



# **388<sup>th</sup> Judicial District Court**

Pro Se Litigant  
Handbook

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El Paso County, Texas

## IMPORTANT INFORMATION

### -PLEASE READ FIRST-

IN THE EVENT YOU OR ANY MEMBER OF YOUR FAMILY IS THE VICTIM OF DOMESTIC VIOLENCE, YOU SHOULD IMMEDIATELY CONTACT: 1(800)799-SAFE (1-(800)-799-7233).

YOU SHOULD ALSO CONTACT A PRIVATE ATTORNEY OR THE LOCAL TEXAS RIO GRANDE LEGAL AID PROVIDER BEFORE FILING FOR DIVORCE. THIS HANDBOOK AND THE PRO SE DIVORCE PROCESS MAY NOT BE APPROPRIATE FOR A DIVORCE WHERE DOMESTIC VIOLENCE IS INVOLVED. DOMESTIC VIOLENCE CAN INCLUDE PHYSICAL, MENTAL, EMOTIONAL AND VERBAL ABUSE.

*The Texas Family Code (Section 71.004) defines Family Violence as: (1) An act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself; (2) Abuse by a member of a family or household toward a child of the family or household; or (3) Dating violence (as defined by Texas Family Code Section 71.0021.)*

*The Texas Council of Family Violence defines Battering (or Abuse) as: A pattern of coercive control that one person exercises over another. Battering is a behavior that physically harms, arouses fear, prevents a woman from doing what she wishes or forces her to behave in ways she does not want. Battering includes the use of physical and sexual violence, threats and intimidation, emotional abuse and economic deprivation.*

**The content of this handbook is for information purposes only. It is not a substitute for the advice of an attorney.**

**Please note the Court and Court staff are not allowed to give legal advice.**

## **Representing yourself.**

Divorce is more than an emotional event; it is also a legal proceeding. Failing to protect your rights during a divorce, as with any legal matter, can have serious, long-term consequences. The most common issues resolved in a divorce include division of community property (and debt), determination of parental rights, and child support.

As a pro se litigant, you are acting as your own attorney. Like any attorney, you will be expected to know and follow the law and court rules, including the Texas Rules of Evidence, Texas Rules of Civil Procedure, El Paso County Local Rules, Lawyers Creed and the 388th Judicial District Court Policies, Procedures and Rules of Practice. If you fail to follow the rules, you may lose important rights.

This handbook provides a general introduction to representing yourself in a simple (uncontested) divorce. Although you have the legal right to represent yourself in any court proceeding, the process can be quite complex and, if at all possible, it is recommended that you have an attorney represent your interests, especially if domestic violence, child custody, or large amounts of property are involved.

It is your responsibility to provide the Court with a current and reliable mail and e-mail address and telephone number. Once you file your pleadings in the case, it is your responsibility to follow the Courts Policies, Procedures and Rules of Practice as required to finalize any case.

**If you receive notice that a hearing has been scheduled, you must be prepared to present your evidence and witnesses.**

If an interpreter is needed for you or any of your witnesses, you must notify the 388th Court as soon as possible, but no less than 48 hours before your hearing. Until further notice, all hearings will be held using the zoom platform. Please get familiarized with its use to be prepared for your hearing. Please be familiarized with the 388th Court Policies, Procedures and Rules of Practice.

### **How to get ready for Court.**

You attend court yourself and observe how other cases are handled before yours is scheduled. If you do this, you will see how the court works, where everyone sits and what they do and say. Plan to do this a few days or weeks before you go to court on your case. Please keep in mind during the COVID-19 Pandemic, there may be no in-person hearings. However, the Court is open and is having hearings virtually. Please visit the Courts website to find out if in-person hearings have resumed. You may access the Courts live stream Online by visiting: <http://streams.txcourts.gov/>

**The Hearing** – At the hearing, a Judge will hear your case. Each party will have a chance to tell their side of the story. It is important to bring your paperwork and your evidence such as photos, witnesses, bills, receipts, contract, and any other evidence that is relevant to your case. If your hearing is conducted virtually, there is a process to submit evidence. Please go over our Court Policies, Procedures and Rules of Practice for more information.

**How to Dress** – Dress as though you were going to an important job interview. Be neat and clean. Do not wear shorts, flip-flops, tank tops, halter tops, sandals, hats, or other casual clothing. The Court will order you removed from the courtroom if you are dressed inappropriately. This may result in a default of your case.

**Timeliness** – Always get to court on time. A good rule of thumb is to arrive at least thirty minutes early in order to allow time to find parking, clear the security check, locate the proper courtroom and/or to connect virtually if needed to avoid any interruptions.

**Courtroom Demeanor** - You and your witness should be quiet in court. Do not smoke or chew gum. Turn off your cell phone, pagers, or other electronic devices when you are in the courtroom. Do not go in and out of the courtroom while waiting for your case to be called. Do not bring children to court unless they have been subpoenaed. During your case, speak clearly and loudly enough to be heard, and stay calm. Stand when speaking to the Judge. Call the Judge “Your Honor.” Do not interrupt the Judge, the attorneys, or any other party in the courtroom. At all times, you should retain a composed and attentive posture, whether you are appearing as a witness or appearing as a party. It is never proper to speak, even in a whisper, with friends or other audience members while court is in session. Violations of any of the above guidelines may result in the assessment of sanctions against you.



## GETTING STARTED

**Filing the Petition:** The spouse who files for divorce is called the Petitioner. The other spouse is called the Respondent. The first decision to be made is where to file for divorce. To file for a divorce in Texas: (i) you and/or your spouse must have lived in Texas for at least six months before filing for divorce; and (ii) you must file in the county in which either you or your spouse has lived for at least ninety days.

Although most divorces in Texas are “no-fault,” sometimes, parties will plead grounds such as cruelty or adultery in order to seek a greater award of the marital property assets. You should take extreme caution when pleading specific grounds for divorce, however. The Texas Family Code permits the court to strike frivolous and unfounded allegations of marital misconduct from a petition for divorce. The specifics of such matters should be factually supported and carefully worded in the petition. In other words, to plead the ground of adultery, you should say “Petitioner requests a divorce on the grounds that Respondent has committed adultery” rather than “Petitioner requests a divorce from Respondent because Respondent has repeatedly cheated on Petitioner with the next door neighbor.” The Petition should also briefly state whether you believe an agreement will be reached with respect to any custody or property issues and, if an agreement cannot be reached, what you are requesting the court to order in your case.

The Original Petition For Divorce (the “Petition”), along with two extra copies, and the appropriate filing fee, should be filed by hand delivery, or mail, with the District Clerk’s office in the appropriate county. The clerk will date stamp and file the original, and will date stamp the copies to show the date and time the Petition was filed. The original will be assigned a “cause number” that will be listed at the top of the Petition, and one copy will be returned to you. If you choose to mail the Petition, include a self-addressed and stamped envelope for the clerk to return your copy to you. The third copy will be used to notify the Respondent of the divorce proceeding. There is no cost for file stamping extra copies. However, there is a fee if the clerk later has to make a copy for you from the court’s file. At the time of filing, you will also be required to pay a filing fee. Filing fees vary from county to county and you should call the District Clerk’s office to determine the filing fee for your case. If you cannot afford the filing fee, you must file an Affidavit of Inability to Pay Court Costs, which you must sign in the presence of a notary public, at the same time you file your Petition. If the Judge accepts your Affidavit of Inability to Pay Court Costs, your filing fee and other court costs will be waived.

**Notifying Your Spouse:** The second step is to serve your spouse (the Respondent) with the Petition for divorce. You must serve the Respondent unless the Respondent signs a waiver of citation; You must (1) hire a private process server or a county constable to personally serve the Respondent with a “citation,” which is formal notice of the filing of the Petition for divorce prepared by the District Clerk; or (2) if, after a diligent search, you cannot locate the address of the Respondent, you may request that the court order that Respondent be served by substitute service or publication.

The first and easiest method of legal notice to the Respondent is through a Waiver of Service. A Waiver is only valid if it is signed by the Respondent after the Petition for divorce has been filed with the court and the Respondent has been provided with a file-stamped copy of the Petition. Once the waiver has been signed by the Respondent, the waiver should be filed with the Court. Make a copy of the Waiver. Take the Waiver and the copy to the District Clerk’s office. Tell the clerk you would like to file the Waiver. The clerk will file stamp the original and the copy. She will then keep the original and return the copy to you for your records. The Waiver should be on file a minimum of 10 days before a divorce can be finalized.

The second way to provide legal notice to the Respondent is to personally serve the Respondent with the citation. This will generally involve some type of fee. To accomplish personal service, you will need to provide to the District Clerk the address where you believe the Respondent may be served and request that a citation be issued. The District Clerk will then issue a citation and forward a copy of your Petition to the Constable or Sheriff in the county where the Respondent will be served. If the Respondent will be served in a different county or if you would like to have the Respondent served by an authorized private process server, the District Clerk will return the citation to you. It is then your responsibility to deliver the citation to the appropriate process server. Personal service is considered complete when the process server hands the citation to the Respondent. The process server, whether a sheriff, constable or private process server, must file an affidavit with the Court stating he or she served the citation and Petition on the Respondent. If an Affidavit of Inability is on file with the Court, the Sheriff or Constable may waive their fee. However, a private process server will not normally waive his fees even if you have an Affidavit of Inability on file with the court. The benefit of a private process server is that he or she will try to serve the Respondent at any place and time you believe the Respondent can be found while a Sheriff or Constable may only attempt service at certain times of the day and week.

The third method of notifying the Respondent of the Petition for divorce is by substitute service, posting or publication. This method requires a Court order and should only be used if you have tried everything possible and cannot locate the Respondent. To obtain service by posting, you must request that the District Clerk post the citation at the courthouse. After a certain amount of time has passed, the clerk will notify the court that service by posting has been completed. Service by publication is done in the newspaper in the city where the Respondent was last known to have resided. To obtain service by publication, request that the District Clerk issue publication in the particular newspaper authorized by the Court. You will be responsible for any fees charged by the newspaper. Once the publication is complete, you must file proof of the publication with the District Clerk’s office.

**The Answer:** Once the Respondent has been notified of the Petition for Divorce, whether through Waiver of Service, Personal Service of Citation, or publication, the Respondent's deadline to file an answer is the Monday following 20 days after date the Respondent is served. However, in a divorce, an Answer is still considered valid as long as it is filed before the divorce is final. Once the Respondent files an Answer, he or she is entitled to receive notice of all court hearings and to be present in court for any proceedings in the case. If the Respondent does not file an Answer, it is possible for you to move forward with the divorce without notice to the Respondent until after the case is final.

**The Counterpetition.** In addition to an Answer, the Respondent may also file a Counterpetition. This document is similar to the Original Petition for Divorce. However, it is different from an answer because it sets forth affirmative relief the Respondent is requesting from the Court. A citation does not have to be served on a Counterpetition. However, the Counterpetition must be sent to the opposing party and a certification that the Counterpetition was sent, known as a "Certificate of Service," must be included and signed with the Counterpetition.

**Middle of the Case** (the "Waiting Period"). A Court cannot grant a divorce until the Petition for divorce has been pending for at least sixty days. This time period begins to run on the date the Petition is filed with the Court. This "waiting period" serves many purposes. Sometimes it permits the parties to "cool-down" and possibly reconcile. Generally, however, the parties will use this time to reach an agreement regarding the specifics of their pending divorce. Reaching an agreement with your spouse during the waiting period can prevent an outside party (usually a judge) from making decisions regarding your life, property and relationship with your children.

After a Petition for divorce has been filed, the Court, on its own motion, or the motion of either party, after notice and a hearing, may grant temporary orders. Temporary orders set out the "ground rules" for the parties' conduct during the waiting period with regard to such matters as the preservation of property, the protection of both parties, and issues pertaining to the children such as child support and visitation. The Court can also decide who will temporarily remain in the marital residence, which party will have to move out, and how the bills and expenses of the family will be paid during the pendency of the divorce case. This is also time frame for filing a request with the Court to appoint a therapist or parenting coordinator/facilitator. If the right to determine the primary residence of the children or possession of the children is a contested issue

in the case, the Court might also order the parties to complete an evaluation with an expert to assist that Court in determining what the best interest of the children might be. This is known as a “custody evaluation” or “social study.” If the Respondent files an Answer or makes a court appearance, negotiations may be necessary to reach a final settlement. The courts require or encourage parties to try to reach agreement. A common dispute resolution method is called mediation. Mediation is a non-binding, confidential process that may be done at any time during the divorce proceedings and the cost is paid by the parties. The mediator is a neutral third party either appointed by the court or selected by the parties by agreement. The mediator meets separately with the parties and tries to assist in finding a common ground solution acceptable to both parties. Mediation does not require a resolution or a settlement, but if a settlement is reached, the agreement is usually a binding agreement. Many counties in Texas have services that offer discounted or free mediations. The Court will also sometimes appoint a mediator if the parties cannot agree on the mediator.

If a settlement cannot be reached, the issues will then be presented to the judge for a bench or a jury trial (if timely requested and the jury fee paid) at the final hearing. If a final hearing is necessary, you should request the court clerk to schedule a final trial date for your case. Some courts require that a request for final hearing be in writing. The law requires the opposing party be given at least forty-five day notice prior to a final trial. However, an earlier date may be scheduled if the Court is available and if all parties agree.

The 388th District Court will grant a pro se divorce if the above described rules and procedures are complied with by the parties. The 388th District Court created this handbook for the benefit of litigants that cannot afford legal representation or opt for self representation. The foregoing is just an overview tool to assist and does not pretend to substitute legal advice or representation. Enclosed please find some ideas/steps to follow in self representation.

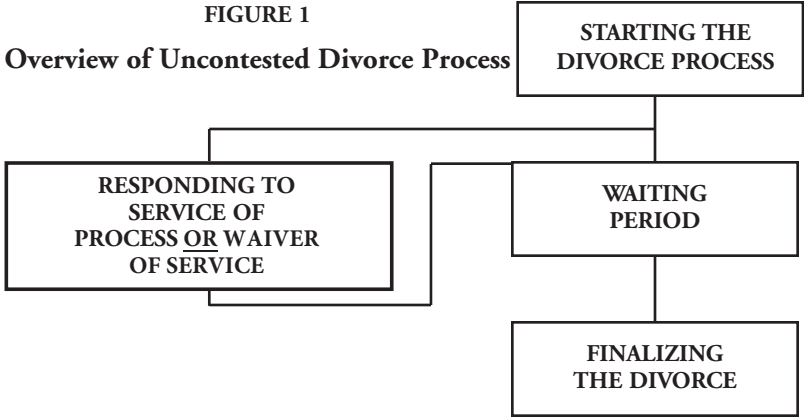
## REVIEWING THE UNCONTESTED DIVORCE PROCESS:

The following is a simplified summary of the uncontested divorce process. Figures 1-5 present a flow chart depicting the process graphically.

1. Starting the Divorce
  - a. Prepare your Original Petition for Divorce
  - b. File your Petition with the District Clerk's Office.
  - c. Give your spouse legal notice of the divorce, by using either:
    - (1) Service of Citation; or
    - (2) Waiver of Citation; or
    - (3) Service by Publication or Posting
2. Responding to the Divorce
  - a. Your spouse may file an Answer
  - b. Your spouse may file other court documents or request court hearings
3. Waiting Period
  - a. Wait the mandatory 60 days after your Petition is filed
  - b. A Temporary Hearing and/or Temporary orders may occur during this time
  - c. Negotiation and/or Mediation may occur during this time
  - d. The court may require parenting classes if children are involved in the divorce
4. Finalizing Your Divorce
  - a. Prepare your Final Decree of Divorce
  - b. Schedule your divorce for a final hearing, either
    - (1) on the uncontested court docket
      - (a) if you and your spouse have reached an agreement, or
      - (b) if your spouse has not filed an Answer or otherwise made a court appearance in the divorce
    - (2) on the contested court docket
      - (a) if you do not have an agreement and your spouse has filed an Answer or made a court appearance.
      - (b) give your spouse written notice of the date, time and location of the trial (contested court hearing) date.
  - c. Finalize your divorce in the presence of the Judge at the court hearing.
  - d. If your divorce includes child support, set up the child support account and issue the child support withholding order pursuant to the directions of your local district clerk's office.
  - e. Make sure either you or the court provides a copy of the Court Orders to your ex-spouse.



**FIGURE 1**  
**Overview of Uncontested Divorce Process**



**FIGURE 2**

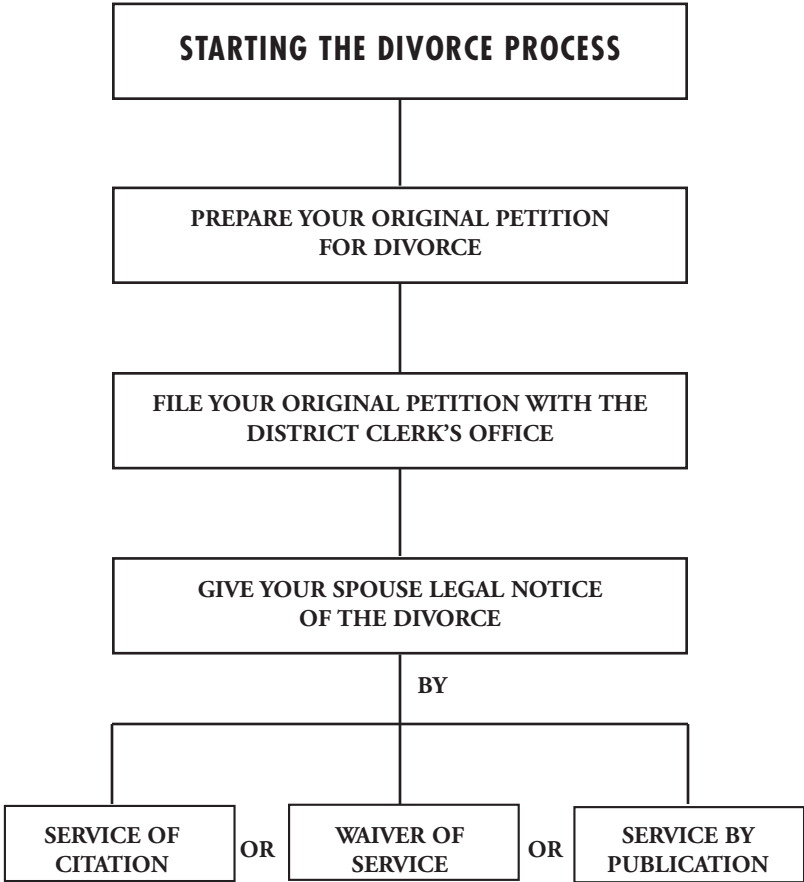


FIGURE 3

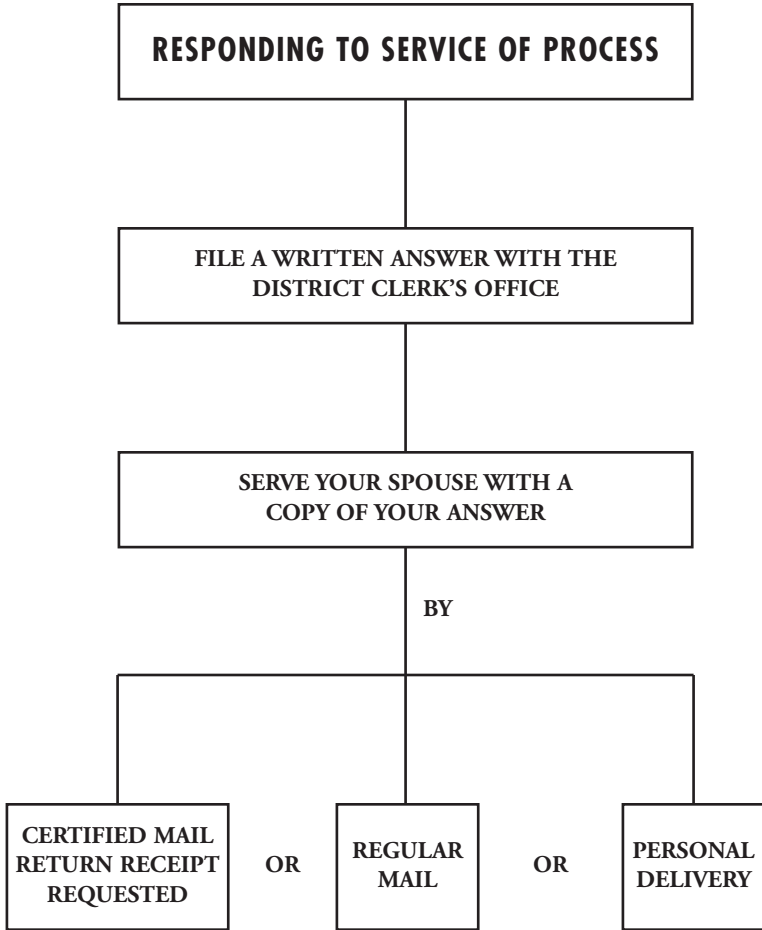


FIGURE 4

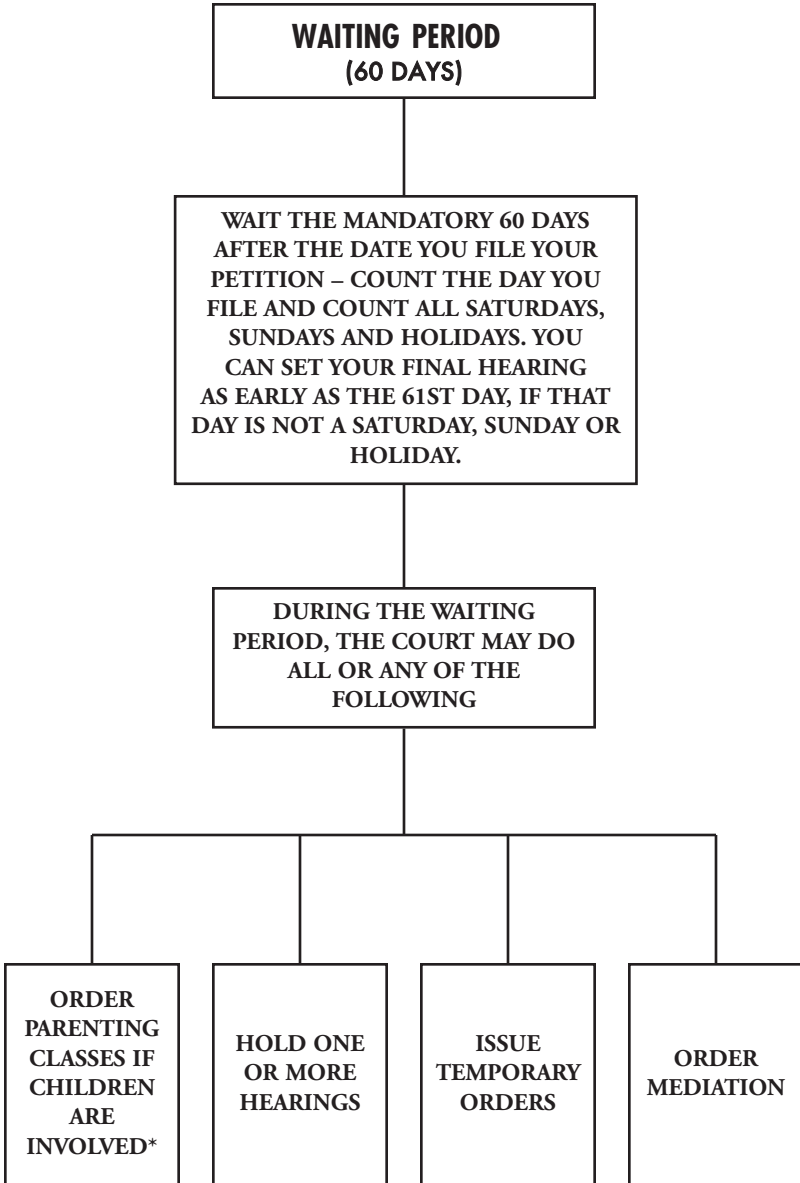
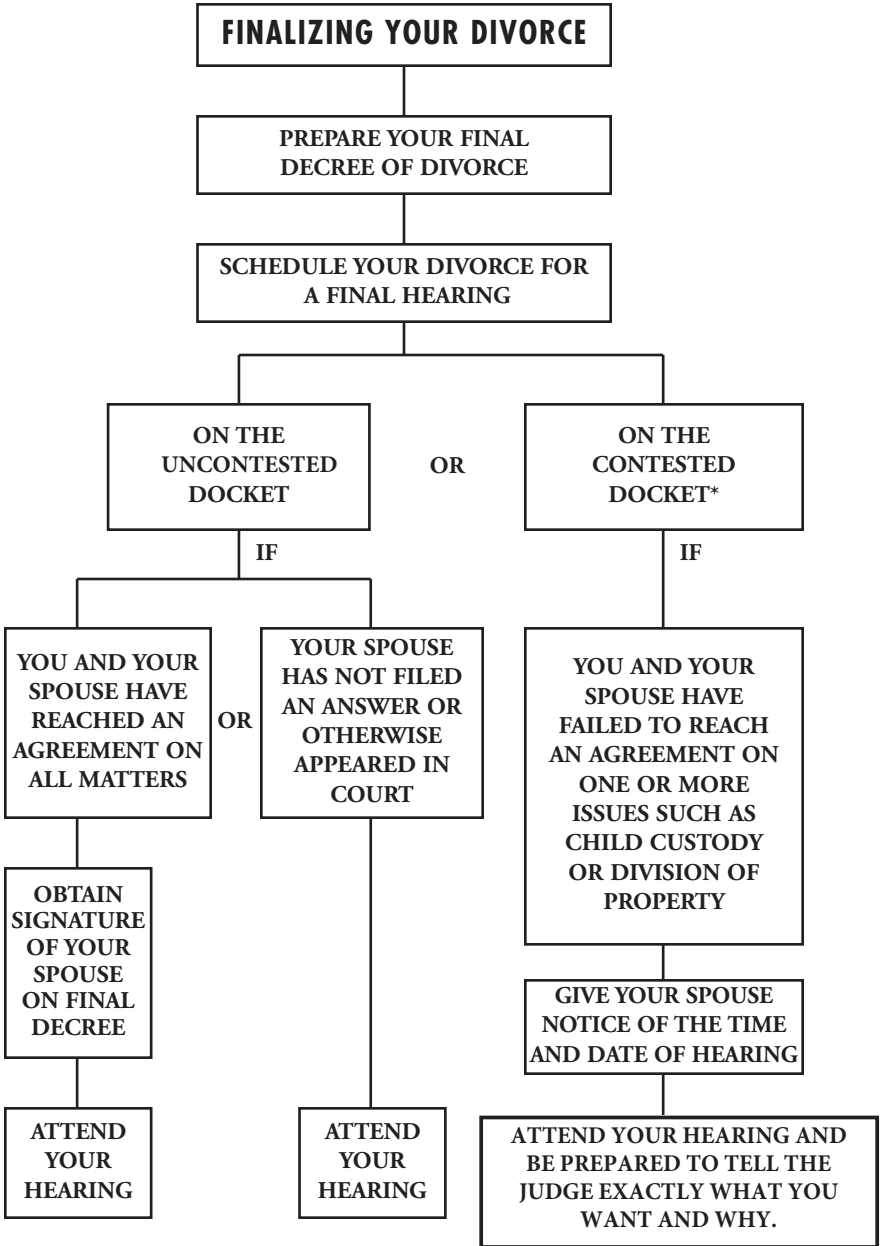


FIGURE 5



## **Directory and Information**

### **El Paso County Government**

El Paso County Court House  
500. E. San Antonio Ave.  
El Paso, Texas 79901  
epcounty.com 915-546-2000

### **Court Directory / Contact Information**

[www.epcounty.com/courts/directory.htm](http://www.epcounty.com/courts/directory.htm)

### **El Paso County District Clerk – Forms and Filing (915) 546-2120**

**1st Floor, El Paso County Court House**

[www.epcounty.com/districtclerk/](http://www.epcounty.com/districtclerk/)

### **El Paso Domestic Relations Office (DRO) - Forms (915) 834-8200**

**Lower Level Floor, El Paso County Court House**

[www.epcounty.com/dro](http://www.epcounty.com/dro)

### **El Paso County Attorney – Protective Orders (915) 546-2153**

**5th Floor, El Paso County Court House**

[www.epcounty.com/ca/protectiveorders.htm](http://www.epcounty.com/ca/protectiveorders.htm)

### **Texas Online e-File**

[efiletexas.gov](http://efiletexas.gov)

### **Texas Judicial Branch**

<http://www.courts.state.tx.us/>

### **Texas Law Help**

[Texaslawhelp.org](http://Texaslawhelp.org) – English and Spanish  
Forms, instructions, and information for pro se litigants.

### **Texas Court Help – English**

<http://texascourthelp.org/>

Forms, Lawyer Referral, Legal Research

### **e-File Texas Self Help**

[selfhelp.efiletexas.gov/srl](http://selfhelp.efiletexas.gov/srl) – English

Guided form assembly and interactive e-file assistance for pro se litigants



## **Legal Aid & Low Cost Assistance**

*A directory of organizations that can provide or connect people with legal advice.*

**El Paso Bar Association** – English – Lawyer Referral Service and Access to Justice (915) 532-7052  
elpasobar.com/Application

**El Paso County Law Library** – English and Spanish –Forms and Resources  
The Law Library is committed to ensuring Access to Justice through Access to Legal Information. Staff is available from 9:00am to 4:00 pm Monday to Friday by telephone 915.546.2245 or email: [eplawlibrary@epcounty.com](mailto:eplawlibrary@epcounty.com) Located at the El Paso County Court House, 12th Floor  
[www.epcounty.com/lawlibrary/](http://www.epcounty.com/lawlibrary/)

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**Texas RioGrande Legal Aid - El Paso (915) 585-5100**  
[www.trla.org/](http://www.trla.org/)

**Texas State Law Library**  
<https://www.sll.texas.gov/>

**Fort Bliss – Family Advocacy Program (FAP) (915) 568-9129**  
<https://bliss.armymwr.com/programs/family-advocacy-program-fap>

**Office of the Attorney General of Texas 1-877-673-6839**  
[texasattorneygeneral.gov](http://texasattorneygeneral.gov)

**Lambda Legal – LGBT and HIV+ Civil Rights.**  
[www.lambdalegal.org/states-regions/texas](http://www.lambdalegal.org/states-regions/texas)  
Provides referrals, information and accepts a limited number of cases for direct representation.

**Texas Legal Services Center- Legal Hotline for Texans.**  
1-800-622-2520 [www.tlsc.org/legalhotline](http://www.tlsc.org/legalhotline)  
Free legal advice and referrals over the phone for Texans.

**Texas Civil Rights Project – Civil Rights**  
512.474.5073 - [txcivilrights.org/get-help/civil-rights-intake-form/](http://txcivilrights.org/get-help/civil-rights-intake-form/)  
Texas Civil Rights Project bring strategic lawsuits to protect and expanding voting rights, challenge injustices in the criminal justice system and advance racial and economic justice.

**Texas Legal Answers – Pro Bono Texas**  
[texas.freelegalanswers.org/](http://texas.freelegalanswers.org/)

Free online assistance for qualified Texans with limited means. Create an account and submit a question concerning a civil matter to be answered by a volunteer Texas attorney.

**The Arc of Texas**

Disability Law (offers referrals)

800.252.9729 [thearcoftexas.org/](http://thearcoftexas.org/)

The Arc of Texas promotes, protects and advocates for the human rights and self-determination of Texans with intellectual developmental disabilities. Does not provide legal services but can help people connect with appropriate legal services.

**Disability Rights Texas (Free)**

Civil Rights, Disability Rights, Employment, Fair Housing, Healthcare Law

800.252.9108 – [www.disabilityrightstx.org](http://www.disabilityrightstx.org) – English and Spanish

Member of the disabled community seeking legal assistance can complete the initial intake online or over the phone. Income requirements may apply.

**Family Violence Legal Hotline (telephone only)**

Domestic abuse, Sexual Assault, Stalking

800-374-4673 – [www.texasadvocacyproject.org](http://www.texasadvocacyproject.org) – English and Spanish Monday through Friday, 8am to 4 pm. Receive legal advice and referrals. Three to five days after conducting an intake, an attorney will return your call.

**National Domestic Violence hot line** 1-800-799-7233 or go to [www.thehotline.org](http://www.thehotline.org) (1-800-787-3224 TTY)

**Center Against Sexual & Family Violence:** (915)593-7300

**Texas Department of Family and Protective Services hot line:**

1-800-252-5400 or [www.txabusehotline.org](http://www.txabusehotline.org)

**El Paso Child Guidance Center:** (915) 562-1999

**Family Service of El Paso:** (915) 781-9900

**Veterans' Justice Outreach:** (915) 471-0704

**Rio Grande Dispute Resolution Center (DRC):** (915) 533-0998

**YWCA Supervised/Safe Exchange Programs:** (915) 590-9622

**YWCA - El Paso Del Norte Region:** (915) 533-2311

**Project Amistad:** (915) 532-3415

**Child Crisis Center of El Paso:** (915) 562-7955

**Co-Parenting Approved Classes by 388th District Court:**

El Paso County DRO - Online Training (Free) English and Spanish:  
<https://www.epcounty.com/dro/familycourt.htm>

Kids First  
<https://kidsfirsttoday.com>

Putting Kids First  
<https://puttingkidsfirst.org>

Texas Cooperative Parenting  
<https://txparent.com>

Parent Class Online  
<https://www.parentclassonline.com>

Co-Parenting into the Future  
<https://coparentingintothefuture.com>

Family Affairs  
<http://familyaffairs.org>

Parenting Choice  
<https://www.parentingchoice.com>

**388th Judicial District Court  
The Honorable Judge Marlene Gonzalez  
500. E. San Antonio  
9th Floor - 902  
El Paso, Texas 79901**

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