

TERMINATING
A
CALIFORNIA REGISTERED
DOMESTIC PARTNERSHIP

Produced by the
California Secretary of State's Business Programs Division
Notary Public & Special Filings Section



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What is this Brochure

This brochure describes the requirements for terminating a California registered domestic partnership in the State of California and explains the nature and effect of termination. In certain circumstances, if all the requirements are met, partners may terminate a registered domestic partnership by preparing and filing a Notice of Termination of Domestic Partnership form with the California Secretary of State. In all other circumstances, at least one of the partners must file a petition with, and obtain a judgment from, a California Superior Court in the same way that marriages are terminated.

To terminate a domestic partnership using the procedure through the California Secretary of State, you must sign a form stating that you have read and understood this brochure. Therefore, it is important to read this entire brochure carefully. Unfortunately, this brochure cannot answer every question that may arise in a particular set of circumstances, and this brochure is not intended to provide legal advice. For additional questions about terminating a registered domestic partnership and the effect of termination after you review this brochure, a private attorney should be consulted.

If filing a Notice of Termination of Domestic Partnership, this brochure should be saved for at least six months from the date the termination form is filed with the California Secretary of State. Either partner can revoke the termination within six months of filing the termination form with the California Secretary of State.

Some Important Terms to Know

In order to understand the nature and effect of terminating a registered domestic partnership, the following explains some key terms that are used throughout this brochure. Additionally, both partners should understand that as a couple in a registered domestic partnership, there are certain things that the partners **own together** and there may be certain debts that the partners **owe together**.

Termination of a Domestic Partnership

The termination of a registered domestic partnership ends the registered domestic partnership and returns the partners to the status they had prior to becoming registered domestic partners. The partners no longer will have the rights, protections and benefits or obligations and responsibilities under the law as registered domestic partners. The process of termination usually will divide all the community property and community obligations of the partners. Once effective, the termination may not be undone except in limited circumstances by order of a California Superior Court. Termination of a domestic partnership does not dissolve a marriage.

Date of Separation

The date of separation is the date one of the partners tells the other partner that they want to terminate the domestic partnership and there is no chance of continuing the partnership. In most cases, it is the date the partners stop living together as a couple, but if there are questions about the separation date, an attorney should be consulted.

Community Property

Community property is everything that the partners have acquired together after registering their domestic partnership. In most cases, that includes anything that either partner earned and anything that either partner bought with those earnings after the date the domestic partnership was registered but before the date of separation. This may not be the case if a written property settlement agreement was made between the partners regarding rights to partnership property. In

that situation an attorney should be consulted regarding the partners' respective rights to community property.

Separate Property

Separate property generally is everything that partners owned or acquired prior to registering their domestic partnership and any interest or other income received from that separate property after registering the domestic partnership and before the separation date. In most cases, anything earned or received after the date of separation and anything received by gift or inheritance at any time is also separate property.

Fair Market Value

Except for bank accounts and cash, which are valued at their actual dollar amount, the value of community property is determined by adding together the fair market value of possessions that are community property. Fair market value is an estimate of the amount of money that could be obtained if those items were sold to a stranger at a flea market, garage sale, on the Internet or in the newspaper. It **does not mean** what was paid for those items originally or how much it would cost to replace those items now. One way of estimating the fair market value is to see what similar items are advertised for in the newspaper want ads or online auction companies. The same method is used to determine the value of separate property.

Community Obligations

Community obligations are the debts that the partners incurred after registering the domestic partnership and before the separation date. In most cases, this includes anything still owed on any debts either of you took on after the date you registered as domestic partners but before the date of separation. A debt is usually still a community obligation even when only one partner's name is on the loan.

Property Settlement Agreement

A property settlement agreement is an agreement in writing, signed by both partners, explaining how community property will be divided upon termination of the domestic partnership and how much each partner will pay on the community obligations.

Petition for Dissolution of Domestic Partnership

A Petition for Dissolution of Domestic Partnership is the formal request by one partner to a California Superior Court for the court to dissolve the domestic partnership. It is similar to a Petition for Dissolution of Marriage (a divorce), but it does not dissolve a marriage. See below if the partners also are married to one another and want to dissolve the marriage.

Petition for Dissolution of Domestic Partnership and Marriage

A Petition for Dissolution of Domestic Partnership and Marriage is the formal request by one partner/spouse to a California Superior Court for the court to dissolve both the domestic partnership and the marriage during the same proceeding.

Petition for Judgment of Nullity of Domestic Partnership

A Petition for Judgment of Nullity of Domestic Partnership is the formal request by one partner to a California Superior Court for the court to make a determination that the domestic partnership

is legally invalid (void), similar to a Petition for Judgment of Nullity of Marriage (an annulment).

Petition for Legal Separation of Domestic Partners

A Petition for Legal Separation of Domestic Partners is the formal request by one partner to a California Superior Court for the court to divide the community property and debts between the partners and to make other orders regarding custody of children and financial support *without terminating the domestic partnership*, similar to a petition for legal separation in a marriage.

Notice of Termination of Domestic Partnership

The Notice of Termination of Domestic Partnership is a statutory form obtained from the California Secretary of State website at www.sos.ca.gov/dpregistry/, which may be filed with the California Secretary of State in certain limited circumstances to terminate a domestic partnership. It only can be used when the domestic partnership meets certain statutory requirements.

Notice of Revocation of the Termination of Domestic Partnership

The Notice of Revocation of the Termination of Domestic Partnership is a statutory form obtained from the California Secretary of State, which may be filed with the California Secretary of State by either partner within six months of filing the Notice of Termination of Domestic Partnership to stop a Notice of Termination of Domestic Partnership from terminating the domestic partnership.

Terminating a Domestic Partnership by a Notice of Termination of Domestic Partnership

In some specific circumstances, a registered domestic partnership may be terminated by filing a Notice of Termination of Domestic Partnership with the California Secretary of State. This is easier and more economical than terminating a domestic partnership with the Superior Court, but not every domestic partnership is eligible to file with the California Secretary of State. A domestic partnership may be terminated through the California Secretary of State only if ALL of the requirements listed below are true at the time the statutory form is submitted to the California Secretary of State for filing. Even if only one of the statements is not true, the domestic partnership cannot be terminated with the California Secretary of State and a petition with a California Superior Court to dissolve the domestic partnership must be filed.

Requirements for Filing a Notice of Termination with the California Secretary of State

- 1. We have both read this brochure and understand it.
- 2. We both want to terminate the domestic partnership.
- 3. We have not been registered as domestic partners more than 5 years.
- 4. No children were born to us before or during the domestic partnership.
- 5. We did not adopt any children during the domestic partnership.
- 6. Neither of us is now pregnant.
- 7. Neither of us owns any part of land or buildings.

- 8. Neither of us is renting any land or buildings (except where one or both of us lives, and that lease does not include a purchase option and will end within one year of filing the Notice of Termination of Domestic Partnership form).
- 9. Not counting automobile loans, our community obligations are not more than \$6,000.
- 10. Not counting loans and automobiles, our community property is worth less than \$38,000.
- 11. Not counting loans and automobiles, neither one of us has separate property totaling more than \$38,000.
- 12. We have prepared and signed a property settlement agreement prior to submitting the Notice of Termination of Domestic Partnership form that states how community property possessions and community obligations will be divided (OR that states that no community property or community debt have been accumulated).
- 13. We agree that we do not want money or support from the other partner except what is included in the property settlement agreement dividing the community property and community obligations.

If statements 1 through 13 above are all true, your domestic partnership may be terminated by filing a Notice of Termination of Domestic Partnership with the California Secretary of State. The Notice of Termination of Domestic Partnership may be obtained from either California Secretary of State office or from our website at www.sos.ca.gov/dpreistry/.

The Notice of Termination of Domestic Partnership must be signed by both partners and filed with the California Secretary of State. Before completing the form, please review the requirements and this brochure very carefully.

It is possible for a court to set aside and cancel a termination made through the California Secretary of State if it can be shown that all the requirements were not met at the time the form was filed. Although not required, it may be in your best interest prior to filing a Notice of Termination of Domestic Partnership with the California Secretary of State to see an attorney about ending your domestic partnership.

How Long Does it Take to Terminate the Domestic Partnership?

The domestic partnership will automatically terminate **six months after** the date the Notice of Termination of Domestic Partnership is filed with the California Secretary of State, *as long as neither partner revokes (cancels) the termination before the end of the six-month period.*

What You Should Know About Revoking the Filing of a Notice of Termination

Either partner can revoke (cancel) the filing of a Notice of Termination of Domestic Partnership, for any reason, at any time before the end of the six-month period that starts when the notice is filed with the California Secretary of State. The most common reasons to revoke the termination are because you decided to return to your partner and not terminate the domestic partnership; or because you decided to go to court to dissolve the domestic partnership; or because one of you is now pregnant.

In order to revoke the filing of the notice of termination, a Notice of Revocation of Termination of Domestic Partnership must be filed with the California Secretary of State and a copy must be sent to your partner by first-class mail. If a determination is made to revoke the filing of the notice of termination, you

must do this before the end of the six-month period or the domestic partnership will automatically terminate.

The revocation of the filing of the notice of termination cannot be canceled or undone. If you change your mind and decide to continue with terminating the domestic partnership, you will have to start the process over again (including the six-month period) by filing another Notice of Termination of Domestic Partnership with the California Secretary of State or file a petition of dissolution with a California Superior Court.

An Important Difference Between Filing a Notice of Termination with the California Secretary of State and a Petition of Dissolution with the Superior Court

When dissolving a domestic partnership with a California Superior Court, you have a right to a court hearing in front of a judge. If either partner is not satisfied with the judge's decision, it is possible to challenge that decision. This can be done, for example by asking for a new hearing, or by appealing the decision to a higher court. *With filing a Notice of Termination of Domestic Partnership, there is no hearing.* Couples who choose to file a Notice of Termination of Domestic Partnership form with the California Secretary of State do not have the right to ask for a new hearing or the right to appeal the decision to a higher court.

Court Set-Aside of California Secretary of State Termination

There are some cases in which a domestic partnership that has been terminated through the California Secretary of State can be challenged in court and set aside (reversed) after the six-month waiting period is over. **If you believe your termination should be set-aside after the six-month period, you should consult an attorney about this possibility.** The court may have the power to set aside the termination if you can show:

- (1) the partnership did not meet all 13 of the requirements listed above at the time the Notice of Termination of Domestic Partnership form was filed, OR
- (2) you were deceived in agreeing to the terms of the property settlement agreement. This is possible if you find out that your partner lied about the value of property to get you to agree to the terms of the property settlement agreement (e.g. certain items going to your partner turned out to be much more valuable than you thought when you filed or certain items going to you were much less valuable than you thought when you filed), OR
- (3) you signed the Notice of Termination of Domestic Partnership against your will. This is possible if you can show that your partner used threats or other kinds of unfair pressure to get you to go along with the property settlement agreement or the termination, OR
- (4) there are serious mistakes in the property settlement agreement. Various kinds of other mistakes may make the termination invalid, but you will have to go to court to prove the mistakes.

An attorney should be consulted for more information about a court proceeding setting aside a termination. Correcting mistakes and unfairness in a termination obtained by filing a Notice of Termination of Domestic Partnership can be difficult, expensive, and time consuming. It is very important for both partners to be honest, cooperative, and careful when terminating the domestic partnership through the filing with the California Secretary of State.

Dissolution or Nullity of Domestic Partnership by Petition of the Superior Court

If all 13 of the requirements described above for terminating your domestic partnership through the filing process with the California Secretary of State are not met, a petition must be filed with a California Superior Court in order to dissolve the domestic partnership. This is the same process used to dissolve a marriage (a divorce or annulment) or to legally separate. There are four different petitions that can be filed with the court, and each has different effects as briefly described below.

How to Start

To start a court process, you must complete and file a Petition for Dissolution of Domestic Partnership, a Petition for Dissolution of Domestic Partnership and Marriage, a Petition for Judgment of Nullity of Domestic Partnership, or a Petition for Legal Separation of Domestic Partners with a California Superior Court. A copy of the petition and the court summons must be personally delivered to your domestic partner. However, you cannot deliver the summons and petition yourself. You must have a friend or other adult deliver the documents or you can pay a process server or private company to complete this task.

You Can Go to Mediation or Ask for Temporary Orders

Unlike filing a notice of termination with the California Secretary of State, when you file a petition with the court, you will have the right to ask the court to help you come to an agreement or to make temporary orders while waiting for the domestic partnership to be dissolved. It is always best if both partners can reach agreement on the issues, but when you can't reach an agreement, and the matter must be resolved right away, you can ask the court to send you to mediation (a process that will help you reach agreement) and/or to make temporary orders. Either partner may ask the court to make temporary orders regarding property rights, support, child custody, and other issues involving the partnership.

Petition for Dissolution of Domestic Partnership

A Petition for Dissolution of Domestic Partnership is a formal request by one partner to the Superior Court asking the court to dissolve the domestic partnership. It is very similar to a Petition for Dissolution of Marriage (a divorce), but it does not dissolve a valid marriage, if any. A judgment issued by the court in this case will dissolve the domestic partnership and will restore both partners to the status of un-partnered persons. Among other things, the judgment will also decide the custody of any minor children of your domestic partnership, how your possessions and obligations will be divided, and if any support will be paid from one partner to the other.

How Long Does it Take for the Court to Dissolve the Partnership?

Once you have started the process, it will take *at least* six months for the court to dissolve the domestic partnership and enter a judgment in a Petition for Dissolution of Domestic Partnership. In many cases it takes longer than six months. The time it takes will depend on your particular situation and on how well you and your partner cooperate in the process.

Petition for Dissolution of Domestic Partnership and Marriage

A Petition for Dissolution of Domestic Partnership and Marriage is a formal request by one partner/spouse to a California Superior Court to dissolve both the domestic partnership and the marriage in a single proceeding. A judgment issued by the court in this case will end both the domestic partnership and the marriage.

How Long Does it Take for the Court to Dissolve the Partnership and Marriage?

Similar to a petition for dissolution alone, this process will take at least six months and the length of time will depend on your particular situation and on how well you and your partner cooperate in the process.

Petition for Judgment of Nullity of Domestic Partnership

A Petition for Judgment of Nullity of Domestic Partnership is the formal request by one partner to a California Superior Court for the court to declare the domestic partnership legally invalid (void). It is similar to a Petition for Nullity of Marriage (annulment). A Judgment of Nullity of Domestic Partnership issued by the court will void the domestic partnership and will restore both partners to the status they had prior to becoming registered domestic partners. However, among other things, the court will also decide custody of any minor children of your domestic partnership, how your possessions and obligations will be divided, and if any support will be paid from one partner to the other.

Differences from Dissolution of Domestic Partnership

Unlike a Dissolution of Domestic Partnership, which ends the partnership, a Nullity of Domestic Partnership declares it void from the beginning. The court still will decide the issues of child custody and child support the same way as a dissolution of domestic partnership, but there can be differences in how the court divides your property and orders one partner to pay support for the other. Another difference between a Dissolution of Domestic Partnership and a Nullity of Domestic Partnership is that the partner asking the court to void the domestic partnership will have to prove certain things to the court in order to get the court to order the partnership void.

The requirements of a Petition for Nullity of Domestic Partnership are often difficult to prove and the effects are often complicated. While it is not required, you should consult an attorney before you file this petition.

How Long Does it Take to Nullify the Domestic Partnership?

The time it takes to nullify a domestic partnership will depend on your particular situation and on how well you and your partner cooperate in the process. There is no minimum time limit.

Petition for Legal Separation of Domestic Partners

A Petition for Legal Separation of Domestic Partners is the formal request by one partner to a California Superior Court for the court to divide the community property and debts between the partners and to make other orders regarding custody of children and financial support *without ending the partnership*. It is similar to a Petition for Legal Separation in a marriage.

Differences from a Dissolution of Domestic Partnership

Unlike a Petition for Dissolution of Domestic Partnership, a Petition for Legal Separation of Domestic Partners **does not** dissolve the domestic partnership and it **does not** restore the partners to the status they had prior to becoming registered domestic partners. Until the domestic partnership is dissolved, and you are restored to the status you had prior to becoming registered domestic partner, you will not be allowed to enter into another domestic partnership or a marriage. In a legal separation, the court will financially separate you and your domestic partner, and the court will also decide the custody of any minor children of your domestic partnership, how your possessions and obligations will be divided and if any support will be paid from one partner to the other in the same way as a dissolution proceeding would.

How Long Does a Legal Separation Take?

The time it takes for a legal separation will depend on your particular situation and on how well you and your partner cooperate in the process. There is no minimum time limit.

Should You Consult an Attorney?

You do not have to see an attorney in order to terminate your domestic partnership by filing a Notice of Termination of Domestic Partnership with the California Secretary of State or prior to filing a petition for dissolution, separation, or nullity with a California Superior Court. However, the process can get complicated and this brochure is not intended to provide legal advice in your individual situation. It is a good idea to seek legal advice from an attorney who knows family law before you decide to proceed with filings by yourself. You may decide to hire an attorney to complete the process or to consult an attorney to explain your rights in your particular situation; including providing an independent and objective review your property settlement agreement.

You can find organizations in your area in the Yellow Pages under “Attorneys” or “Attorney Referral Service” that can help you find an attorney. In many cases you will be able to find an attorney who will charge only a small fee for your first visit, or you can get information on free or low-cost legal services through the County Bar Association in your county. Additionally, the California Judicial Council through the California Courts website provides information about the legal process and obtaining free and low-cost legal assistance at www.courts.ca.gov/selfhelp. Lawyer referral services also are available through the State Bar of California at (866) 442-2529 or 866-44-CA-LAW (toll free in California) or (415) 538-2250 or via email at LRS@calbar.ca.gov. Court forms are available at your local courthouse or online at www.courts.ca.gov/forms.

You should not rely on this brochure alone. This brochure is not intended to provide legal advice.

If you decide not to consult with an attorney, you should read and understand the applicable provisions of the California Family Code, read and understand the applicable forms and instructions that may be applicable to your situation, as well as seek out California family law resources to ensure you completely understand the effects of terminating or dissolving your California domestic partnership.



State of California Secretary of State

FILE NO: _____

NOTICE OF TERMINATION OF DOMESTIC PARTNERSHIP

(Family Code section 299)

Instructions:

- Complete and send to:**
Secretary of State, P.O. Box 942877
Sacramento, CA 94277-0001
(916) 653-3984
- There is no fee for filing this Notice of Termination of Domestic Partnership.**
- Both registered domestic partners must sign the same Notice of Termination of Domestic Partnership form pursuant to Family Code section 299(a)(1). The signatures can be acknowledged at different times by different notaries public as long as a separate certificate of acknowledgment is attached to the form.**

(Office Use Only)

We, the undersigned, do declare that:

We are terminating our domestic partnership. We have read and understand the brochure prepared by the Secretary of State describing the requirements, nature, and effect of terminating a domestic partnership. We also declare that all of the conditions exist as specified in Family Code section 299(a).

Secretary of State File Number (if known): _____

Signature of Partner

Printed Name (Last)

(First)

(Middle)

Signature of Partner

Printed Name (Last)

(First)

(Middle)

NOTARIZATION IS REQUIRED

State of California

County of _____

On _____, before me, _____,

personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

[PLACE NOTARY SEAL HERE]

RETURN TO (Enter the name and the address of the person to whom a copy of the filed document should be returned.)

NAME []

ADDRESS

CITY/STATE/ZIP []