

This guide is intended to help you use the **uncontested** divorce forms provided by www.TexasLawHelp.org

Do not use these forms or this guide if:

- ❶ Your divorce is contested*
- ❶ The wife is pregnant.
- ❶ You have a bankruptcy pending. (If you have a pending bankruptcy, talk with a bankruptcy lawyer before filing for divorce.)
- ❶ Neither you nor your spouse has lived in Texas in the last 6 months.

Is your divorce contested? -Or- Is your divorce uncontested?

*Your case is **contested** when you and your spouse don't agree about getting the divorce, dividing your property and debts, or what to do with your children. **DO NOT USE THESE FORMS** or this brochure for a contested divorce.

Your case is **uncontested** when:

- ▶ It is 'agreed' – You and your spouse agree about all of the issues in your case.
- or**
- ▶ It is 'default' – Your spouse does not file an answer with the Court after being officially served with your divorce paperwork.

Table of Contents

<i>Basic Information, page 2</i>
<i>Know the Steps, page 3</i>
<i>Legal Notice Chart, page 6</i>
<i>Are you Ready for Court? page 7</i>
<i>Common Questions, page 8</i>

REMEMBER: It is always best to have the advice of a lawyer. The court clerks, librarians, and judges want to help you, but they cannot give you legal advice, help you fill out your forms, or tell you what to do. If you proceed without a lawyer, you will be responsible for protecting yourself.

Basic Information

What is a divorce?

A divorce ends your marriage.

A divorce *decree* says who keeps what property and who pays what debts.

Where do I get divorced?

- ✓ You can get divorced in Texas if you **or** your spouse has lived in Texas for the last 6 months.
- ✓ File your divorce in the county courthouse where you **or** your spouse has lived for the last 90 days.

Why do I need to wait until after the baby is born?

Most Texas courts will not finalize a divorce if the wife is pregnant, even if the baby is not the husband's. Instead, the courts wait until after the baby is born so that orders regarding the baby can be included in the divorce decree.

Do I need a lawyer?

You do not *have* to have a lawyer to get a divorce, but it's a good idea especially if:

- You and your spouse do not agree (the divorce is contested).
- Your spouse has a lawyer.
- You are afraid for your safety or your children's safety.
- You are unsure how to divide property such as retirement and real estate correctly.

Getting a divorce can be complicated. If you make a mistake, it could affect your children, your property, and your income. Try to speak to a lawyer about your legal rights before you file your *Petition for Divorce*. Some lawyers will **unbundle** their services. They will "coach" you to represent yourself and only charge for the services you request. Other lawyers are available only if you hire them to handle every step of the case. If you can't afford to hire a lawyer, contact your local Legal Aid office.

What forms do I need?

There are several form packets to choose from on www.TexasLawHelp.org.

Choose the **Divorce without Children** forms if you do not have minor children of the marriage **or** if you have child support and visitation orders already in place.

Choose the **Divorce with Children** forms if children were born or adopted during the marriage and the children are younger than 18 or have not graduated from high school. Exception: If you already have final court orders for custody and support of the children, and you are **not** asking for a change to those orders in the divorce process, then use the Divorce without Children forms and attach a copy of the current custody and support orders (showing the judge's signature) to the Decree.

If you cannot afford the court filing fees, you should also file an **Affidavit of Inability to Pay Costs**. This form tells the court about your income and assets and asks the court to waive the filing fee.

The **Default Judgment Kit** explains what you need to do to get a final judgment when your spouse will not respond to the divorce. This kit includes instructions and explanations about what you must do, a checklist for the forms you need, and the forms you can use.

If you cannot find your spouse, review the **Legal Notice**, the **Service by Posting**, and the **Service by Publication**, kits on www.TexasLawHelp.org.

Important Note:

The www.TexasLawHelp.org forms are forms used in a basic, uncontested divorce.

You will need to hire a lawyer to draft forms for special issues like spousal support, transfer of land and houses, division of retirement and investment accounts, etc.

You need an attorney for a contested divorce, especially if temporary support or restraining orders are needed.

DO NOT use the www.TexasLawHelp.org forms for a contested divorce.

Divorce in Texas – Know the Steps

Step 1. Fill out the Original Petition for Divorce.

This form tells the judge and your spouse that you want a divorce.

Step 2. Make 2 copies of your completed Original Petition for Divorce.

Step 3. File your Original Petition for Divorce.

Take the original and 2 copies of your completed *Original Petition for Divorce* to the Courthouse. File your papers with the District Clerk's Office.

The clerk will ask you to pay a fee (around \$250 - \$300) to file your *Original Petition for Divorce*. If you cannot afford the fee, you should also file an *Affidavit of Inability to Pay Costs*.

This form tells the court about your income and assets and asks the court to waive the filing fee.

NOTE: In most counties family law cases are heard in the *district* courts and all paperwork is filed in the *District* Clerk's Office. In counties where family law cases are heard in county courts, you would file your paper work in the County Clerk's Office.

The clerk will stamp your papers with the date you file. She will also assign a cause number and a judicial district. The clerk will keep the original and give back your copies. Keep a copy for yourself in a safe place. You will need the other copy to give legal notice to your spouse.

Step 4. Give Your Spouse “Legal Notice.”

You must **notify** your spouse that you are asking the court for a divorce and you must **prove** to the court that you did so. This is called giving “**legal notice**.” There are 4 ways to give legal notice:

1) Waiver of Citation. You may give legal notice by giving your spouse a file-stamped copy of your *Original Petition for Divorce* and a *Waiver of Citation* that he or she signs in front of a notary and files with the Court. If you choose this method, do not give your spouse the *Waiver of Citation* until after you file your *Original Petition for Divorce*.*

*The *Waiver of Citation* in this packet is a global waiver. By signing a global waiver, your spouse gives up the right to be given a copy of the divorce *Petition* by Official Service and the right to know what orders you will ask the judge to make regarding your children and property. If your spouse signs the *Waiver of Citation* provided in this packet s/he does not have to sign the *Decree of Divorce* or go to court.

2) Answer. If your spouse agrees to the divorce and wants to know what orders you will request, or when hearings are scheduled, then s/he should sign and file an *Answer* instead of a *Waiver*. If your spouse files an *Answer*, s/he must also agree to and sign the *Decree of Divorce* to finish your divorce without a contested hearing. You do not need to have your spouse officially served.

3) Official Service in Person or by Mail. You can have an official process server give notice to your spouse either in person or by certified mail.

If you are having your spouse served in jail, do not use Official Service by Mail. Instead, send your divorce paperwork to an official server in that county so that your spouse can be personally served.

After your spouse is served the official server fills out a *Return of Service* form stating when and where your spouse was served. This is proof to the court that you notified your spouse of the divorce.

The *Return of Service* form must be filed with the clerk's office.

4) Official Service by Publication or Posting. Either Publication or Posting is used when a spouse can't be found. You will have to prove to the judge that you tried hard to find your spouse. You may have to pay your spouse's attorney's fees. There is more information about this type of service at www.TexasLawHelp.org.

Read the Legal Notice chart on page 6 to select the method of notice you plan to use.

Step 5. Wait.

61 Day Waiting Period – (Applies in Most cases)

In most cases, you must wait at least 61 days from the day you filed your *Original Petition for Divorce* before you can finish your divorce. You can always wait longer than 61 days, but your divorce cannot be finished in less than 61 days. When counting the 61 days, count the day you filed your *Original Petition for Divorce* on a calendar, and then count out 61 more days.

The 61 Day Waiting Period can be waived in cases of domestic violence if: You have an active Protective Order against your spouse who committed family violence during your marriage, or your spouse has received deferred adjudication or a final conviction for committing family violence against you or a member of your household.

Other Waiting Periods

21 Day Answer Period – (Applies in Official Service cases only)

If your spouse was served with legal notice by an official process server, you must wait at least 21 days after your spouse was served, to see if your spouse will file an answer. This 21-day period may or may not fall within the 61 day waiting period. When counting the 21 days, count the day your spouse was served on a calendar, and then count out 21 more days. Go to the next Monday on the calendar. This is the last official day of your spouse's answer period. However, your spouse can file an answer any time before you finish your divorce.

7 Day Waiting Period – (Applies in Posting cases only)

If your spouse was served by **Posting** add an additional 7 days to the 21 day answer period. Go to the next Monday on the calendar. This is the last official day of your spouse's answer period. However, your spouse can file an answer any time before you finish your divorce.

10 Day Waiting Period – (Applies in Official Service cases only)

If your spouse was served with legal notice by an official process server, the official process server fills out a return of service form stating when and where your spouse was served. The **return of service** must be on file with the District Clerk's office for 10 days. When counting the 10 days, do not count the day your spouse was served or the day you go to court. There must be 10 days in between.



What about mediation?

If you and your spouse do not agree on all issues you should consider mediation. In mediation, an independent person will try to help you reach an agreement. The divorce process is usually easier when you have an agreement. Talk to a lawyer first so that you understand your legal rights.

Mediation is not a good idea if you are afraid of your spouse.

Step 6. Determine if your case is *contested* or *uncontested*.

How did your spouse respond to the court when you gave him or her legal notice?

- You case is **contested** if your spouse files an answer and does not agree to the terms of the divorce.
- Your **uncontested** case is '**agreed**' if you and your spouse agree on what to put in your Decree of Divorce, your spouse has signed a waiver or answer, and your spouse is willing to sign your *Decree of Divorce*.

→ Your **uncontested** case is **'default'** if your spouse did not file an answer after being officially served by the Official Service Process method. After the waiting periods have passed, call the Clerk's Office to find out if your spouse filed an answer. If your spouse did not file an answer you can finish your divorce without your spouse. Download the "Default Judgment Kit" from www.TexasLawHelp.org. This kit includes the extra paperwork you will need to finish your divorce by default.

Step 7. Find out when the Court hears uncontested divorce cases.

Call the District Clerk's Office to find out when the Court in your county hears uncontested divorce cases. Some courts in big counties have an "uncontested docket" where they hear uncontested divorce cases every day. Other courts, especially those in smaller counties, only hear uncontested divorce cases on certain days.

Step 8. Write your Decree of Divorce.

Fill out your *Decree of Divorce*. This is the paper the judge signs, granting your divorce. The *Decree of Divorce* also says who keeps what property and who pays what debts. **If you and your spouse have children, the decree of divorce says who makes decisions about your children, when the children see each parent and which parent pays child support and provides health insurance for the children. The decree of divorce may include other orders such as who pays spousal support and how much.**

It's best to have a lawyer review your *Decree of Divorce* before you present it to the Court. You may also need to hire a lawyer to write additional documents if you are dividing retirement benefits or a 401(k) account or transferring ownership of a house or land.

Step 9. Go to court.

Bring all of your paperwork to the courthouse on the day the court in your county hears uncontested divorce cases. Read "Are you ready for court?" on page 7.

If your case is **agreed** bring:

- 1) a copy of your *Original Petition of Divorce*; and
- 2) the *Waiver of Citation* or *Answer* signed by your spouse; and
- 3) "*Information on Suit Affecting the Family Relationship*" form; **and**
- 4) your *Decree of Divorce*, (if your spouse filed an answer, make sure s/he signed the *Decree of Divorce*).

If your case is **default** bring:

- 1) a copy of your *Original Petition of Divorce*; and
- 2) your *Decree of Divorce*; and
- 3) Military Servicemember's Affidavit and Certificate of Last Known Address, (these forms are part of the Default Judgment Kit at www.TexasLawHelp.org); **and**
- 4) "*Information on Suit Affecting the Family Relationship*" form

Steps in a divorce if your case is Uncontested

- 1 Fill out the *Original Petition for Divorce*.
↓
- 2 Make 2 copies of your completed *Original Petition for Divorce*.
↓
- 3 File your *Original Petition for Divorce*.
↓
- 4 Give Your Spouse "Legal Notice."
↓
- 5 Wait the required waiting periods.
↓
- 6 Determine if your case is *uncontested* or *contested* case before proceeding.
↓
- 7 Learn when & where the court hears uncontested divorces.
↓
- 8 Write your *Decree of Divorce*.
↓
- 9 Go to court and get the needed signatures.
↓
- 10 **Finish your Uncontested divorce** by filing the signed decree in the Clerk's Office.

Step 10. Finish your divorce by filing your decree in the District Clerk's Office.

Take your paperwork back to the Clerk's Office after it is signed by the Judge. Your divorce is not final until the paperwork is filed. File the "*Information on Suit Affecting the Family Relationship*" form.

NOTE: In some counties, the court, not you, files the signed Decree in the Clerk's Office.

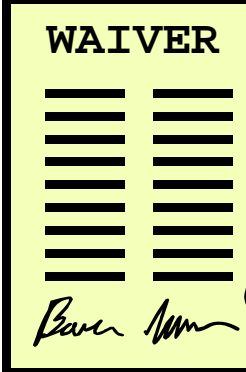
The clerk will keep the original documents and make copies for you for a fee. You might consider asking the clerk for a certified copy of your Decree of Divorce. If you have **child support orders**, ask the clerk what you need to do to set up your child support account and wage withholding. There will be a fee.

**Giving Legal Notice in Agreed and Default Divorces:
Proving to the Court You Notified your Spouse of the Divorce**

If you can locate your spouse AND . . .

You want to give the divorce papers to your spouse yourself AND . . .

Your spouse **agrees** to all parts of the divorce and does not want to be notified of hearings or sign the decree, **THEN USE** →



The Waiver of Citation is a form signed by the responding spouse and filed with the court to show that he or she has received a notice and waives the right to know what orders for child support & property you will ask the judge to make.

Waiver of Citation method

Your spouse wants to sign the decree, to know what orders you will ask for, or wants to know when hearings are scheduled, **THEN USE** →

The Answer is a form filed by the respondent instead of the Waiver of Citation when the respondent wants to retain certain rights.



Spouse files Answer method *

You want someone else to give your spouse the divorce papers or you believe your spouse would not respond using the Waiver or Answer methods AND . . .

You want a constable, sheriff's officer or other official process server to deliver the paperwork or your spouse is in jail, **THEN USE** →



The official server needs to personally give your spouse the paperwork, *unless s/he voluntarily files an Answer.**

Official Service by Official Server method

You have a good mailing address for your spouse and you can be sure your spouse will be the person who signs the green certified mail card and your spouse is not in jail, **THEN USE** →



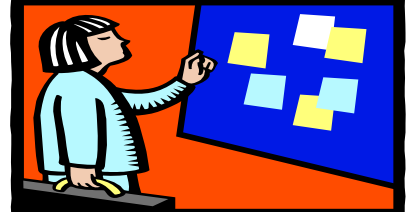
The server will mail the paperwork by certified mail, return receipt requested.

Official Service by Mail method

If you don't know where your spouse lives, works, or can be found AND . . .

You don't have children or valuable property **THEN USE** →

A server will post notice of your divorce at the courthouse for 7 days.



Official Service by Posting method

You have children or valuable property **THEN USE** →



If you serve by publication, your spouse has the right to an attorney and you would have to pay for the attorney's fees.

Official Service By Publication method

Are you ready for court?

Be prepared:

- ✓ Get to the courthouse early to find parking and your courtroom.
- ✓ When the courtroom opens, go in and tell the clerk you are present. The clerk usually sits next to the judge's bench.
- ✓ Most courtrooms do not allow children.

When you are in court:

- ✓ Dress neatly. Do not wear shorts, tank tops, or hats. Do not chew gum, or bring food or drink into the courtroom.
- ✓ Turn off your cell phone.
- ✓ Stand up when the judge enters the courtroom.
- ✓ Be calm and polite to everyone. Avoid gestures and facial expressions.
- ✓ Do not talk to the judge or your spouse, unless it is your turn to speak.
- ✓ The judge may not call your case right away. Wait patiently. If you have to leave the courtroom, tell the clerk where you are going.
- ✓ If friends or relatives come to court with you, ask them to follow these rules, too.

About testimony →

In some counties, the judge will ask you questions.

In other counties, you will be expected to have testimony prepared.

The judge will call your case.

- ✓ You will raise your right hand and swear to tell the truth.
- ✓ The judge will ask you questions. Wait until the judge finishes speaking before you start to speak.
- ✓ If you do not understand a question, say, "I don't understand." If you do not know an answer, say, "I don't know."
- ✓ Tell the truth and don't exaggerate. Give complete answers.
- ✓ Speak slowly and loud enough so everyone in court can hear you.
- ✓ Call the judge "Your Honor."
- ✓ Say "Yes" or "No" out loud. It's not enough to nod or shake your head.
- ✓ The judge will listen to what you say and review your papers. If everything is in order, the judge will sign your *Final Decree of Divorce*.

SAMPLE TESTIMONY FOR DIVORCE WITHOUT CHILDREN

My name is _____. I filed this suit for divorce from my spouse _____. (*State your spouse's name.*)

At the time I filed this divorce, I had lived in Texas for at least the last six (6) months, and in _____ County for at least ninety (90) days.

My marriage to _____ (*State your spouse's name*) _____ has become unworkable because of differences and misunderstandings between us. There is no reasonable chance that we will get back together.

There are no children born to or adopted of this marriage, who are under 18 years old and we are not currently expecting any other children.

I am requesting that the community property and debts be divided as set forth in the Decree of Divorce. I believe this division is fair.

(OPTIONAL) I am (or My spouse is) requesting a name change to the name that was used before we were married: _____ (*State the name used before marriage*)

I would respectfully request the Court to grant my divorce.

SAMPLE TESTIMONY FOR DIVORCE WITH CHILDREN

My name is _____. I filed this suit for divorce from my spouse _____. (*State your spouse's name.*)

At the time I filed for divorce, I had lived in Texas for at least the last six (6) months, and in _____ County for at least ninety (90) days.

I am seeking a divorce because of differences and misunderstandings between us. There is no reasonable expectation that we will get back together.

I am requesting that the community property and our debts be divided as set forth in the Decree of Divorce. I believe this division is fair to both of us, and to our children.

We have ___ child(ren) of this marriage, who are under 18 years old. (*State the number of children you have with your spouse who are under 18 years old*) We are not expecting any other children of the marriage.

I am requesting that conservatorship and child support be ordered as set forth in the Decree of Divorce. I believe that these orders would be in the best interest of our child(ren).

(OPTIONAL)

I am (or My spouse is) requesting a name change to the name used before we were married: _____ (*State the name used before marriage*)

I would respectfully request the court to grant my divorce.

Common Questions

Is it difficult to handle a contested case without a lawyer?

Yes. The court rules are very hard to understand if you are not a lawyer. If you make a mistake, the judge may not be able to see your side of the case. A mistake can affect your children, your property, and your income. If at all possible you should hire a lawyer. If you cannot afford a lawyer, contact your local Legal Aid Office.

Where can I read the laws about divorce?

You can read the Texas Family Code at <http://tlo2.tlc.state.tx.us/statutes/fa.toc.htm>.

You can the Texas Rules of Civil (court) Procedure at www.supreme.courts.state.tx.us/rules/trcphome.asp.

How long will it take to get divorced?

It will take at least 61 days after the day you file your *Original Petition for Divorce*.

When can I get married again?

You must wait at least **30 days** after the judge signs your *Decree of Divorce*.

Exception: There is no waiting period if you want to remarry the spouse you just divorced. If you want to marry some one else, you can ask the judge who signed your *Decree of Divorce* for permission to marry sooner than 30 days. This is called a *Waiver of the 30 Day Prohibition Against Remarriage*.

Can I get divorced if I do not know where my spouse is?

Yes. But first, you must prove to the court that you have tried hard to find your spouse. Read about service by posting and publication at www.TexasLawHelp.org.

What if I started my divorce in a different county?

You can finish your divorce in the county where you originally filed if you or your spouse had lived in that county for at least 90 days and Texas for at least 6 months at the time you filed your *Petition for Divorce*. If you want to have the case heard in the county where you are now living, talk to a lawyer.

Terms to Know

Petitioner: The spouse who asks the court for a divorce by filing a Petition. Even if both spouses want the divorce, only one spouse can be the petitioner.

Respondent is the other spouse.

Contested: A divorce is contested when the spouses don't agree about getting the divorce, dividing property and debts, or what to do about child support and custody.

Uncontested: Either the divorce is *agreed* (both parties agree on all the issues) or *default* (the respondent does not file an Answer).

Uncontested Docket is the court that hears divorce cases when the case is either an agreed (uncontested) or a default divorce.

Petition: This is the form the petitioner files to ask the court for a divorce.

Decree: This is the form that the judge signs to grant the divorce. A divorce decree says who keeps what property and who pays what debts.

In a divorce involving children, a divorce decree says which parent pays child support and provides health insurance. The decree also says when the child can visit a parent and which parent makes certain decisions about the child.

A divorce decree can include other orders, such as spousal support.

File: Giving legal papers to the courthouse clerk. There is usually a fee to file a petition, have a citation issued, or to have copies made.

Official Process Server: A constable, sheriff, or private process server who delivers court papers and files notice that the delivery was made in the Clerk's Office. There is a fee for Official Process Service. If your spouse lives or is jailed in another county, learn who provides Official process Service in your spouse's county by asking the Clerk's Office of that county. Contact information for Texas clerk's offices can be found at <http://www.txlaw.org/clerks.html>.

If my spouse and I do not own any property together, do we still have to fill out the property and debt sections on the Decree of Divorce form?

Yes. Anything you or your spouse purchased during your marriage, even if it was purchased after you separated, is community property. Any debts you or your spouse incurred during your marriage, even if they were incurred after you separated, are community debts. Answer each section carefully so you will be able to keep *any* property that belongs to you.

If my spouse filed an Answer, but later agrees to sign the Decree of Divorce, can I still go to an Uncontested Docket?

Yes, if your spouse has signed the *Decree of Divorce*.

How much will child support be?

In most cases, the court uses a special formula to calculate child support. This is called *Guideline* support. Usually, the supporting parent pays the following amounts to the parent with whom the children live most of the time.

For help calculating child support you can use the child support calculator at www.TexasLawHelp.org.

number of Children*	Percent of Supporting Parent's Income <i>After Taxes</i>
1 child	= 20%
2 children	= 25%
3 children	= 30%
4 children	= 35%
5 children	= 40%

→ *Important Note:

The formula is different if the supporting parent also has children with someone else. Use the child support calculator at www.TexasLawHelp.org or talk to a lawyer.

The Court can order a child support amount different from guideline support if the Court determines that amount to be in the best interest of the child.

Where do I send my child support payments?

The State Disbursement Unit, P.O. Box 659791, San Antonio, Texas, 78265-9791.

Can child support be paid directly to the other parent?

No. Unless the court orders otherwise, all child support payments must be sent to the State Disbursement Unit, P.O. Box 659791, San Antonio, Texas, 78265-9791.

What if I already have court orders regarding my children?

If there is a final court order for the custody and support of your children and you are not asking to change that order, you can file your divorce using the **Divorce No Children forms** at www.TexasLawHelp.org. When you fill out your *Original Petition for Divorce* include information about your children and your current custody and support order. You must attach a copy of your current custody and support order to your *Decree of Divorce*.

If there is a final order for the custody and support of your children and you do want to change those orders talk to a lawyer



THERE SHOULD BE
4 FORMS
IN THIS PACKET:

PETITION

Petitioner, the spouse who starts the divorce, fills this out, signs it and files it.

1. **Original Petition for Divorce** (6 Pages).

RESPONDENT'S FORMS

Respondent chooses one of these two forms to fill out and file after receiving a file-stamped copy of the Petition.

2. ***Waiver of Service** (2 Pages).
- OR
3. ****Answer** (2 Pages).

FINAL DECREE

4. **Final Decree of Divorce** (8 Pages).

*If the Respondent files the Waiver, the Petitioner can finalize the divorce without the Respondent's signature on the Decree.

**If the Respondent files the Answer, both the Petitioner and the Respondent must sign the Decree.

Cause Number: _____
(The Clerk's office will fill in the Cause Number and Court Number when you file this form.)

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____
Print first, middle and last name of the spouse filing for divorce.

In the _____
(Court Number)

And

District Court County Court of:

Respondent: _____
Print first, middle and last name of other spouse.

_____ County, Texas

Original Petition for Divorce

Print your answers.

Parties

My name is: _____
First Middle Last

I am the **Petitioner**. I am filing this Petition for Divorce.

The last three numbers of my driver's license number are: ____ ____ _____. My driver's license was issued in (State) _____.

or I do not have a driver's license number.

The last three numbers of my social security number are: ____ ____ ____.

or I do not have a social security number

My spouse's name is: _____
First Middle Last

My spouse is the **Respondent**.

1. Discovery Level

The discovery level in this case, if needed, is:

Level 1. Check here if you and your spouse do not have children under 18 or a disabled child of any age, the wife is not pregnant, and you have less than \$50,000 in property.

Level 2. All **other** couples check here.

2. Jurisdiction

County of Residence

(Check all boxes that apply.)

I have lived in this county for the last 90 days.

My spouse has lived in this county for the last 90 days.

You cannot file this form until you or your spouse have lived in the county where you are asking for a divorce for the last 90 days, and in Texas for the last six months.

State of Residence

(Check all boxes that apply.)

- I have lived in Texas for the last six months.
- My spouse has lived in Texas for the last six months.

Out-of-State Respondent

(Check all boxes that apply.)

- My spouse does not live in Texas.
- My spouse does not live in Texas **and** my spouse agrees that a Texas court can make orders dividing our property.
- My spouse does not live in Texas **and** Texas is the last state where my spouse and I lived together as a married couple **and** this Petition is filed less than two years after we separated.

Waiver of Waiting Period Based on Family Violence

(Check only if applicable.)

- I ask the Court to waive the 60-day waiting period for divorce because:
 - (Check one box.)
 - My spouse has been convicted of or received deferred adjudication for a crime involving family violence against me or a member of my household.
 - I have an active protective order or an active magistrate’s order for emergency protection based on a finding of family violence during our marriage by my spouse against me.

3. Dates of Marriage and Separation

My spouse and I got married on or about: _____
Month Day Year

We stopped living together as spouses on or about: _____
Month Day Year

4. Grounds for Divorce

I ask the Court to grant me a divorce. The marriage has become insupportable due to discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation. (This means that you and your spouse do not get along and do not plan to get back together.)

5. Children

Children you and your spouse have together

(Check one box and fill in the requested information if applicable.)

- My spouse and I **do not** have any adopted or biological children under the age of 18.
- My spouse and I **do** have children under the age of 18. Our children are listed below. There is a final court order for custody and support of our children and I am not asking to change that order at this time. The order was made in _____ County and _____ State. The case number of the order is _____. I understand I must attach a file-stamped copy of the order to my Final Decree of Divorce.

	Child's name	Age	Date of Birth	Sex
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

If more than 6 children, list them on another sheet and write Attachment A at the top. Then attach it to this form.

Important: Do not use this form if you and your spouse have minor children together, unless there is a final court order for custody and support for **all** your minor children and you are not asking to change that order. Instead, use the *Petition for Divorce with Children* form.

Adult Disabled Children

(Check one box.)

- My spouse and I **do not** have any disabled children over 18.
- My spouse and I **do** have a disabled child over 18.

Note: If you have a disabled child, talk to a lawyer before filing this form. You or your spouse may be entitled to receive child support, even after the child becomes an adult.

Pregnancy

(Check one box.)

- The wife in this marriage **is not** pregnant.
- The wife in this marriage **is** pregnant.

(If pregnant, also check one box below.)

- The husband **is** the father of this child.
- The husband **is not** the father of this child.

Important: If the wife is pregnant and the husband is **not** the biological father of the child, paternity of the child must be established before you can finish your divorce. See *Texas Family Code Section 160.204*.

Paternity may be established by:

- filing, with the court, a case to *Adjudicate Parentage*, **or**
- filing, with the bureau of vital statistics, an *Acknowledgement of Paternity* signed by the genetic father and a *Denial of Paternity* signed by the husband.

The Office of the Attorney General may be able to help establish paternity of the child.

Get more information about establishing paternity at www.TexasLawHelp.org.

If the wife is pregnant and the husband **is** the biological father of the child, you must wait until the child is born to finish your divorce.

Children Born During the Marriage, but Husband is Not the Father

(Check one box and fill in the requested information, if applicable.)

- The wife **did not** have children with another man while married to the husband.
- The wife **did** have children with another man while married to the husband. All of the children born during the marriage that are not the husband's adopted or biological children are named below:

	Child's name	Age	Date of Birth	Sex
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

If more than 4 children, list them on another sheet and write Attachment B at the top. Then attach it to this form.

(Check one box.)

- Paternity of the children named above has **not** been established. I understand that paternity of the children must be established before I can finish my divorce.
- Paternity of the children named above **has** been established: (Check one box.)
- A court order has determined the father of each child named above. I understand I must attach a file-stamped copy of the order to my Final Decree of Divorce.
 - An *Acknowledgement of Paternity* signed by the genetic father and a *Denial of Paternity* signed by the Husband has been filed with the bureau of vital statistics for each child named above. I understand I must attach a copy of these documents to my Final Decree of Divorce.

Important: If the wife had children with another man while married to the husband, paternity of the children must be established before you can finish your divorce. See Texas Family Code Section 160.204.

Paternity may be established by:

- filing, with the court, a case to *Adjudicate Parentage*, or
- filing, with the bureau of vital statistics, an *Acknowledgement of Paternity* signed by the genetic father and a *Denial of Paternity* signed by the Husband.

The Office of the Attorney General may be able to help establish paternity of the children.

Get more information about establishing paternity at www.TexasLawHelp.org.

6. Protective Order Statement

Protective Order Against my SPOUSE

(Check one box and fill in the requested information, if applicable.)

- I **do not** have a Protective Order against my spouse and I have not asked for one.
- I **have** filed paperwork at the courthouse asking for a Protective Order against my spouse, but a judge has not decided if I should get it. I asked for a Protective Order on _____ in _____ County. The case number is _____.
- Date Filed Name of County
- I **do have** a Protective Order against my spouse. I got the Protective Order on _____ in _____ County, _____.
- Date Ordered Name of County Name of State
- The case number for the Protective Order is _____.

Protective Order Against ME

(Check one box and fill in the requested information if applicable.)

- My spouse **does not** have a Protective Order against me and has not asked for one.
- My spouse **has** filed paperwork asking to get a Protective Order against me, but a judge has not decided if my spouse will get it. My spouse asked for a Protective Order on _____ in _____ County. The case number is _____.
Date Filed Name of County
- My spouse **does have** a Protective Order against me. The Order was made on _____ in _____ County, _____.
Date Ordered Name of County Name of State
 The case number for the Protective Order is _____.

Note: You MUST attach a copy of **any** protective order issued for you against your spouse **or** issued for your spouse against you, no matter when the protective order was issued.

7. Property

Community Property

If my spouse and I are able to reach an agreement for the division of our property and debts, I ask the Court to approve our agreement. If such an agreement is not made, I ask the Court to divide our property and debts in a way that is just and right, according to Texas law.

Separate Property

I ask the court to confirm the following property as my separate property. This is money or property I owned *before* I was married, that I received as a gift or inheritance during my marriage, that I received from a lawsuit (not including money for lost wages), or property I purchased during my marriage with separate property funds.

House located at: _____
Street Address City State Zip

Land located at: _____
Street Address City State Zip

Cars, trucks, motorcycles or other vehicles

Year	Make	Model	Vehicle Identification No. [VIN]-
_____	_____	_____	_____

Inheritance, gifts, or money from a lawsuit (not for lost wages) given only to you (*describe*):

Other property that you owned before you were married:

8. Name Change

I ask the Court to change my name back to a name I used before my marriage:

(Print) First Middle Last

I am not asking the court to change my name to avoid criminal prosecution or payment of debt.

9. Notice to My Spouse

(Check one box.)

Your spouse has the legal right to be notified that you have filed for divorce.

I will have a sheriff, constable, or process server give a copy of this Petition to my spouse here:

Street Address City State Zip
If this is a work address, name of business: _____

I ask the clerk to issue citation. I understand that I will need to **pay the fee** (or file the form to show the Court that I am unable to pay the fee) and **arrange for service** by a sheriff, constable or process server.

Do not send a sheriff, constable, or process server to give a copy of this Petition to my spouse, at this time. I think my spouse will sign a Waiver of Service, or file an Answer.

10. Prayer

I ask the Court to grant my divorce. I also ask the Court to make the other orders I have asked for in this Petition and any other orders to which I am entitled.

Petitioner's Name Date
→ _____ ()
Petitioner's Signature Phone

Mailing Address City State Zip

I understand that I must notify the Court, my spouse and my spouse's attorney (if my spouse has an attorney) in writing if my mailing address changes during these divorce proceedings.

WARNING: By signing this form you give up all of your legal rights in this case.

DO NOT sign it if you want to know what will be ordered in your case. You may want to file an *Answer* instead.

If you file an *Answer*, your spouse must let you know when there is a hearing on your case but does not waive your legal rights. Find an *Answer* form in the family law section of www.TexasLawHelp.org.

Print court information exactly as it appears on your *Petition*.

Cause Number: _____

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____
(Print first, middle and last name of the spouse filing for divorce.)

In the (check one.):

_____ District Court County Court of:
(court number)

And

Respondent: _____
(Print first, middle and last name of other spouse.)

_____ County, Texas

Waiver of Service – Divorce (No Children)

Instructions to *Petitioner*:

Give your spouse this Waiver of Service and a file stamped copy of your *Petition for Divorce*.

Do not ask your spouse to sign the Waiver until **after** you have filed your *Petition for Divorce* in the clerk's office. If the Waiver is signed before the *Petition* is filed it is void and must be redone.

The Waiver must be signed in front of a notary.

After your spouse signs the Waiver make sure it gets filed in the court clerk's office. Keep a copy for your records.

Instructions to *Respondent*:

Read the Warning at the top of this form. Talk to a lawyer if you don't understand it.

If you decide you want to use this form:

- Make sure your spouse has already filed a *Petition for Divorce*. Do not sign this Waiver until at least the next day after the *Petition* is filed. If you sign it before then, it must be redone. The official court stamp on your copy of the *Petition for Divorce* will tell you when it was filed.
- Fill out the Waiver completely. You must include your address.
- **Sign the Waiver in front of a notary. If you sign it beforehand, you will need to redo it.**
- File the original signed waiver with in the court clerk's office and give a copy to your spouse.

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

"I am the Respondent in this case.

"My name is: _____
First Middle Last

"My mailing address is: _____
Mailing Address City State Zip

"My phone number is: (_____) _____ - _____.

"The last three numbers of my driver's license number are: ____ ____ _____. My driver's license was issued in (State) _____.

Or I do not have a driver's license number.

"The last three numbers of my social security number are: ____ ____ ____.

Or I do not have a social security number.

"I have been given a copy of the *Petition for Divorce* filed in this case. I have read the *Petition for Divorce* and understand what it says.

"I understand that I have the right to be given a copy of the Petition and official notice of this case by a constable, sheriff or other official process server. This process is called *issuance and service of citation*. I do not want to be given official notice. I give up my right to *issuance and service of citation* in this case.

"I also give up my right to be notified of any and all hearings in this case. I give up my right to tell the judge my side of the case.

"If I am in the military, I waive all rights, privileges, and exemptions I may have under the Servicemembers Civil Relief Act, including having a lawyer appointed to represent me in this case.

"I understand that I must let the Court and my spouse (or my spouse's attorney) know in writing if my mailing address or phone number changes during this case. If I don't then any notices about this case will be sent to me at the address on this form.

"I understand that by signing this form I am entering an appearance and am not required to go to Court to tell the judge my side of the case. I agree that a Judge or Associate Judge in the county and state where this case is filed may make decisions about my divorce, even if the divorce should have been filed in another county. I do not want a court reporter to make a record of the testimony in this case.

"I agree that the judge may make decisions about my divorce without further notice to me."

(Check only one):

I am NOT asking the court to change my name."

I ask the Court to change my name back to a name I had before my marriage:

" First Middle Last

Do not sign until you are in front of a Notary

▲ _____
Respondent's signature

Notary fills out below

State of Texas, County of _____
(Print the name of county where this affidavit is notarized.)

Sworn to and subscribed before me, the undersigned Notary, on this date: _____

by _____
(Print the first and last names of the Respondent who is signing this affidavit.)

I, the Notary Public, who signature appears below, certify that I am not an attorney in this case.

(Notary's seal here)

→ _____
Notary's signature

Print court information exactly as it appears on your Petition.

Cause Number: _____

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____
(Print first, middle and last name of the spouse filing for divorce.)

And

In the *(check one)*:

_____ District Court County Court of:
(court number)

Respondent: _____
(Print first, middle and last name of other spouse.)

_____ County, Texas

Respondent's Original Answer to Divorce

Print your answers.

My name is: _____
First Middle Last

I am the Respondent in this case.

The last three numbers of my driver's license number are: ____ ____ ____ . My driver's license was issued in *(State)* _____ .

Check here if you do not have a driver's license number.

The last three numbers of my social security number are: ____ ____ ____ .

Check here if you do not have a social security number.

1. General Denial

I enter a general denial. I want to be notified of all hearings in this case.

However, if my spouse and I reach an agreement and I sign the Final Decree of Divorce, I agree that the Judge can finalize this case without my getting notice of the hearing and without my coming to Court.

2. Contact Information

My mailing address is: _____
Mailing Address City State Zip

My phone number is: (____) _____ - _____ .

I understand that I MUST notify the Court, my spouse and my spouse's attorney (if my spouse has an attorney) in writing if my mailing address or phone number changes during this case.

I understand that, unless I notify my spouse and my spouse's attorney (if my spouse has an attorney) in writing of changes to my address, all information about this case, including the date and time of hearings, will be sent to me at the address on this form.

3. Name Change

Check one:

- I am NOT asking the court to change my name.
- I ask the Court to change my name back to the name I had before my marriage:

Print: _____
First Middle Last

I am not asking the court to change my name to avoid criminal prosecution or to avoid payment of debt.

4. Prayer

I ask the Court for general relief.



Respondent's signature

Date

Certificate of Service

I swear that a true copy of this document was given to my spouse and my spouse's attorney (if my spouse has an attorney) in person, by fax, or by certified mail (return receipt requested).

I understand that I must give copies of any papers I file with the Court to my spouse and my spouse's attorney (if my spouse has an attorney) in person, by fax, or by certified mail (return receipt requested).



Respondent's signature

Date

Print court information exactly as it appears on your Petition for Divorce

Cause Number: _____

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____
Print first, middle and last name of the spouse filing for divorce.

In the _____
Court Number

And

District Court County Court of:

Respondent: _____
Print first, middle and last name of other spouse.

_____ County, Texas

Final Decree of Divorce

A hearing took place today, and the following people were present. There was no jury as neither the husband nor wife asked for one.

1. Appearances

Petitioner

The Petitioner's name is: _____
First Middle Last

The Petitioner represented him/herself and is the (check one): Husband. Wife.

(Check one box.)

The Petitioner **was present**, representing him/herself, and has agreed to the terms of this Decree of Divorce.

The Petitioner **was not present** but has signed below, agreeing to the terms of this Decree.

Respondent

The Respondent's name is: _____
First Middle Last

The Respondent is the (check one): Husband. Wife.

(Check one box.)

The Respondent **was present**, representing him/herself, and agrees to the terms in this Decree.

The Respondent was **not present** but was served, filed an Answer, or signed a Waiver of Citation, and:

(Check all that apply.)

has signed below, agreeing to the terms in this Decree.

agreed in the Waiver that the judge can finalize the divorce, without giving the Respondent notice of this hearing.

has defaulted. The Petitioner has filed a Certificate of Last Known Address and an Affidavit of Non-Military Status. The Petitioner has also arranged for a court reporter to record the hearing.

2. Record

(Check one box.)

- A Court reporter recorded today's hearing.
- A Court reporter did not record today's hearing because the Husband, Wife, and judge agreed not to make a record.
- A Statement of the Evidence was signed by the Court.

3. Jurisdiction

The Court heard evidence and finds that it has jurisdiction over this case and the parties, that the residency and notice requirements have been met, and the *Petition* meets all legal requirements.

The Court finds that::

(Check one box.)

- the *Petition* was filed more than 60 days ago.
- Petitioner has an active Protective Order under Title 4 of the Texas Family Code, or an active magistrate's order for emergency protection under Article 17.292 of the Texas Code of Criminal Procedure against Respondent because Respondent committed family violence during the marriage.
- Respondent has a final conviction or has received deferred adjudication for a crime involving family violence against Petitioner or a member of Petitioner's household.

4. Children

Children of the Marriage

(Check one box.)

- The Court finds that the Husband and Wife do not have minor children under 18, or any adult, disabled children who are entitled to child support or medical support.
- The Court finds that the Husband and Wife are the parents of the minor children listed below. The Court finds that a final court order for custody and support of the children was made in _____ County, _____ in Cause # _____.
Name of County *Name of State*

The court that made the order has continuing, exclusive jurisdiction of the children. No changes are made to the order in this Decree. A copy of the order is attached to this Decree, as Exhibit A, and is made a part of this Decree for all purposes, as provided for by Texas Family Code, Section 6.407.

(You MUST attach a copy of the order, and write Exhibit A at the top.)

	Child's name	Sex	Date of Birth	State where child lives now
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____
4	_____	_____	_____	_____
5	_____	_____	_____	_____
6	_____	_____	_____	_____

B. Pregnancy

The Court finds that the Wife is **not** pregnant.

Remember: You cannot finish your divorce while the wife is pregnant.

C. Children Born during the Marriage, but the Husband is Not the Father

(Check one box.)

The Court finds that the Wife **did not** have children with another man while married to the Husband.

The Court finds that the children named below were born during the marriage, but are not the Husband's children. The Court further finds that paternity of each child **has been** established:

(Check one box.)

A court order has determined the father of each of child named below. A copy of the order is attached to and made part of this Final Decree of Divorce for all purposes.

An *Acknowledgement of Paternity* signed by the genetic father and a *Denial of Paternity* signed by the Husband has been filed with the bureau of vital statistics for each child named below. A copy of this document or documents is attached to and made part of this Final Decree of Divorce for all purposes.

*(List all children born during the marriage, who are not the adopted or biological children of the husband.)
(Paternity of each child must already have been established.)*

	Child's name	Age	Date of Birth	Sex
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

If more than 6 children, list them on another sheet and write Attachment B at the top. Then attach it to this form.

5. Divorce

IT IS ORDERED that the Petitioner and the Respondent are divorced on the grounds of insupportability.

6. Property And Debts

Note: Additional forms are needed to divide retirement benefits and to transfer title to real estate. If you plan to divide retirement benefits or you jointly own a house or land with your spouse, do NOT use this form without first talking to a lawyer.

You can hire a lawyer just to give you advice and/or write the documents you need for a flat fee. Call your local lawyer referral service or the State Bar of Texas Lawyer Referral Information Service at 1(800) 252-9690 for help finding a lawyer.

Texas is a community property state. This means that any new property or debt that either party obtains from the minute they are married until the minute the judge grants the divorce is community property, even if the property or debt is only in one spouse's name.

All community property and debt should be included in the Final Decree of Divorce. There are a few exceptions to the law of community property. If either party receives a gift, an inheritance, or money from a lawsuit that does not compensate for lost wages, it is separate property. It is a good idea to confirm separate property obtained during the marriage as that individual's separate property in the Final Decree of Divorce. More information about community and separate property can be found in the Texas Family Code, chapters 3,4, and 5.

The Court makes the following orders regarding the parties' community and separate property:

Husband's Property

Husband's Separate Property

The Court confirms that the Husband owns the following property as his separate property:

1. **House** located at: _____
Street Address City State Zip

- Husband owned this house before marriage.
 Husband received this house as a gift or inheritance.

2. **Land** located at: _____
Street Address City State Zip

- Husband owned this land before marriage.
 Husband received this land as a gift or inheritance.

3. **Cars, trucks, motorcycles or other vehicles**

Husband owned these vehicles *before* marriage or received them as a gift or inheritance during the marriage:

Year	Make	Model	Vehicle Identification No. [VIN]
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

4. **Other Money or Property**

Husband owned the following money or property *before* the marriage or inherited or received it as a gift during the marriage.

Husband received the following money from a lawsuit during the marriage. This money was not compensation for lost wages.

Husband's Debts

(Check all that apply.)

The Husband shall pay the debts listed below:

- 1. All taxes, bills, liens, and other charges, present and future, for all personal and real property that are in the Husband's name alone or that this Order gives to the Husband alone, unless this Order requires otherwise.
- 2. Any debt Husband incurred after separation. Date of separation: _____
Month Day Year
- 3. The balance due on any loan or mortgage for the real property that this Order gives to the Husband alone.
- 4. The balance due on any loan for any vehicles that this Order gives to the Husband alone.
- 5. All other debts listed below, which are not in Husband's name alone, such as credit cards, student loans, medical bills, income taxes:

Wife's Property

Wife's Separate Property

The Court confirms that Wife owns the following property as her separate property:

- 1. **House** located at: _____
Street Address *City* *State* *Zip*
- Wife owned this house before marriage.
- Wife received this house as a gift or inheritance.

- 2. **Land** located at: _____
Street Address *City* *State* *Zip*
- Wife owned this land before marriage.
- Wife received this land as a gift or inheritance.

- 3. **Cars, trucks, motorcycles or other vehicles**
 Wife owned these vehicles before the marriage or received them as a gift or inheritance during the marriage:

Year	Make	Model	Vehicle Identification No. [VIN]

- 4. **Other Money or Property**
 Wife owned the following money or property *before* the marriage or inherited or received it as a gift during the marriage.

Wife received the following money from a lawsuit during the marriage. This money was not compensation for lost wages.

Wife's Community Property

The Court ORDERS that Wife is awarded (gets) the following Community Property, and Husband is divested of (doesn't get) any interest, title, or claim he may have to the property listed below.

Husband IS ORDERED to sign any deeds or documents needed to transfer any property listed below to the Wife. Wife is responsible for preparing the documents.

1. All property in Wife's care, custody, or control, or in Wife's name, that this Order does not give to the Husband.

2. House or land located at: _____
Street Address City State Zip

Legal Description: _____

3. Other real property located at: _____
Street Address City State Zip

Legal Description: _____

(Check all that apply.)

4. All of the Wife's employment benefits, including retirement, pension, 401(k), profit-sharing, and stock option plans that are in her name alone, along with all individual retirement accounts, such as IRAs that are in her name alone. *(Note: If you want to divide retirement or employment benefits do NOT use this form. You will need additional forms. Talk to an attorney.)*

5. All of the Wife's cash and money in any bank or other financial institution that is listed in her name ALONE.

6. Any insurance policy that covers the Wife's life.

7. The Wife's cars, trucks, motorcycles or other vehicles listed below:

Year	Make	Model	Vehicle Identification No. [VIN]
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

8. The Wife will also keep the property listed below: _____

Wife's Debts

(Check all that apply.)

The Wife shall pay the debts listed below:

- 1. All taxes, bills, liens, and other charges, present and future, for all personal and real property that are in the Wife's name alone or that this Order gives to the Wife alone, unless this Order requires otherwise.
- 2. Any debt Wife incurred after separation. Date of separation: _____
Month Day Year
- 3. The balance due on any loan or mortgage for the real property that this Order gives to the Wife alone.
- 4. The balance due on any loan for any vehicles that this Order gives to the Wife alone.
- 5. All other debts listed below, which are not in Wife's name alone, such as credit cards, student loans, medical bills, income taxes: _____

7. Name Change

The Court ORDERS the name of the (check one): Husband Wife back to the name used before marriage, as it appears below.

First

Middle

Last

8. Court Costs

The Husband will pay for his court costs; the Wife will pay for her court costs.

9. Other Orders

The court has the right to make other orders, if needed, to clarify or enforce the orders above. Any orders requested that do not appear above are denied.

Date of Judgment



Judge's signature

Approved as to Form and Substance:

By signing below, the Petitioner agrees to the form and substance of this decree.

By signing below, the Respondent agrees to the form and substance of this decree.

_____ () _____

Petitioner's Name (print) *Phone number*

_____ () _____

Respondent's Name (print) *Phone number*

→ _____

Petitioner's Signature *Date*

→ _____

Respondent's Signature *Date*

Mailing Address: _____

Mailing Address _____
