filing this form with the court as a attachment to *Request to Enter Default* (FL-165) or *Judgment* (FL-180) Complete all columns on the form.

For more information about forms required to process and obtain a judgment in dissolution, legal separation, and nullity cases, see http://www.courts.ca.gov/8218.htm.

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
|----|---|----------|---|--|
| 1. | Los Angeles Center for Law and Justice By: Carmen E. McDonald, Supervising Attorney | N/I | Re: Form FL-100, page 1, Item #2: The new language related to same sex marriage dissolution: use of the word jurisdiction replacing old language does not really clarify what is meant by "residence" when the parties are asked to provide "residence" information. Maybe break up residence question into "city, state and country" where Petitioner and Respondent live. Also, stating "jurisdiction" or "nation" instead of merely "jurisdiction" may help to clarity the term to lay people. | The committee recommends that item 2 be revised to state: We are the same sex, were married in California, but currently live in a jurisdiction that does not recognize, and will not dissolve, our marriage. This <i>Petition</i> is filed in the county where we were married. Petitioner lives in (<i>specify</i>): Respondent lives in (<i>specify</i>): Respondent lives in (<i>specify</i>): The committee believes that the above language better addresses the residence requirements of Family Code section 2320 than the language that circulated for comment. Although it retains the word "jurisdiction," this word more accurately covers persons who live abroad (in a nation, commonwealth, kingdom, territory) or who are members of an "Indian tribe" (as defined under federal and state law). |
| | | | Form FL-100, page 1, Item 4 Regarding the language of conception, when the children are conceived is not the basis for presumption of paternity. The standard is that the husband of children born to wife and husband who are cohabitating (assuming husband is not infertile) is presumed to be the father. This should not be changed. | The committee agrees and decided not to recommend revising forms FL-100 and FL-120 to include content about conception. |
| 2. | Los Angeles County Bar Association by: Barbara Jimenez, Corporate Paralegal | N/I | *Form FL-100, page 1, Item 4 Item 4 of the Petition should be changed to state "Minor Children (children conceived before (or born or adopted during) the marriage or | The committee decided not to recommend revising forms FL-100 and FL-120 to include content about conception. The committee prefers to keep the language in the <i>Petition</i> and <i>Response</i> |

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
|----|---|----------|---|--|
| | | | domestic partnership)" | simple and focused. Therefore, the committee recommends revising item 4 by deleting the language in the parenthetical. The heading will simply state "Minor Children." |
| | | | *The following language should be added below item 4 of the Petition and Response: "If any child listed above was born or conceived before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage or domestic partnership." | The committee decided to recommend revising the Petition and Response to state "If any child listed above was born before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage or domestic partnership." This language will focus on the importance of establishing parentage and avoid over complicating the issue. |
| 3. | Orange County Bar Association by: Todd G. Friedland, President | A | *Form FL-100 and FL-120, page 1, Item 4 Item 4 of the Petition should be changed to state "Minor Children (children conceived before (or born or adopted during) the marriage or domestic partnership)." | Same as above response. |
| | | | *No objection to the following language should be added below item 4 of the Petition and Response: "If any child listed above was born or conceived before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage or domestic partnership." It is similar to the language regarding support already in use. | See the above response to the Los Angeles County Bar Association. |
| 4. | State Bar of California Executive Committee of the Family Law Section of the State Bar of California (FLEXCOM) by: Saul Bercovitch, Legislative | AM | Re: Form FL-100, page 1, Item #2: FLEXCOM supports replacing the words "state or nation" with the single word "jurisdiction." We believe the word is not overly confusing and is easily understandable by the layperson and self-represented litigants. | The committee agrees with the comment and recommends revising item 2 to state "We are the same sex, were married in California, but currently live in a jurisdiction that does not recognize, and will not dissolve, our marriage. This Petition is filed in the county in which we |

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
|----|---|----------|---|--|
| | Counsel | | | were married. Petitioner's residence (specify): Respondent's residence (specify):" |
| | | | Form FL-100, page 1, Item 4 FLEXCOM opposes changing the heading from "born" to "conceived" in the Petition (FL-100), item 4, and opposed revising item 4 to include below the list of children: "If any child listed above was born or conceived before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage." FLEXCOM believes there is no need for the change in the word, as it has the tendency to confuse and because the applicable codes already address the necessary and pertinent provisions for this type of procedure in such situations. | The committee agrees with the comment and decided not to recommend revising forms FL-100 and FL-120 to include content about conception. |
| 5. | State Bar of California Standing Committee on the Delivery of Legal Services By: Phong S. Wong, Chair | A | Re: Form FL-100, page 1, Item #2: Does the proposal appropriately address the stated purpose? Yes. However, the proposed language could be too technical for some members of the public. While, "jurisdiction" is an accurate term to use, SCDLS supports use of "resides in a location" or "lives in a location" instead of "lives in a jurisdiction." SCDLS believes this proposed language will be more user friendly for self-represented litigants than the existing language. If, however, the proposed language is not used, SCDLS supports the use of the term "jurisdiction." Jurisdiction may be confusing, however, it is a more accurate term than the others terms suggested by | The committee recommends that item 2 be revised to state: "We are the same sex, were married in California, but currently live in a jurisdiction that does not recognize, and will not dissolve, our marriage. This <i>Petition</i> is filed in the county where we were married. Petitioner lives in (specify): Respondent lives in (specify): " The committee believes that the above language better addresses the residence requirements of Family Code section 2320 than the language that circulated for comment. Although it retains the word "jurisdiction," this word more accurately covers persons who live abroad (in a nation, |

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
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| | Commentator | Position | Comment | Committee Response |
|----|--------------------------------------|----------|--|---|
| | | | the Invitation to Comment. | commonwealth, kingdom, territory) or who are members of an "Indian tribe" (as defined under federal and state law). |
| | | | Form FL-100, page 1, Item 4 Should the heading at item 4 be changed as follows: "Minor Children (children [born] conceived before (or born or adopted during) the marriage or domestic partnership)"? Yes. This change covers all the possibilities and is consistent with applicable law. Are there any objections to revising item 4 to | Same as the response to the Los Angeles County Bar Association. Same as the response to the Los Angeles County |
| | | | include the following statement below the list of children: "If any child listed above was born or conceived before the marriage or domestice partnership, the court has the authority to determine those children to be children of the marriage." Response: No. | Bar Association. |
| 6. | Superior Court of Los Angeles County | AM | Re: Form FL-100, page 1, Item #2: We agree with the change at item 2b from state or nation to jurisdiction. | No response required. |
| | | | Re: Form FL-100 and FL-120, Item #4: The current heading at item 4 of the Petition (FL-100) and Response.(FL-120) should not be changed to include the word conceived. | The committee agrees with the comment and recommends not revising forms FL-100 and FL-120 to include content about conception. |
| | | | Conceived is a more complex word than born, and there is no legal need to refer to children who were conceived before marriage. If a child is born prior to marriage, it is important to establish paternity. However, Family Code | The committee agrees that it is not necessary to use "conceived" in the forms. The committee prefers to keep the language in item 4 of the <i>Petition</i> and <i>Response</i> simple and focused. Therefore, the committee recommends revising |

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
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| Commentator | Position | Comment | Committee Response |
|-------------|----------|---|---|
| | | section 7611a establishes a presumption of paternity for any child born to a married couple, so the date of conception is less relevant than the date of birth. The word conceived will cause uncertainty with self-represented litigants. 3) We strongly support the addition of the language referring to establishment of parentage for children born prior to the marriage. However, the word conceived is unnecessary as paternity is presumed for any children born during marriage, regardless of when they were conceived under Family Code section 7611a. Adding this language will save a great deal of resources as most litigants who complete the forms on their own miss the establishment of parentage box, which is located on a different page of the form. In our court, many of these litigants must then file amended Petitions in order to include a specific request to establish parentage. | Simplify the heading for item 4 to state "Minor Children" and deleting the current language in the parentheses; Adding a section 4.c. below the list of children to state, "If any children listed above were born before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage or domestic partnership; and Deleting item 6.d. to avoid redundancy. |
| | | If the intent is to leave litigants the option of checking or not checking the box at item 6d, we recommend moving this box to the first page, immediately under the reference to the Court establishing parentage. If the intent is to automate the request, similar to the way in which the child support request is already included in the form at item 7, then we suggest removing item 6d on both the Petition (FL-100) | The committee decided to recommend revising the forms to simplify/automate a request to establish parentage in an action for dissolution. Therefore, the committee recommends deleting item 6d. and relocating it to page 1 as standard text authorizing the court to establish parentage for children listed in item 4. |

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
|----|---|----------|--|---|
| | | | and Response. (FL-120). We propose removing item 6d with the advisement that parentage may be established. This puts the other party on notice that the child may be found to be a child of the marriage. | The committee recommends this change to forms FL-100 and FL-120. |
| | | | The staff will need to be trained on the revision or implementation of any form. The time estimate is approximately 30 minutes. Two months from Judicial Council approval of this proposal until its effective date would be sufficient time for implementation. There are no significant changes. Training would be minimal and there are no new codes that would need to be created. Packets at our forms windows will need to be updated. | The committee anticipates that this proposal will result in some costs incurred by the courts to revise forms, update forms packets, and train court staff about the changes to the forms included in this proposal. However, the committee expects that the changes will save resources for the courts by clarifying and simplifying procedures. |
| | | | The proposal should not have a different effect on courts of different sizes. The notice is provided in plain language such that it will be accessible to a broad range of litigants, including self-represented litigants. | No response required. |
| 7. | Superior Court of Orange County by: Family and Juvenile Court Operations Managers | AM | Re: Form FL-100 and FL-120, Item #4: We agree with the proposed change for item 4; conception is a key consideration as it relates to determination of parentage. We recommend inserting exception regarding signed voluntary declaration of paternity: "If any child listed above was born or conceived before the marriage or domestic partnership, and a voluntary declaration of paternity is not signed, the court has the authority to determine those children to be children of the marriage." | In response to this comment, the committee prefers to not recommend revising forms FL-100 and FL-120 to include content about conception. The committee prefers to keep the language in the <i>Petition</i> and <i>Response</i> simple and focused. Therefore, the committee recommends revising the form as suggested by the commentator. |

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
|-----|---|----------|---|--|
| | | | We believe this proposal would be cost neutral. | No response required. |
| | | | Implementation requirements for our court would include changes to our efiling solution. We are an Odyssey Court, and therefore we are awaiting development regarding the Guide and File. This change would need to be considered in development efforts. | No response required. |
| | | | Two months might not be enough time to implement this change. We are an Odyssey court and would need to coordinate this change with the CATUG workgroup. We would request courts be given flexibility as it pertains to the implementation date. | Since these are forms that are prepared by litigants, rather than the courts, and since the changes reflect relatively minor changes in language rather than the structure in the form, the committee continues to recommend that the changes be effective July 1, 2016. |
| | | | Additional Questions/Comments: We recommend Judicial Council forms FL-107-INFO, FL-701S, FL-107V, and FL-107K be revised to reflect this change. | Because the committee does not recommend adding language relating to conception, the changes suggested by the commentator are not necessary. |
| 8. | Superior Court of Riverside County | A | No specific comment. | No response required. |
| 9. | Superior Court of Sacramento County by: Family law staff | AM | Page 3, Request for Specific Comments – This section does not correspond with the forms or comments, and thus, is a violation of the normal process. This section should not be considered. | The request for specific comments section routinely helps the committee focus public comment on issues relating to the proposal. The questions included in the Request for Specific Comments directly relate to items in forms FL-100 and FL-120. |
| 10. | Superior Court of San Diego County | A | *The proposal would not provide cost savings. | No response required. |
| | By: Michael M. Roddy | | *The implementation requirements for courts are: training staff on revised forms and updating packets. Two months from the JC approval of | The committee anticipates that this proposal will result in some costs incurred by the courts to revise forms, update forms packets, and train |

W16-12
Family law: Changes to Petition and Response (revise forms FL-100, FL-120, and FL-160)
All comments are verbatim unless indicated by an asterisk (*).

| Commentator | Position | Comment | Committee Response |
|-------------|----------|---|--|
| | | this proposal until its effective date provides sufficient time for implementation. This proposal has a greater impact on larger courts based on the number of staff and filings. The notice is provided in language such that it would be accessible to a broad range of litigants, including self-represented litigants. | court staff about the changes to the forms included in this proposal. However, the committee expects that the changes will save resources for the courts by clarifying and simplifying procedures. |
| | | Re: Form FL-100 and FL-120, Item #4: *Agree that the heading at item 4 should be changed to state "Minor Children (children conceived before (or born or adopted during) the marriage or domestic partnership)"? However, if you change the wording here in Item 4, then on Page 2, Item 6.d. you will have to change the language to "Determine the parentage of children conceived or born to | No response required. Same response as the Los Angeles County Bar Association. |
| | | petitioner and respondent before the marriage or domestic partnership." *No objections to revising item 4 to include the following statement below the list of children: "If any child listed above was born or conceived before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage." | |