

**SUMMARY OF PROPOSED LOUISIANA DISTRICT COURT RULE AMENDMENTS –
SPRING 2022**

PART I: AMENDMENTS CONCERNING DEFAULT JUDGMENTS

On June 11, 2021, Governor John Bel Edwards signed into law Act 174, making substantial changes to Louisiana’s procedural rules governing answers and the taking of default judgments. The changes pertaining to default judgments, which took effect on January 1, 2022, include:

- The term “preliminary default” has been eliminated from the law, and default judgment procedure has been overhauled. La. C.C.P. art. 1702 ([statute](#)).
- The new procedure under amended La. C.C.P. art. 1702(A) provides that if a defendant fails to answer within the time prescribed by law, the plaintiff must establish a *prima facie* case by competent and admissible evidence and prove proper service on the defendant. If such a showing is made a default judgment may be rendered, provided that notice that the plaintiff intends to obtain a default judgment is sent if required. *Id.* If a party who fails to answer has made an appearance of record in the case or has contacted the plaintiff in writing after filing, notice of the intention to obtain a default judgment must be sent by certified mail to counsel of record of the party (or to the party if there is no counsel) at least seven days before a default judgment may be rendered, unless such notice is waived. *Id.* In cases involving delictual actions where neither of these situations apply, the plaintiff must send notice of the intention to obtain a default judgment by regular mail to the party who fails to answer at the address where service was obtained at least seven days before a default judgment may be rendered.
- As to default judgments for divorce actions under Louisiana Civil Code Articles 103(1), if the defendant, by sworn affidavit, acknowledges receipt of a certified copy of the petition and waives formal citation, service of process, all legal delays, notice of trial, and appearance at trial, a default judgment of divorce may be entered against the defendant two days after the filing of such affidavit, exclusive of legal holidays. La. C.C.P. art. 1702(F).

Given these recent legislative changes concerning default judgment procedure, the Court Rules Committee hereby proposes amendment of the District Court Rules and their Appendices as indicated in the pages that follow.

LOUISIANA DISTRICT COURT RULES

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

CHAPTER 9: PROCEDURE

PROPOSED AMENDMENTS TO CHAPTER 9 TABLE OF CONTENTS

Summary of Amendment: *The Committee proposes changing the title of Rule 9.19 from the now-defunct "Preliminary Defaults" term to "Default Judgments" in the Table of Contents to reflect the recent change in the law.*

CHAPTER 9. PROCEDURE

RULE

- 9.0. DAILY ORDER OF BUSINESS.
- 9.1. MATTERS SCHEDULED BUT NOT HEARD.
- 9.2. MATTER HEARD BY JUDGE TO WHOM ALLOTTED.
- 9.3. ALLOTMENT; SIGNING OF PLEADINGS IN ALLOTTED OR NON-ALLOTTED CASES.
- 9.4. PLEADINGS TO BE FILED WITH CLERK; PRIOR OR MULTIPLE FILINGS OF PLEADINGS.
- 9.5. COURT’S SIGNATURE; CIRCULATION OF PROPOSED JUDGMENT; REQUEST FOR REASONS FOR JUDGMENT.
- 9.6. FORM OF THE PLEADINGS; CIVIL CASE COVER SHEET FORM.
- 9.7. SIGNING OF THE PLEADINGS.
- 9.8. EXCEPTIONS AND MOTIONS.
- 9.9. MEMORANDA SUPPORTING OR OPPOSING EXCEPTIONS AND MOTIONS.
- 9.10. MOTIONS FOR SUMMARY JUDGMENT.
- 9.11. EXECUTORY PROCESS.
- 9.12. ENROLLMENT AS COUNSEL OF RECORD.
- 9.13. WITHDRAWAL AS COUNSEL OF RECORD.
- 9.14. FIXING FOR TRIAL OR HEARING; SCHEDULING ORDERS; CONTACT WITH JURORS.
- 9.15. SUBPOENAS.
- 9.16. AGREEMENTS AND STIPULATIONS.
- 9.17. CONTINUANCES.
- 9.18. ORAL ARGUMENTS.
- 9.19. ~~PRELIMINARY DEFAULTS.~~ DEFAULT JUDGMENTS.
- 9.20. APPEALS TO THE DISTRICT COURT.

LOUISIANA DISTRICT COURT RULES

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

CHAPTER 9: PROCEDURE

PROPOSED AMENDMENTS TO RULE 9.0: DAILY ORDER OF BUSINESS

Summary of Amendment: *The Committee proposes changing the now-defunct “preliminary defaults” term to “default judgments” as set forth below to reflect the recent change in the law.*

Rule 9.0. Daily Order of Business

To provide for the expeditious administration of justice to the extent practicable, the court shall hear uncontested matters and the trials of motions or exceptions on days on which trials on the merits are not scheduled.

If uncontested matters and the trials of motions or exceptions are heard on days on which trials on the merits are scheduled, the court will, where practicable, maintain the following order of business:

- (a) Uncontested matters, including ~~preliminary defaults~~ default judgments.
- (b) The trial of motions or exceptions that do not require the testimony of witnesses.
- (c) The trial of motions or exceptions that require the testimony of witnesses.
- (d) Trials on the merits.

LOUISIANA DISTRICT COURT RULES

TITLE II: RULES FOR CIVIL PROCEEDINGS IN DISTRICT COURTS

CHAPTER 9: PROCEDURE

PROPOSED AMENDMENTS TO RULE 9.19: PRELIMINARY DEFAULTS

***Summary of Amendment:** The Committee proposes changing the title of Rule 9.19 from the now-defunct "Preliminary Defaults" term to "Default Judgments" to reflect the recent change in the law. Also, the Committee proposes amending the language of the Rule entirely to reflect the new procedure set forth in La. C.C.P. art. 1702(A).*

Rule 9.19. ~~Preliminary Defaults~~ Default Judgments

~~By moving for a preliminary default, the requesting attorney or party is certifying to the court that the defendant in the principal or incidental demand has been properly served and has failed to answer within the time prescribed by law.~~

By moving for a default judgment, the plaintiff or his attorney is certifying to the court that the defendant in the principal or incidental demand has failed to answer or file other pleadings within the time prescribed by law or by the court, provided notice that the plaintiff intends to obtain a default judgment is sent if required, unless such notice is waived.

LOUISIANA DISTRICT COURT RULES

TITLE IV: RULES FOR FAMILY LAW PROCEEDINGS IN DISTRICT COURTS, IN THE FAMILY COURT FOR THE PARISH OF EAST BATON ROUGE, AND PROCEEDINGS IN JUVENILE AND DISTRICT COURTS PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT

CHAPTER 28: DIVORCES PURSUANT TO LA. CIV. CODE ART. 103

PROPOSED AMENDMENTS TO CHAPTER 28 TABLE OF CONTENTS

Summary of Amendment: *The Committee proposes changing the title of Rule 28.0 from the now-defunct “Confirmation of Defaults” term to “Default Judgments” in the Table of Contents to reflect the recent change in the law. The Committee also proposes amending Rule 28.1’s title to include La. C.C.P. art. 1702(F), which addresses the new procedure for default judgments in divorce actions under Louisiana Civil Code Articles 103(1) and 103(5).*

CHAPTER 28: DIVORCES PURSUANT TO LA. CIV. CODE ART. 103

RULE

- 28.0. ~~CONFIRMATION OF DEFAULTS.~~ DEFAULT JUDGMENTS.
- 28.1. JUDGMENTS OF DIVORCE UNDER LA. CODE CIV. PROC. ART. 1702(~~E~~F).
- 28.2. JUDGMENT ON THE PLEADINGS AND SUMMARY JUDGMENT OF DIVORCE IN CHAMBERS UNDER LA. CODE CIV. PROC. ART. 969.
- 28.3. FORMS REQUIRED FOR WAIVER OF SERVICE AND CITATION.

LOUISIANA DISTRICT COURT RULES

TITLE IV: RULES FOR FAMILY LAW PROCEEDINGS IN DISTRICT COURTS, IN THE FAMILY COURT FOR THE PARISH OF EAST BATON ROUGE, AND PROCEEDINGS IN JUVENILE AND DISTRICT COURTS PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT

CHAPTER 28: DIVORCES PURSUANT TO LA. CIV. CODE ART. 103

PROPOSED AMENDMENTS TO RULE 28.0: CONFIRMATION OF DEFAULTS

Summary of Amendment: The Committee proposes changing the now-defunct “confirmation of defaults” term to “default judgments” in both the Rule’s title and body to reflect the recent change in the law. Also, the Committee proposes amending the language in the Comment to the Rule to include La. Civ. Code art. 103(5) and La. C.C.P. art. 1702(F), which addresses the new procedure for default judgments in divorce actions under Louisiana Civil Code Articles 103(1) and 103(5).

Rule 28.0. ~~Confirmation of Defaults~~ Default Judgments

For court-specific rules concerning ~~confirmation of preliminary defaults~~ default judgments, see Appendix 28.0.

Comment

See La. Civ. Code art. 103(1) & (5) and La. Code Civ. Proc. art. 1702(A) and (~~E~~F).

LOUISIANA DISTRICT COURT RULES

TITLE IV: RULES FOR FAMILY LAW PROCEEDINGS IN DISTRICT COURTS, IN THE FAMILY COURT FOR THE PARISH OF EAST BATON ROUGE, AND PROCEEDINGS IN JUVENILE AND DISTRICT COURTS PURSUANT TO TITLE IV-D OF THE SOCIAL SECURITY ACT

CHAPTER 28: DIVORCES PURSUANT TO LA. CIV. CODE ART. 103

PROPOSED AMENDMENTS TO RULE 28.1: JUDGMENTS OF DIVORCE UNDER LA. CODE CIV. PROC. ART. 1702(E)

Summary of Amendment: The Committee proposes amending the Rule’s title to include La. C.C.P. art. 1702(F), which addresses the new procedure for default judgments in divorce actions under Louisiana Civil Code Articles 103(1) and 103(5). The Committee also proposes amending the Rule itself by changing the now-defunct “confirmation of defaults” term to “default judgments” and by changing the cited statute from La. C.C.P. art. 1702(E), which contained the old default judgement procedure, to La. C.C.P. art. 1702(F), which contains the new procedure.

Rule 28.1 Judgments of Divorce Under La. Code Civ. Proc. Art. 1702(EF)

~~Confirmation of divorce~~ Default judgment of divorce hearings under La. Civ. Code art. 103(1) and (5) may be held in open court or in chambers in the judge’s discretion. Courts allowing divorce by affidavit in accordance with La. Code Civ. Proc. art. 1702(EF) are listed in Appendix 28.1A. In such instances, the mover’s attorney shall complete the default ~~confirmation~~ judgment checklist under the La. Code Civ. Proc. art. 1702(EF) ~~checklist~~ attached as Appendix 28.1B to these Rules, unless this checklist is not required by court rule. The checklist and affidavit, if required, must accompany the filing of the judgment of divorce. Courts requiring a La. Code Civ. Proc. art. 1702(EF) checklist are listed in Appendix 28.1C.

LOUISIANA DISTRICT COURT RULES

PROPOSED AMENDMENTS TO APPENDICES 28.1B, 28.3A, 29.2A, and 29.2B –
SPRING 2022

In addition to the preceding proposed Rule amendments, the Committee proposes the following changes to the Appendices:

1. **Appendix 28.1B (“La. C.C.P. art. 1702(E) Divorce Checklist”)**: The Committee proposes changing the statute cited in the title of the form in this Appendix from La. C.C.P. art. 1702(E), which contained the old default judgement procedure, to La. C.C.P. art. 1702(F), which contains the new procedure. Also, the Committee proposes removal of all red language that is stricken and concerns the old default procedure, and replacing it with the new, green, underlined language that reflects the new procedure set forth in La. C.C.P. art. 1702(F).
2. **Appendix 28.3A (“Waiver of Citation, Service, and Notice in a La. C.C. art. 103 Divorce”)**: The Committee proposes changing the now-defunct “preliminary defaults” term in this form to “default judgment” to reflect the recent change in the law. The Committee also proposes removing the current reference to Section “A” of La. C.C.P. art. 1702, which contained the old “preliminary default” law.
3. **Appendix 29.2A (“Joint Custody Plan – With Domiciliary Parent”)**: As required by R.S. 9:335(A)(2)(c), the Committee proposes adding a new Paragraph “C” to this form to address instances in which either party in a divorce proceeding is required to evacuate their residence with the minor child(ren) because of an emergency or disaster declared under the provisions of R.S. 29:721, *et. seq.*, or declared by federal authority and it becomes impossible for the parties to exercise custody as provided in the judgment.
4. **Appendix 29.2B: (“Joint Custody Plan – No Domiciliary Parent”)**: As required by R.S. 9:335(A)(2)(c), the Committee proposes adding a new Paragraph “C” to this form to address instances in which either party in a divorce proceeding is required to evacuate their residence with the minor child(ren) because of an emergency or disaster declared under the provisions of R.S. 29:721, *et. seq.*, or declared by federal authority and it becomes impossible for the parties to exercise custody as provided in the judgment.

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

LOUISIANA CIVIL CODE ARTICLE 103(1) OR ARTICLE 103(5) DIVORCE

Certification for Default Confirmation Judgment under Louisiana Code of Civil Procedure Article 1702(EF)

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

Petitioner
versus

DOCKET NUMBER: _____

Defendant

PARISH OF _____

A. Dates

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

B. Delays (choose applicable paragraph)

- 1. Twenty-one days elapsed since the service of citation upon the defendant. Yes
- 2. A discovery request was filed with the petition and thirty days have elapsed since service of citation and service of the discovery request on the defendant. Yes
- 3. The demand is for divorce under Civil Code Article 103(1) and two days, exclusive of holidays, have elapsed since the filing of a sworn affidavit by the defendant acknowledging receipt of a certified copy of the petition, waiving formal citation, service of process, all legal delays, notice of trial, and appearance at trial? Yes

C. Pleadings & Notice Requirements

- 1. Is the Petition for Divorce in the record? Yes
- 2. Are proper jurisdiction and venue expressly alleged in the Petition? Yes
- 3. Does the petitioner's Affidavit submitted or filed with the Judgment specifically attest to the facts sufficient to obtain a divorce or will testimony be offered in lieu thereof? Yes
- ~~4. If the defendant has made an appearance in the case, was notice of the preliminary default sent to defendant by certified mail pursuant to La. C.C.P. Art. 1702(A) or is there a filed waiver of the notice by the defendant? Yes; or Yes (Waiver)~~
- 4. If the defendant has made an appearance in the case, was notice that the petitioner intends to obtain a default judgment sent by certified mail to counsel of record for the defendant, or to the defendant if self-represented, at least seven days before the entering of this default judgment, or is there a filed waiver of the notice by defendant? Yes; or Yes (Waiver)
- ~~5. Are the original and at least one copy of the proposed final Judgment attached? Yes~~
- 5. If an attorney for the defendant has contacted the petitioner in writing concerning the divorce action after it has been filed, was notice that the petitioner intends to obtain a default judgment sent by certified mail to counsel of record for the defendant, at least seven days before the entering of this default judgment, or is there a filed waiver of the notice by the defendant? Yes; or Yes (Waiver)
- 6. Are the original and at least one copy of the proposed final judgment attached? Yes

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

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

4. Is a certified copy of this protective order or injunction attached and introduced into evidence? Yes

PETITIONER'S/ATTORNEY'S CERTIFICATION

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

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

CLERK'S CERTIFICATION

~~Two days, exclusive of holidays, have elapsed since the preliminary default was entered and no answer or opposition has been filed.~~
I hereby certify that I have examined the record of this case and no answer or other pleading has been filed within the time prescribed by law or the court.

_____ Date	_____ Signature of Minute Clerk
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HEARING OFFICER RECOMMENDATION

Considering the record in this case, the submission of the petitioner/mover's counsel, it being the finding of the hearing officer that all legal requirements for granting a divorce under Louisiana Civil Code Article 103(1) or Article 103(5) have been met, **IT IS HEREBY RECOMMENDED** that the attached Judgment of Divorce be made the Order of this Court, no objection having been made by either party. _____, Louisiana, this ____ day of _____, 20 ____.

Hearing Officer

APPENDIX 28.3A: WAIVER OF CITATION, SERVICE, AND NOTICE IN A LA.-C.C. ART. 103 DIVORCE

_____ JUDICIAL DISTRICT COURT
VERSUS DOCKET NO. _____
_____ PARISH, LOUISIANA

WAIVER OF CITATION, SERVICE, AND NOTICE IN A LA.-C.C. ART. 103 DIVORCE

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned authority, personally came and appeared:

(Print name)

who after being duly sworn did depose and state that:

Affiant does formally and expressly: (1) acknowledge receipt of a **certified copy** of the Petition for Divorce filed pursuant to Civil Code Art. 103 in this proceeding; and accept service thereof; and (2) waive only the items initialed below:

- ___(a) the necessity of issuance of formal citation and service of process of the original petition;
- ___(b) all legal delays allowed by law, particularly those delays allowed for answering and/or excepting to the pleading pursuant to Code of Civil Procedure Articles 1001 and 1002;
- ___(c) notice of trial pursuant to Code of Civil Procedure Art. 1571 and appearance at trial; and
- ___(d) notice of the entry of the ~~preliminary default~~ default judgment pursuant to Code of Civil Procedure Art. 1702(A).

Affiant acknowledges that the signature hereon will allow mover to go forward with the merits of the divorce only in affiant's absence, and further understands that it is mover's intent to do so.

Sign your Name

Print your name

Sworn to and subscribed before me this _____ day of _____, 20____.

NOTARY PUBLIC
Print name: _____
Bar Roll #: _____
My commission expires: _____

APPENDIX 29.2A: JOINT CUSTODY PLAN – WITH DOMICILIARY PARENT

(NOTE: This plan contains suggested language only. It may be modified as each court sees fit.)

_____ JUDICIAL DISTRICT COURT
VERSUS DOCKET NO. _____
_____ PARISH, LOUISIANA

JOINT CUSTODY PLAN – WITH DOMICILIARY PARENT

The following *Joint Custody Plan* is ordered by the court in accordance with the court’s written reasons/oral reasons issued on _____, in the above-captioned and numbered proceeding.

As used herein, the term “parent” refers to a natural or biological parent of the child(ren) or to a person named by the court as a custodian of the child(ren).

Full Name of Parents:	Relationship to Child(ren):

Full Name of Child(ren):	Date of Birth:

Accordingly, IT IS ORDERED, ADJUDGED AND DECREED that:

The parents shall exchange information concerning the health, education, and welfare of the child(ren) and shall confer with one another in exercising decision-making authority. *See* La. R.S. 9:336. After conferring, the domiciliary parent shall have the authority to make all final decisions affecting the child(ren) unless this *Joint Custody Plan* provides otherwise. All major decisions made by the domiciliary parent concerning the child(ren) shall be subject to review by the court upon the motion of the other parent. It shall be presumed that all major decisions made by the domiciliary parent are in the best interest of the child(ren). *See* La. R.S. 9:335(B)(3).

A. CUSTODY

_____ and _____ are awarded joint custody of the child(ren).

_____ is named the domiciliary parent and _____ as the non-domiciliary parent.

1. School Year Custodial Schedule

During the school year, the non-domiciliary parent shall have custodial periods with the child(ren) as follows:

The domiciliary parent shall have physical custody of the child(ren) at all times not specifically allocated to the non-domiciliary parent herein.

2. Summer Custodial Schedule

During the summer months, the parents shall enjoy custodial periods with the child(ren) as follows:

3. Holiday Custodial Schedule

The parents shall alternate or share the physical custody of the child(ren) for the following holiday periods:

Notwithstanding the foregoing, the child(ren) shall spend every Mother's Day weekend with their MOTHER, and shall spend every Father's Day weekend with their FATHER. In addition, the child(ren) shall spend every mother's birthday with their MOTHER, and shall spend every father's birthday with their FATHER.

In the event a holiday consists of a Monday, such as Martin Luther King Day, Memorial Day, Independence Day, Labor Day, etc., the parent having custody of the child(ren) for the weekend immediately preceding the holiday shall also have custody of the child(ren) through the holiday, and if the child(ren) are to be returned to the custody of the other parent, it shall be at the usual time and location.

It is specifically understood and agreed that the holiday and Mother's Day/Father's Day custodial periods shall supersede the regular custodial periods of the parents set forth above.

4. Vacation Custodial Schedule

Both parties shall have vacation options with the children each year. They shall notify each other in writing of their vacation plans a minimum of 30 days prior to departure. The party giving written notice first shall have first priority to dates selected. Each shall provide the other with a basic itinerary to include travel dates, destinations, and a telephone number for emergency purposes. Travel is not necessary for a party to spend vacation time with the children; "staycations" are allowed.

During each calendar year, each party shall be entitled to enjoy up to fourteen (14) vacation days with the children, to be taken in increments of up to ____ days at a time.

Except for said period(s), the regular parenting time provided elsewhere herein, shall continue as though it had never been interrupted.

Neither party may take a vacation with the children which requires that the children miss any amount of school or which interferes with the enjoyment of a specified holiday or special occasion parenting time of the other party, without the agreement of the other party.

B. OUT-OF-STATE/OUT-OF-TOWN TRAVEL

Either parent may be away from home overnight with the child(ren). However, that parent shall notify the other parent at least forty-eight (48) hours in advance, if practicable, of the name and location where the parent and child(ren) will be lodging and a telephone number where the parent and/or child(ren) can be reached.

In the event either parent will be away from their regular place of residence without the children for twenty-four (24) hours or longer while the child(ren) are scheduled to be in the physical custody of said parent, that parent shall offer the other parent the right to care for the child(ren) should the occasion arise. In the event the other parent not enjoying the physical custody of the child(ren) cannot care for the child(ren), the parent with physical custody shall arrange for an appropriate caregiver. In such an event, the other parent shall be advised in advance of the location of the child(ren) and a telephone number where the child(ren) can be reached.

C. DECLARED EMERGENCY OR DISASTER

In the event either party is required to evacuate their residence with the minor child(ren) because of an emergency or disaster declared under the provisions of R.S. 29:721, et. seq., or declared by federal authority and it becomes impossible for the parties to exercise custody as provided in the judgment, the parties shall engage in continuous communication regarding the safe evacuation of the child(ren), the location of the child(ren) during and after the emergency or disaster, and an interim custody plan for the child(ren) until the custody provisions of the judgment can be resumed. (Source: La. R.S. 9:335(A)(2)(c))

D. RIGHT OF ACCESS AND INFORMATION

When one parent is exercising physical custody of the child(ren), the other parent shall have the right of access by telephone at reasonable times and intervals.

The parents are to communicate concerning all factors affecting the health, education and welfare of the child(ren). Cost of long distance communication shall be borne by the parent initiating same. The parents are encouraged to consult with each other by telephone or by correspondence such as e-mail, texting, and/or social media if personal conferences are impractical in an effort to mutually agree in regard to the general health, welfare, education, and development of the child(ren) in order that they may mutually adopt a harmonious policy in rearing the child(ren).

The child(ren) shall have complete and full access to communication with each parent. No communication shall be intercepted, censored, or monitored unless ordered by the court. Neither parent shall restrict the right of the other parent without physical custody to reasonable telephone access and communication with the child(ren) during reasonable hours.

All information regarding school, report cards, conferences, trips, functions, meetings, etc., shall be furnished to the other parent as either parent receives the same.

All medical and other information regarding the child(ren)'s health and welfare shall be furnished to the other parent as either parent receives the same.

The parents shall not communicate through the child(ren), or third parties, or use the child(ren) because they refuse to communicate.

Either parent shall be entitled to immediate access from third parties of records and information pertaining to the child(ren), without permission from the other, including but not limited to, medical, dental, health, and school, psychological and educational records.

Unless otherwise ordered by the court, each party shall always keep the other informed of his/her actual address of residence, mailing address if different, business address, e-mail address, home, work, and cellular telephone numbers, and of any changes to same within twenty-four hours of such change occurring.

D.E. MEDICAL AND DENTAL

As the domiciliary parent, _____, shall have the authority to decide which health care providers shall treat the child(ren) for conditions of a non-emergency nature after first conferring with the non-domiciliary parent. The domiciliary parent shall advise the non-domiciliary parent of the name, address and telephone numbers of the health care providers that are to be utilized to treat the child(ren). Each parent shall inform the other as soon as practicable as to any emergency medical or dental treatment of the child(ren), as well as routine doctor and dental appointments. Spouses and significant others shall/shall not (circle one) be present at doctor and dental appointments.

In the event the non-domiciliary parent does not agree to the medical or dental care and treatment of the child(ren) that is of a non-emergency nature, he/she may only prevent the medical or dental care and treatment by filing a rule to show cause with the court.

The parent who fills prescription medication for the child(ren) shall transfer said medication to the other parent at the time the child(ren) are exchanged. Prescription medication shall be returned to the other parent with the child(ren) at the end of each parent's custodial period. The child(ren) shall be given medication as directed, i.e., the prescribed dosage at the appropriate intervals.

Pursuant to La. R.S. 9:351, each parent is entitled to access to all medical, dental, and treatment records and information pertaining to the child(ren), which shall not be denied to a parent solely because the requesting parent is not the child(ren)'s custodial or domiciliary parent.

Unless otherwise ordered by the court, reimbursements due for medical expenses incurred shall be handled as follows:

- a. The parents shall take full advantage of any health related benefits offered by any present and/or future employer of the parent providing primary insurance coverage, even if an employee contribution is required or medical services are provided by a predefined network of health care providers, in order to provide maximum coverage for the child(ren). Absent an emergency, and in the event that either parent fails to take advantage of the health insurance benefits provided by the insurer, the other parent's financial obligation for the uninsured medical expenses of the child(ren) shall be limited to that which would have been incurred through utilization of the predetermined network of providers;
- b. Any request for reimbursement of medical expenses shall be made in writing with supporting documents within _____ days of the incurred expenses. The parent responsible for reimbursement shall pay or provide in writing his/her valid objections to reimbursement within _____ days;
- c. Any parent receiving an Explanation of Benefits (EOB) shall provide a copy to the other parent within thirty (30) days of receipt of the EOB; and
- d. A Qualified Medical Support Order shall be executed by the parents.

EF. SCHOOLING AND EXTRACURRICULAR ACTIVITIES

The child(ren) shall attend the school district as selected by the domiciliary parent if: (1) after conferring, the parties cannot agree, and (2) the decision is in accordance with applicable school board policy.

All extracurricular activities of the child(ren) that will impact the custodial period of the other parent shall be by mutual agreement, which shall not be unreasonably withheld. Each of the parents shall maintain the extracurricular activities of the child(ren) while in his or her physical custody.

EG. RESIDENCE AND CHANGE OF RESIDENCE OF THE CHILD(REN)

The principal residence of the child(ren) shall be (full street address required): _____

If there is intent to establish the principal residence of the child(ren) at any location outside the state for a period of sixty days or more, not including a temporary absence from the principal residence, the parents shall follow the provisions of R.S. 9:355.1, *et seq.*

If there is an intent to establish the principal residence of the child(ren) at any location within the state that is at a distance of more than seventy-five miles from the principal residence of the child(ren) set forth above, the parents shall follow the provisions of R.S. 9:355.1, *et seq.*

GH. TRANSPORTATION

In exercising joint custody, the parents shall exchange physical custody of the child(ren) as follows: _____.

Each parent is responsible for transporting the child(ren) to school, extracurricular activities, medical and dental appointments, etc., when the child(ren) are in his or her care.

Neither parent shall allow the child(ren) to ride in a motor vehicle unless the driver has a valid driver's license, automobile insurance, seatbelts, and child safety seats as required by Louisiana law.

Neither parent shall be required to wait more than fifteen minutes after the scheduled exchange time for the other parent to arrive, unless the parent has called to advise of the length of the delay which shall not exceed thirty minutes.

HI. TUTORSHIP

The parents shall enjoy the natural co-tutorship of the child(ren) in accordance with Articles 250 and 258 of the Louisiana Civil Code, except as limited herein.

IJ. PROPERTY OF THE CHILD(REN)

The parents shall have administration of the property of the child(ren) as provided by Article 4262 of the Louisiana Code of Civil Procedure.

JK. ACUTE ILLNESS

In the event of a serious acute illness, each parent shall afford reasonable visitation to the other upon request.

KL. GENERAL PROVISIONS

1. Neither parent shall attempt, nor condone any attempt, directly or indirectly, by any artifice or subterfuge whatsoever, to estrange the child(ren) from the other parent, or to injure or impair the mutual love and affection of the child(ren) and the other parent. At all times the parents shall encourage and foster in the child(ren) a sincere respect and affection for both parents, and shall not hamper the natural development of the child(ren)'s love and respect for the other parent. Neither parent nor other persons shall speak about the other parent or the other parent's family in a derogatory fashion, or refer to them in vulgar, insulting or disparaging terms in the presence of the child(ren). Further, neither parent nor other persons shall discuss any pending or past litigation with the child(ren) or involve the child(ren) in adult issues if at all possible.

2. The parents shall not use any type of illegal drugs or substances which are prohibited by law, or use mind-altering substances, or abuse alcohol or prescription medications, or consume alcoholic beverages in violation of the law when the child(ren) are in their physical custody. At no time shall either parent allow the child(ren) to be in the presence of any person using any type of illegal drugs or substances which are prohibited by law, using mind-altering substances, abusing alcohol or prescription medications, or consuming alcoholic beverages in violation of the law when the child(ren) are in their physical custody.

3. Neither parent shall allow the child(ren) to refer to a stepparent or significant other by a name that is traditionally used to refer to a parent, i.e., mom/dad, mother/father, mama/daddy, etc.

4. In a non-shared physical custody arrangement, each parent shall transfer to the other sufficient wardrobe for the child(ren), considering the season, as well as school-related items. Any wardrobe transferred shall be returned to the transferring parent at the next exchange of custody.

5. Each parent has the right to attend the child(ren)'s extracurricular functions and to communicate with the child(ren) at such functions.

6. Either parent may have physical custody of the child(ren) at such other times as are mutually agreed upon by both parents. Each parent is to maintain sufficient flexibility to allow for variations made necessary by the ebb and flow of social, educational and recreational life.

SIGNED in _____ at _____, Louisiana,
this _____ day of _____, 20_____.

DISTRICT JUDGE

APPENDIX 29.2B: JOINT CUSTODY PLAN – NO DOMICILIARY PARENT

(NOTE: This plan contains suggested language only. It may be modified as each court sees fit.)

_____ JUDICIAL DISTRICT COURT
VERSUS _____ DOCKET NO. _____
_____ PARISH, LOUISIANA

JOINT CUSTODY PLAN – NO DOMICILIARY PARENT

The following *Joint Custody Plan* is ordered by the court in accordance with the court’s written reasons/oral reasons issued on _____, in the above-captioned and numbered proceeding.

As used herein, the term “parent” refers to a natural or biological parent of the child(ren) or to a person named by the court as a custodian of the child(ren).

Full Name of Parents:	Relationship to Child(ren):

Full Name of Child(ren):	Date of Birth:

Accordingly, IT IS ORDERED, ADJUDGED AND DECREED that:

The parents shall exchange information concerning the health, education, and welfare of the child(ren) and shall confer with one another in exercising decision-making authority. *See* La. R.S. 9:336.

A. CUSTODY

_____ and _____ are awarded joint custody of the child(ren).

1. School Year Custodial Schedule

During the school year, the parents shall enjoy custodial periods with the child(ren) as follows:

2. Summer Custodial Schedule

During the summer months, the parents shall enjoy custodial periods with the child(ren) as follows:

3. Holiday Custodial Schedule

The parents shall alternate or share the physical custody of the child(ren) for the following holiday periods:

Notwithstanding the foregoing, the child(ren) shall spend every Mother's Day weekend with their MOTHER, and shall spend every Father's Day weekend with their FATHER. In addition, the child(ren) shall spend every mother's birthday with their MOTHER, and shall spend every father's birthday with their FATHER.

In the event a holiday consists of a Monday, such as Martin Luther King Day, Memorial Day, Independence Day, Labor Day, etc., the parent having custody of the child(ren) for the weekend immediately preceding the holiday shall also have custody of the child(ren) through the holiday, and if the child(ren) are to be returned to the custody of the other parent, it shall be at the usual time and location.

It is specifically understood and agreed that the holiday and Mother's Day/Father's Day custodial periods shall supersede the regular custodial periods of the parents set forth above.

4. Vacation Custodial Schedule

Both parties shall have vacation options with the children each year. They shall notify each other in writing of their vacation plans a minimum of 30 days prior to departure. The party giving written notice first shall have first priority to dates selected. Each shall provide the other with a basic itinerary to include travel dates, destinations, and a telephone number for emergency purposes. Travel is not necessary for a party to spend vacation time with the children; "staycations" are allowed.

During each calendar year, each party shall be entitled to enjoy up to fourteen (14) vacation days with the children, to be taken in increments of up to ____ days at a time.

Except for said period(s), the regular parenting time provided elsewhere herein, shall continue as though it had never been interrupted.

Neither party may take a vacation with the children which requires that the children miss any amount of school or which interferes with the enjoyment of a specified holiday or special occasion parenting time of the other party, without the agreement of the other party.

B. OUT-OF-STATE/OUT-OF-TOWN TRAVEL

Either parent may be away from home overnight with the child(ren). However, that parent shall notify the other parent at least forty-eight (48) hours in advance, if practicable, of the name and location where the parent and child(ren) will be lodging and a telephone number where the parent and/or child(ren) can be reached.

In the event either parent will be away from their regular place of residence without the children for twenty-four (24) hours or longer while the child(ren) are scheduled to be in the physical custody of said parent, that parent shall offer the other parent the right to care for the child(ren) should the occasion arise. In the event the other parent not enjoying the physical custody of the child(ren) cannot care for the child(ren), the parent with custody shall arrange for an appropriate care giver. In such an event, the other parent shall be advised in advance of the location of the child(ren) and a telephone number where the child(ren) can be reached.

C. DECLARED EMERGENCY OR DISASTER

In the event either party is required to evacuate their residence with the minor child(ren) because of an emergency or disaster declared under the provisions of R.S. 29:721, et. seq., or declared by federal authority and it becomes impossible for the parties to exercise custody as provided in the judgment, the parties shall engage in continuous communication regarding the safe evacuation of the child(ren), the location of the child(ren) during and after the emergency or

disaster, and an interim custody plan for the child(ren) until the custody provisions of the judgment can be resumed. (Source: La. R.S. 9:335(A)(2)(c))

ED. RIGHT OF ACCESS AND INFORMATION

When one parent is exercising physical custody of the child(ren), the other parent shall have the right of access by telephone at reasonable times and intervals.

The parents are to communicate concerning all factors affecting the health, education and welfare of the child(ren). Cost of long distance communication shall be borne by the parent initiating same. The parents are encouraged to consult with each other by telephone or by correspondence such as e-mail, texting, and/or social media if personal conferences are impractical in an effort to mutually agree in regard to the general health, welfare, education, and development of the child(ren) in order that they may mutually adopt a harmonious policy in rearing the child(ren).

The child(ren) shall have complete and full access to communication with each parent. No communication shall be intercepted, censored, or monitored unless ordered by the court. Neither parent shall restrict the right of the other parent without physical custody to reasonable telephone access and communication with the child(ren) during reasonable hours.

All information regarding school, report cards, conferences, trips, functions, meetings, etc., shall be furnished to the other parent as either parent receives the same.

All medical and other information regarding the child(ren)'s health and welfare shall be furnished to the other parent as either parent receives the same.

The parents shall not communicate through the child(ren), or third parties, or use the child(ren) because they refuse to communicate.

Either parent shall be entitled to immediate access from third parties of records and information pertaining to the child(ren), without permission from the other, including but not limited to, medical, dental, health, and school, psychological and educational records.

Unless otherwise ordered by the court, each party shall always keep the other informed of his/her actual address of residence, mailing address if different, business address, e-mail address, home, work, and cellular telephone numbers, and of any changes to same within twenty-four hours of such change occurring.

DE. MEDICAL AND DENTAL

As joint custodians, the parents shall jointly agree upon the health care providers that are to be utilized to treat the child(ren). Each parent shall inform the other as soon as practicable as to any emergency medical or dental treatment of the child(ren), as well as routine doctor and dental appointments in advance. Spouses and significant others shall/shall not (circle one) be present at doctor and dental appointments.

In the event the parents do not agree upon the medical or dental care and treatment of the child(ren) that is of a non-emergency nature, either party may institute a rule to show cause with the court so that a decision as to care and treatment can be made.

The parent who fills prescription medication for the child(ren) shall transfer said medication to the other parent at the time the child(ren) are exchanged. Prescription medication shall be returned to the other parent with the child(ren) at the end of each parent's custodial period. The child(ren) shall be given medication as directed, i.e., the prescribed dosage at the appropriate intervals.

Pursuant to La. R.S. 9:351, each parent is entitled to access to all medical, dental, and treatment records and information pertaining to the child(ren), which shall not be denied to a parent solely because the requesting parent is not the child(ren)'s custodial or domiciliary parent.

Unless otherwise ordered by the court, reimbursements due for medical expenses incurred shall be handled as follows:

- a. The parents shall take full advantage of any health related benefits offered by any present and/or future employer of the parent providing primary insurance coverage, even if an employee contribution is required or medical services are provided by a predefined network of health care providers, in order to provide maximum coverage for the child(ren). Absent an emergency, and in the event that either parent fails to take advantage of the health insurance benefits provided by the insurer, the other parent's financial obligation for the uninsured medical expenses of the child(ren) shall be limited to that which would have been incurred through utilization of the predetermined network of providers;
- b. Any request for reimbursement of medical expenses shall be made in writing with supporting documents within sixty (60) days of the incurred expenses. The parent responsible for reimbursement shall pay or provide in writing his/her valid objections to reimbursement within _____ days;
- c. Any parent receiving an Explanation of Benefits (EOB) shall provide a copy to the other parent within thirty (30) days of receipt of the EOB; and
- d. A Qualified Medical Support Order shall be executed by the parents.

EF. SCHOOLING AND EXTRACURRICULAR ACTIVITIES

The child(ren) shall attend the school district as mutually agreed upon by the parents and in accordance with school board policy in the district in which he/she resides. In the event the parents do not agree upon which school the child(ren) shall attend, either party may institute a rule to show cause with the court so that a decision as to a school can be made.

All extracurricular activities of the child(ren) that will impact the custodial period of the other parent shall be by mutual agreement, which shall not be unreasonably withheld. Each of the parents shall maintain the extracurricular activities of the child(ren) while in his or her physical custody.

FG. CHANGE OF RESIDENCE OF PARENT

The principal residence of the child(ren) shall be (full street address required): _____

If there is intent to establish the principal residence of the child(ren) at any location outside the state for a period of sixty days or more, but does not include a temporary absence from the principal residence, the parents shall follow the provisions of R.S. 9:355.1, *et seq.*

If there is an intent to establish the principal residence of the child(ren) at any location within the state that is at a distance of more than seventy-five miles from the principal residence of the child(ren) set forth above, the parents shall follow the provisions of R.S. 9:355.1, *et seq.*

GH. TRANSPORTATION

In exercising joint custody, the parents shall exchange physical custody of the child(ren) as follows: _____

Each parent is responsible for transporting the child(ren) to school, extracurricular activities, medical and dental appointments, etc., when the child(ren) are in his or her care.

Neither parent shall allow the child(ren) to ride in a motor vehicle unless the driver has a valid driver's license, auto insurance, seat belts, and child safety seats as required by Louisiana law.

Neither parent shall be required to wait more than fifteen minutes after the scheduled exchange time for the other parent to arrive, unless the parent has called to advise of the length of the delay which shall not exceed thirty minutes.

HI. TUTORSHIP

The parents shall enjoy the natural co-tutorship of the child(ren) in accordance with Articles 250 and 258 of the Louisiana Civil Code, except as limited herein.

IJ. PROPERTY OF THE CHILD(REN)

The parents shall have administration of the property of the child(ren) as provided by Article 4262 of the Louisiana Code of Civil Procedure.

JK. ACUTE ILLNESS

In the event of a serious acute illness, each parent shall afford reasonable visitation to the other upon request.

KL. GENERAL PROVISIONS

1. Neither parent shall attempt, nor condone any attempt, directly or indirectly, by any artifice or subterfuge whatsoever, to estrange the child(ren) from the other parent, or to injure or impair the mutual love and affection of the child(ren) and the other parent. At all times the parents shall encourage and foster in the child(ren) a sincere respect and affection for both parents, and shall not hamper the natural development of the child(ren)'s love and respect for the other parent. Neither parent nor other persons shall speak about the other parent or the other parent's family in a derogatory fashion, or refer to them in vulgar, insulting or disparaging terms in the presence of the child(ren). Further, neither parent nor other persons shall discuss any pending or past litigation with the child(ren) or involve the child(ren) in adult issues if at all possible.

2. The parents shall not use any type of illegal drugs or substances which are prohibited by law, or use mind-altering substances, or abuse alcohol or prescription medications, or consume alcoholic beverages in violation of the law when the child(ren) are in their physical custody. At no time shall either parent allow the child(ren) to be in the presence of any person using any type of illegal drugs or substances which are prohibited by law, using mind-altering substances, abusing alcohol or prescription medications, or consuming alcoholic beverages in violation of the law when the child(ren) are in their physical custody.

3. Neither parent shall allow the child(ren) to refer to a stepparent or significant other by a name that is traditionally used to refer to a parent, i.e., mom/dad, mother/father, mama/daddy, etc.

4. In a non-shared physical custody arrangement, each parent shall transfer to the other sufficient wardrobe for the child(ren), considering the season, as well as school-related items. Any wardrobe transferred shall be returned to the transferring parent at the next exchange of custody.

5. Each parent has the right to attend the child(ren)'s extracurricular functions and to communicate with the child(ren) at such functions.

6. Either parent may have physical custody of the child(ren) at such other times as are mutually agreed upon by both parents. Each parent is to maintain sufficient flexibility to allow for variations made necessary by the ebb and flow of social, educational and recreational life.

SIGNED in _____ at _____, Louisiana, this _____ day of _____, 20_____.

DISTRICT JUDGE

**SUMMARY OF PROPOSED LOUISIANA DISTRICT COURT RULE AMENDMENTS –
SPRING 2022**

**PART II: AMENDMENTS CONCERNING SERVICE OF PLEADINGS BY MAIL,
DELIVERY, OR ELECTRONIC MEANS**

On June 4, 2021, Governor John Bel Edwards signed into law Act 68, which amended La. C.C.P. art. 1313(C) ([statute](#)) to now allow service of a pleading or order setting a court date by e-mailing the party or his counsel at a designated e-mail address, provided that the sender receives an electronic confirmation of delivery. *See* La. R.S. 9:4845(2). If such a confirmation is not received, the sender will need to use one of the other alternative methods of service provided in La. C.C.P. art. 1313(C).

Given this amendment of La. C.C.P. art. 1313(C) that took effect on January 1, 2022, the Court Rules Committee hereby proposes amendment of the attached Appendix 27.0A checklist for use in La. C.C.. art. 102 divorce proceedings to include the statute's new service provision.

APPENDIX 27.0A: LA. C.C. ART. 102 DIVORCE CHECKLIST

**LOUISIANA CIVIL CODE ARTICLE 102 DIVORCE
Certification of Eligibility for Divorce**

Notice: Must be completed by Mover or their Attorney and filed on or before the Rule date is scheduled for hearing.

DOCKET NUMBER: _____

Petitioner
versus

PARISH OF _____

Defendant

A. Dates

- | | | |
|------------------------------------------|-------|-------------------------|
| 1. Petition for Divorce: | _____ | Date Petition Filed |
| 2. Parties physically separated: | _____ | Date of Separation |
| 3. Date Petition served/waiver executed: | _____ | Date of Service/ Waiver |
| 4. Rule for Divorce: | _____ | Date Rule Filed |
| 5. Date Rule served/waiver executed: | _____ | Date of Service/Waiver |

B. Time Periods

(Choose either #6 or #7)

6. The parties have minor children, and have been living separate and apart **365 days or more** without reconciliation prior to the filing of the rule. Yes
- OR OR
7. The parties have no minor children, and have been living separate and apart **180 days or more** without reconciliation prior to the filing of the rule. Yes

C. Petition (La. C.C.P. Art. 3951)

8. Is the petition in the record? Yes
9. Are proper jurisdiction and venue expressly alleged in the Petition? Yes
10. Is the Petition verified by the petitioner? Yes
11. Were the parties living separate and apart at the time of filing, or was the defendant personally served with the Petition and Citation? Yes
12. Is the Sheriff's return in the record showing service? Yes
13. Is the waiver of service in the record? Yes

D. Rule to Show Cause (La. C.C.P. Art. 3952)

14. Is the Rule in the record? Yes
15. Date the Rule was filed? Yes
16. Does the Rule allege:
- a. Proper service of the Petition or waiver of service and notice of the Petition? Yes
 - b. 180/365 days or more have elapsed since service or execution of a written waiver of service and notice of the Petition? Yes
 - c. The parties have lived separate and apart continuously for 180/365 days prior to filing of the Rule? Yes
17. Is the Rule verified by the Affidavit of the Petitioner? Yes
18. Was the Rule filed within 2 years of the service of the Petition or execution of the written waiver of service of the Petition? Yes
19. Is the Sheriff's return showing service or the waiver of service in the record? Yes

OR

20. If service of the rule and order was by registered or certified mail, by actual delivery by a commercial carrier with a signed receipt from the addressee, or by e-mail to the e-mail address designated by counsel or the party with the sender receiving an electronic confirmation of delivery, did the party or counsel file a certificate of the manner in which the service was made into the record in accordance with La. C.C.P. Art. 1313(B) & (C)? Yes

E. Affidavit of Mover (La. C.C.P. Art. 3956(5)) or Testimony

20. Does the record contain the Affidavit of the mover executed after the Rule was filed, or does the testimony specifically establish that:
- a. The parties have lived separate and apart continuously for at least 180/365 days prior to the filing of the Rule? Yes
 - b. The parties are living apart at the time of the execution of the Affidavit? Yes
 - c. The mover desires to be divorced? Yes
21. Was affidavit executed after Rule was filed or was testimony offered at hearing? Yes

MOVER'S/ATTORNEY'S CERTIFICATION

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

Date of Record Examination

Signed by Petitioner/Attorney for Petitioner

Attorney's Bar Number

Date of Certification

Address

Telephone Number

APPENDIX 27.0A: LA. C.C. ART. 102 DIVORCE CHECKLIST

HEARING OFFICER RECOMMENDATION

Considering the record in this case, the submission of the petitioner/mover's counsel, it being the finding of the Hearing Officer that all legal requirements for granting a divorce under Louisiana Civil Code Article 102 have been met.

IT IS HEREBY recommended that the attached Judgment of Divorce be made the Order of this Court, no objection having been made by either party. _____, Louisiana, this ____ day of _____, 20____.

Hearing Officer