SOFTWARE & TECH

How To File For Divorce In Texas

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Understanding the Divorce Process in Texas: A Complete Guide

Deciding to end a marriage is rarely easy, and navigating the legal system can feel overwhelming. If you are contemplating separation, knowing **how to file for divorce in Texas** is the first critical step toward moving forward. Texas has specific residency requirements, waiting periods, and procedural rules that differ from other states. Whether your divorce is uncontested or involves complex disputes, understanding these steps will save you time, stress, and money.

This comprehensive guide walks you through everything you need to know about filing for divorce in the Lone Star State. From meeting residency requirements to finalizing the decree, we cover all essential details so you can approach the process informed and prepared.

Step 1: Verify Texas Residency Requirements

Before you can file a divorce petition in a Texas court, you must satisfy the state's residency rules. Texas law requires that at least one spouse has been a resident of the state for the preceding six months. Additionally, the spouse filing for divorce (the petitioner) must have lived in the county where they plan to file for at least 90 days immediately before filing.

If you recently moved to Texas, you may need to wait until you meet these time requirements. Military members stationed in Texas may count their time on active duty as residency, but it is wise to consult with a family law attorney if your situation is unique.

Step 2: Determine the Grounds for Divorce

Texas recognizes both no-fault and fault-based grounds for divorce. The most common choice is **insupportability**, which means the marriage has become insupportable due to discord or conflict of personalities that destroys the legitimate ends of the marital relationship. This is a no-fault ground and does not require proving wrongdoing.

Fault-based grounds include:

- Adultery – One spouse engaged in a voluntary sexual relationship with someone else.
- Cruelty – One spouse treated the other with such cruelty that living together is insupportable.
- Conviction of a felony – One spouse is imprisoned for at least one year.
- Abandonment – One spouse voluntarily left the other with the intention of abandonment for at least one year.
- Living apart – The spouses have lived apart without cohabitation for at least three years.
- Confinement in a mental hospital – One spouse has been confined for at least three years with no reasonable expectation of recovery.

Choosing a fault ground can affect property division, spousal maintenance, and even attorney fees, but it also requires evidence and can prolong the process.

Step 3: Prepare and File the Original Petition for Divorce

The formal start of the divorce occurs when you file an **Original Petition for Divorce** with the district clerk in the county where you meet the 90-day residency requirement. This document outlines basic information about the marriage, grounds for divorce, and your requests regarding property, children, and support.

You will need to include:

- Full names and addresses of both spouses.
- Date of marriage and date of separation.
- Grounds for divorce (e.g., insupportability).
- Whether there are minor children of the marriage.
- Your requests for child custody, visitation, child support, spousal maintenance, and division of property.

After preparing the petition, you file it with the district clerk and pay a filing fee (typically $250–$350, though it varies by county). If you cannot afford the fee, you may file a Statement of Inability to Afford Payment of Court Costs.

Step 4: Serve the Divorce Papers on Your Spouse

Once the petition is filed, you must formally notify your spouse (the respondent) that a divorce case has been initiated. This is called **service of process**. You cannot serve the papers yourself; they must be delivered by a sheriff, constable, or private process server. Your spouse has until 10:00 a.m. on the Monday following 20 days after service to file a written answer (if served in Texas). If they do not answer, you may proceed with a default judgment.

If your spouse agrees to the divorce and is willing to waive service, they can sign a **Waiver of Service Only** (or a Waiver of Citation), which speeds up the process and reduces costs. However, they cannot waive service if they are under 18 or mentally incompetent.

What If Your Spouse Cannot Be Located?

If you do not know your spouse's whereabouts, you may ask the court for permission to serve them by publication (placing a notice in a newspaper) or by other substituted service. This is more time-consuming and requires an additional hearing.

Step 5: Understand the Mandatory Waiting Period

Texas law imposes a **60-day waiting period** from the date the divorce petition is filed. The court cannot grant a final decree of divorce until at least 60 days have passed, even in uncontested cases. This period is designed to give couples time to reconsider. The waiting period cannot be waived, but it can be extended if the case is complicated.

If there is evidence of family violence, the waiting period may be shortened to 30 days in some circumstances, but that is rare.

Step 6: Address Temporary Orders (If Needed)

While the divorce is pending, either spouse can request **temporary orders** to establish rules for living arrangements, child custody, visitation, child support, spousal support, use of property, and attorney fees. Temporary orders help maintain stability during the divorce process. A hearing is held where both parties

present evidence, and the judge issues orders that last until the final decree.

Common temporary order requests include:

- Who will live in the marital home.
- Who will pay mortgage, utilities, and other bills.
- Child custody and visitation schedule.
- Payment of temporary child support and spousal maintenance.
- Restraining orders preventing either spouse from hiding or selling assets.

If you and your spouse agree on temporary terms, you can submit an **Agreed Temporary Order** without a hearing.

Step 7: Exchange Financial Information (Discovery)

Full financial disclosure is mandatory in Texas divorces. Both parties must exchange detailed information about income, assets, debts, and expenses. This process is known as **discovery**. It may involve:

- Sworn financial statements (called an Inventory and Appraisement).
- Bank statements, tax returns, pay stubs, and retirement account summaries.
- Interrogatories (written questions that must be answered under oath).
- Requests for production of documents (like deeds, loan applications, business records).
- Depositions (oral testimony recorded by a court reporter).

If you fail to disclose assets or provide false information, the court may impose sanctions, including awarding a larger share of property to the other spouse.

Step 8: Attempt Mediation or Alternative Dispute Resolution

Texas courts encourage spouses to settle their disputes without a trial. Many counties require mediation before a contested divorce case can go to trial. **Mediation** involves a neutral third party (the mediator) who helps both sides negotiate a settlement. The mediator does not decide the case but facilitates communication and compromise.

If you and your spouse reach an agreement in mediation, the terms are written into a **Mediated Settlement Agreement (MSA)**. This document is binding — once signed, the court will incorporate it into the final decree. Mediation can save you thousands of dollars in attorney fees and reduce emotional stress.

If Mediation Fails

If you cannot reach an agreement, the case proceeds to a trial (also called a final hearing). At trial, both parties present evidence and arguments, and a judge makes decisions on all contested issues. Trials are time-consuming, expensive, and unpredictable, so most attorneys recommend exhausting all settlement options first.

Step 9: Final Hearing and Decree of Divorce

After the 60-day waiting period has passed and all issues are resolved (either by agreement or trial), the court will hold a **final hearing**. In an uncontested case, this hearing can be short and straightforward — you and your spouse appear before the judge, confirm your agreement, and the judge signs the **Final Decree of Divorce**.

In a contested case, the trial may last hours or days. Once the judge issues a ruling, a written final decree is prepared and signed. The decree legally ends the marriage and outlines all terms regarding:

- Division of marital property and debts.
- Child custody (conservatorship) and visitation (possession and access).

- Child support and medical/ dental support.
- Spousal maintenance (alimony), if applicable.
- Name restoration (if a spouse wants to return to a former name).

The final decree must be filed with the district clerk to be official.

Division of Property in Texas: Community Property Principles

Texas is a **community property state**. This means all property acquired during the marriage (except gifts and inheritances given to one spouse) is presumed to belong equally to both spouses. The court divides community property in a manner that is "just and right," considering factors such as education, earning capacity, health, and how the property was acquired.

Separate property — assets owned before marriage or acquired by gift or inheritance during marriage — is not divided. However, you must clearly trace separate property or it risks being treated as community property.

Debts are also divided. Generally, debts incurred during the marriage are community debts, but the court can assign responsibility for payment to either spouse.

Custody and Child Support in Texas Divorce

If you have minor children, the court will make decisions based on the **best interest of the child**. Texas law encourages both parents to have frequent and continuing contact with their children, unless there is evidence of abuse or neglect.

Conservatorship (Custody)

Most Texas divorces result in joint managing conservatorship, where both parents share rights and duties. One parent is usually designated as the primary conservator (where the child primarily lives), and the other has a standard possession order (visitation). The standard possession order provides a specific schedule, including weekends, holidays, and summer vacation.

Child Support

Child support is calculated using state guidelines based on the non-custodial parent's net resources (income). For one child, support is 20% of net resources; two children is 25%; three is 30%; four is 35%; five or more is 40%. The guidelines apply unless the court finds them unjust. Medical and dental support is also required.

Spousal Maintenance (Alimony)

Spousal maintenance in Texas is limited and not automatically granted. You may qualify if the marriage lasted at least 10 years and you lack sufficient property or earning capacity to meet your minimum needs, or if there is family violence. Maintenance is capped by statute — typically the lesser of $5,000 per month or 20% of the payer's average monthly gross income, with duration limits based on marriage length.

Uncontested vs. Contested Divorce: Which Is Right for You?

An **uncontested divorce** occurs when both spouses agree on all terms — property division, child custody, support, and everything else. This is the fastest and least expensive path. You can even file a **DIY divorce** using forms provided by the county, but it is wise to have a lawyer review the paperwork to avoid errors.

A **contested divorce**involves disagreements that require court intervention. It takes longer and costs more. In high-conflict cases, you will need an experienced family law attorney to protect your rights.

Conclusion

Filing for divorce in Texas involves several steps, from meeting residency requirements to finalizing a decree. While the process can be complex, understanding each stage — petition, service, discovery, mediation, and final hearing —

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