

TERMINATING
A
CALIFORNIA REGISTERED
DOMESTIC PARTNERSHIP



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What this Brochure is About

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, the Superior Court in the same way that marriages are terminated.

If you wish to terminate a domestic partnership using the California Secretary of State's procedure, you must sign a form stating that you have read and understood this brochure. It is important for you to read the entire brochure very carefully. Unfortunately, it is impossible to answer every question, and this brochure is not intended to provide legal advice in your individual situation. If you have questions after you review this brochure, you should consult an attorney.

If you decide to file a Notice of Termination of Domestic Partnership, you should save this brochure for at least six months from the date the form is filed with the California Secretary of State. Either partner may revoke the termination prior to that date.

Some Important Terms You Should Know

In order to understand the nature and effect of terminating a registered domestic partnership, you will need to have at least a basic idea about some terms that are used in this brochure. Those terms are explained in this section. You should also understand that as a couple in a registered domestic partnership, there are certain things which you **own together** and there may be certain debts that you **owe together**.

Termination of Domestic Partnership

The termination of a registered domestic partnership ends the registered domestic partnership and returns the partners to the status of un-partnered persons. The partners will no longer have the rights, protections and benefits or obligations and responsibilities under the law as registered domestic partners. The process of termination will usually also divide all the community property and community obligations of the partners. Once the termination is effective, it may not be undone except in limited circumstances by order of the Superior Court.

Date of Separation

The date of separation is the date you told your partner that you wanted to terminate the domestic partnership and there was no chance of saving it. In most cases, it is the date you stopped living together, but if you have questions, you should consult an attorney.

Community Property

Community property is everything that partners own together. In most cases that includes anything that either of you earned and anything that either of you bought after the date you registered as domestic partners but before the date of separation. This may not be the case if you have signed an agreement with your partner regarding rights to property. In that case, you should consult an attorney regarding community property.

Separate Property

Separate property is everything that partners own separately. In most cases, this includes anything you owned before you registered as domestic partners, anything you earned or received after the date of separation and anything you received by gift or inheritance at any time.

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 your possessions that are community property. Fair Market Value is an estimate of the amount of money you could get if you sold those items to a stranger at a garage sale or in the newspaper. It **does not mean** what you paid for those items originally or how much it would cost to replace them now. One way of estimating the Fair Market Value is to see what similar items are advertised for in the newspaper want ads. The same method is used to determine the value of Separate Property.

Community Obligations

Community obligations are the debts that partners owe together. In most cases, this includes anything you still owe 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 your community property will be divided upon termination of the domestic partnership and how much each of you 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 the Superior Court for the Court to terminate the domestic partnership. It is very similar to the petition for dissolution of marriage (a divorce).

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 the Superior Court for the Court to determine the domestic partnership is legally invalid (void). It is very similar to the petition for judgment of nullity of marriage (an annulment).

Petition for Legal Separation of Domestic Partners

A petition for legal separation is the formal request by one partner to the 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 partnership*. It is very similar to a petition for legal separation in a marriage.

Notice of Termination of Domestic Partnership

This is a form obtained from the California Secretary of State and may be filed with the California Secretary of State, in certain limited circumstances, to terminate a domestic partnership. It may only be used when the domestic partnership meets certain requirements.

Notice of Revocation of the Termination of Domestic Partnership

This is a form obtained from the California Secretary of State and may be filed with the California Secretary of State, within certain time limits, to stop a Notice of Termination of Domestic Partnership from terminating the domestic partnership.

Terminating a Domestic Partnership by Notice of Termination of Domestic Partnership with the California Secretary of State

In some circumstances, you may terminate a registered domestic partnership by filing a Notice of Termination of Domestic Partnership with the California Secretary of State. This way is easier than terminating a domestic partnership with the Superior Court, but not everybody can use it. You can terminate your domestic partnership this way only if ALL of the requirements listed below are true at the time you file the form. Even if only one of the statements is not true, you cannot terminate the domestic partnership with the California Secretary of State and you must file a petition with the Superior Court in order to terminate the domestic partnership.

Requirements for Terminating 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 car loans, our community obligations are less than \$4,000.
- 10. Not counting cars, our community property is not worth more than \$32,000.
- 11. Not counting cars, neither one of us has separate property totaling more than \$32,000.
- 12. We have prepared and signed a property settlement agreement that states how we want our possessions and obligations to be divided (OR that states we have no community property or community debts.)
- 13. Both of us 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 listed on page 3 are all true, you may terminate the domestic partnership by filing a Notice of Termination of Domestic Partnership with the California Secretary of State. You can get the form from any California Secretary of State office or from our website at www.ss.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. You do not have to see an attorney before filing a Notice of Termination of Domestic Partnership, but it is always in your best interest to see an attorney about ending your domestic partnership.

How Long Does It Take?

The domestic partnership will automatically end **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 Termination

Either partner can revoke (cancel) the termination of the domestic partnership, for any reason, at any time before the end of the six-month period that starts when the Notice of Termination of Domestic Partnership 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 terminate the domestic partnership; or because one of you is now pregnant.

In order to revoke the termination, you must file a Notice of Revocation of Termination of Domestic Partnership with the California Secretary of State and send a copy to the other partner by first-class mail. If you decide to revoke the termination, you must do this before the end of the six-month period when the domestic partnership will automatically terminate.

Once you revoke the termination you can't cancel the revocation. If you change your mind and decide to continue with the termination, you will have to start the process again (including the six-month period) or file a petition with the Superior Court.

An Important Difference Between Notice of Termination with the California Secretary of State and Termination with the Superior Court

When you terminate a domestic partnership with the Superior Court, you have a right to a Court hearing or trial 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 trial. It is also possible to appeal the decision by taking the case to a higher court. *With a Notice of Termination of Domestic Partnership, there is no trial or hearing.* Couples who choose this method of terminating the domestic partnership do not have the right to ask for a new trial or the right to appeal the case to a higher court.

Court Set-Aside

There are some cases in which a domestic partnership terminated through the California Secretary of State can be challenged 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.** The court may have the power to set-aside the termination if you can show:

- (1) **that the partnership did not meet all the requirements** listed on page 3 at the time the Notice of Termination of Domestic Partnership form was filed, OR
- (2) **that you were treated unfairly in the Property Settlement Agreement.** This is possible if you find out that the things you agreed to give your partner were much more valuable than you thought when you filed, OR
- (3) **that 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) **that there are serious mistakes in the original agreement.** Various kinds of other mistakes may make the termination invalid, but you will have to go to court to prove the mistakes.

You should consult with an attorney for more information about setting aside a termination. Correcting mistakes and unfairness in a termination by 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 Secretary of State.

Termination of Domestic Partnership by Petition of the Superior Court

If you do not meet all the requirements described on page 3 for terminating your domestic partnership through the California Secretary of State, you must file a petition with the Superior Court in order to terminate it. This is the same process used to terminate a marriage (a divorce or annulment) or to legally separate. There are three different petitions you can file with the Court, and each has different effects. They are 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 Judgment of Nullity of Domestic Partnership, or a Petition for Legal Separation of Domestic Partners with the Superior Court. You must also have a copy of the petition and the Court summons personally delivered to the other domestic partner. You cannot deliver the copies yourself. You must have a friend or other person deliver them or you can pay a service to do this.

You Can Go to Mediation or Ask for Temporary Orders

Unlike a 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 terminated. 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 areas.

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 terminate the domestic partnership. It is very similar to a petition for dissolution of marriage (a divorce). A judgment issued by the court in this case will terminate 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?

Once you have started the process, it will take *at least* six months for the Court to terminate 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 Judgment of Nullity of Domestic Partnership

A petition for judgment of nullity of domestic partnership is the formal request by one partner to the Superior Court for the Court to declare the domestic partnership legally invalid. It is very 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 of un-partnered persons. Among other things, it will 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.

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 will still 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 void it.

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?

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

Terminating by Petition for Legal Separation of Domestic Partners

A Petition for Legal Separation of Domestic Partners is the formal request by one partner to the 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 partnership*. It is very similar to a petition for legal separation in a marriage.

Differences from a Dissolution of Domestic Partnership

Unlike a dissolution of domestic partnership, a legal separation of domestic partners **does not** terminate the domestic partnership and it **does not** restore the partners to the status of un-partnered persons. Until the domestic partnership is terminated, and you are restored to the status of an un-partnered person, you will not be allowed to enter into another domestic partnership or marriage. In a legal separation, the Court will financially separate you and your domestic partner, and it 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.

How long does it take?

The time it takes 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 with the California Secretary of State or with the Superior Court. However, the process can get complicated and this brochure is not intended to provide legal advice in your individual situation. It is always a good idea to seek legal advice from an attorney who knows family law before you decide to do it yourself. You may decide to hire an attorney to do all of it for you or to consult an attorney to explain your rights in your particular situation and to review your Property Settlement Agreement.

You can find organizations in your area in the yellow pages under “Attorneys” or “Attorney Referral Service” that will 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. Court forms are available at your local courthouse or online at <http://www.courtinfo.ca.gov/forms>.

*If you decide not to see an attorney, you should not rely on this brochure alone.
It is not intended to provide legal advice.*



State of California Secretary of State

FILE NO: _____

NOTICE OF TERMINATION OF DOMESTIC PARTNERSHIP (Family Code section 299)

Instructions:

1. Complete and send to:
Secretary of State
P.O. Box 942877
Sacramento, CA 94277-0001
(916) 653-3984
2. There is no fee for filing this Notice of Termination

(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 Section 299(a) of the Family Code.

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 _____

personally known to me (or 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.

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 []