

**PRO SE
SELF-REPRESENTATION
HANDBOOK
“REPRESENTING YOURSELF IN COURT”**



Pro Se Litigant Handbook revision

**Produced and Distributed as a Public Service by
388th JUDICIAL DISTRICT COURT
El Paso County, Texas**

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IMPORTANT INFORMATION -PLEASE READ-

IN THE EVENT YOU OR ANY MEMBER OF YOUR FAMILY IS THE VICTIM OF DOMESTIC VIOLENCE, YOU SHOULD IMMEDIATELY CONTACT LOCAL LAW ENFORCEMENT OFFICIALS BY CALLING 911. HELP IS ALSO AVAILABLE AT 1-800-799-SAFE (1-800-799-7233) THE NATIONAL DOMESTIC VIOLENCE HOTLINE.

YOU SHOULD ALSO CONTACT A PRIVATE ATTORNEY OR YOUR LOCAL 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, as that term is defined by Sections 261.001(1)(C), (E), (G), (H), (I), (J), (K), and (M), by a member of a family or household toward a child of the family or household; or

(3) dating violence, as that term is defined by Section 71.0021.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997. Amended by Acts 2001, 77th Leg., ch. 91, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 117 (S.B. 817), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 1, eff. September 1, 2017.

The Texas Council on 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 CONTENTS OF THIS HANDBOOK IS FOR INFORMATIONAL 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.

ONLY LICENSED ATTORNEYS ARE ALLOWED TO GIVE LEGAL ADVICE

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INTRODUCTION

The following information is not legal advice and is not a substitute for legal representation by an attorney. Please be aware that a Pro Se's / Self Representatives must follow the same rules as those represented by attorneys.

What is "Pro Se"?

Pro Se is a Latin term to define as "advocating on one's own behalf." In legal proceedings, it is an individual acting on their own behalf during a legal action, rather than through an attorney. When a person decides to move forward with a civil case, they become a "pro se" litigant representative that will act as their own attorney.

Like any other attorney, the Pro Se/ Self-Representative will be expected to know and follow the rules of the law and court.

This handbook will provide a general introduction to representing yourself, as a Pro Se/ Self Representative. Whether you are pro se or represented by an attorney, there are specific rules and deadlines that you will be expected to follow. Some of these rules and deadlines will be addressed in this handbook. However, should you choose to represent yourself in any court proceeding, which is in your legal right, you will also need to consult all relevant and current law, including the current version of the Texas Rules of Evidence, the Texas Rules of Civil Procedure, the El Paso County Local Rules, Lawyers Creed and the 388th Judicial District Court Policies, Procedures and Rules of Practice.

As a Pro Se/ Self Representative, it is your responsibility to provide the Court with a current and reliable mailing address, an available e-mail address, and telephone number.

Once you begin to file your pleadings, your formal written complaint statement that begins to the case, it will be your responsibility to follow the Court's Policies, Procedures and Rules of Practice as required to finalize any case presented.

If you receive notice that a hearing has been scheduled, you must appear in court and 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 the scheduled hearing.

All hearings will be done in person unless a request is made for virtually hearings using Zoom. Please get familiarized with Zoom in case your hearing will be presented virtually.

Please be familiarized with the 388th Court Policies, Procedures and Rules of Practice. You can visit your county law library in your county courthouse, or you may go online at <https://www.capitol.state.tx.us> to find these resources.

Remember, as the Pro Se, it is your responsibility to move along the case.

If you, as the Pro Se, fail to follow the procedures, you may lose very important rights.

If you are representing yourself as the Pro Se / Self Representative, and do not feel you cannot follow the procedures or feel that you will need legal advice, it is recommended that you visit a licensed attorney to provide legal advice to the case.

THINGS TO KNOW BEFORE YOU START

In the event you will participate in a court setting for your case, it is recommended that you visit a court setting before yours is scheduled. This will give you an insight into how the court works, where people sit, what they say and do. Keep in mind that the courts in Texas are opened to the public, but there may be court hearings that will not be available for the public to enter under circumstances.

You could reach the court by calling at (915) 273-3702 or send an email at 388thdc@epcounty.com.

Courts do continue to still offer virtual hearings, but if you wish for your case to be heard in virtual hearing, you must make the request and receive confirmation.

If you want to attend a virtual court hearing instead of visiting a court, you may access the Texas Courts livestream online by visiting: <http://streams.txcourts.gov>

RULES FOR A PRO SE / SELF REPRESENTATION

If you decide to represent yourself in a case, it is important to follow some general rules as a Pro Se and with the rules of the law and court.

1. By representing yourself, you are acting as your own attorney. You will be expected to know and follow the rules of the law and court as any attorney. This includes the Texas Rules of Evidence, the Texas Rules of Civil Procedure, the El Paso County Local Rules, Lawyers Creed and the 388th Judicial District Court Policies, Procedures and Rules of Practice.
2. The Judge, Court Staff (that includes the court coordinator, court clerk, court reporter, administration, and bailiff), and opposing counsel cannot give you legal advice. They cannot tell you what you should do or say in your case or how the law applies to your case.
3. **DO NOT** attempt to communicate directly or through another person to the Judge outside of the courtroom.
 - a. You should not call the Judge on the phone, leave any messages, send a letter, fax, or email message, or talk to the Judge face to face outside a court hearing. The only time there is any communication with the Judge is during the court hearing when everyone involved in the case is present.
 - i. Any written communication to the judge is allowed only when everyone involved in the case is included. Any communication that does not include everyone else in the case is called an *ex parte* communication and is not allowed. The Court will return any *ex parte* communication to you unread and will notify the other side of your attempt to communicate with the Judge.
 - ii. Formal pleadings, a formal written statement of the parties in a civil actions or arguments, motions, or an answer, are not a prohibited form of communication,

but it is a communication that must be sent through only by filing with the District Clerk's Office.

4. If the other party has an attorney, you cannot ask for legal advice. The attorney for the other party will also not provide you with legal advice. The attorney is prohibited from representing both sides to the same case.
 - a. If your case involves children, real estate property (land, buildings, a home, or anything attached to land), a pension/ retirement account, important heirlooms or keepsakes, property you own separately from your spouse, or large debts, you should seriously consider visiting with an attorney about your case.

If you break any of these general rules, the Judge may assess sanctions against you or the party. Sanctions can be a contempt of court with punishment, a fine, jail, have you removed from the courtroom or enter an order in favor of the other side.

RULES OF THE COURTROOM

When attending a courtroom for a hearing, the Judge will hear your case and give the opportunity for each party to tell their side of the story. However, in the Judge's courtroom, everyone is required to follow rules into how everyone must conduct themselves.

1. Dress Code

Be neat and clean. Dress in a professional manner like you are to going to an important job interview. Men should wear pants and a shirt with a collar. A suit, dress jacket, and/ or tie to look presentable. Women should wear a dress, skirt and blouse, or pants and a jacket. No one should wear shorts, T-shirts, tank tops, halter tops, sandals, sunglasses, hats, excessive make-up and jewelry, and any other casual clothing to court. The Court will order you removed from the courtroom if you are dressed inappropriately. This may result in a default of your case.

2. Behavior.

When inside the courtroom, these general behavior rules must be followed:

1. All persons are expected to act in their very best in the courtroom.
2. You and your witness party should remain quiet during the hearing until the Judge allows you to address any details to your case. It is never proper to speak, even in a whisper, with friends or other audience members while court is in session.

3. No food or drinks are allowed and should not be consumed inside the courtroom.
4. Do not smoke.
5. Do not chew gum.
6. Turn off all electronic devices. This includes your cellphone, pagers, personal game consoles, and personal computers/ laptops/ tablets, unless it is agreed upon by the court and the parties that they will be utilized for the hearing.
7. Do not go in and out of the courtroom while waiting for your case to be called in.
8. Do not bring children to court unless they have been subpoenaed.

During the hearing,

1. When speaking in the courtroom, speak clearly and loudly enough to be heard by the judge and the court reporter. If a court reporter is present, they are making a transcript of the hearing. All responses for the transcript must be spoken. Nonverbal communication, such as nodding or shaking of the head, is not acceptable.
2. Stand up when speaking to the Judge. When addressing the judge, refer to him or her as "Your Honor."
3. When addressing or referring to anyone else, refer to them as "Mr.," "Mrs.," "Ms.," "Sir," or "Ma'am."
4. Do not interrupt the Judge, the attorneys, or any other party in the courtroom.
5. Never read anything in court except court documents.
6. **STAY CALM!** At all times, you should retain a composed and attentive posture, whether you are appearing as a witness or appearing as a party.

Like the contents in Rules For A Pro Se/ Self Representation (on page 6), any violations of these general guidelines and any other rules to the courtroom, there may be sanctions against you or the party from the Judge.

3. Friends and Family.

Although you may want the support of your family or friends, you generally should not bring children to court. Children often are not permitted in court because they can be a distraction to you, the Judge, and

other parties in the courtroom. Children are only allowed in the courtroom if they are a witness to the case being presented.

4. Timeliness

Always be on time for court. A good rule of thumb is to arrive at least thirty minutes early to allow yourself time to find parking, clear the security check in the courthouse, and locate the courtroom where your hearing will be.

If your hearing is being conducted virtually, avoid any interruptions. It is recommended that you locate a room that is quiet, and no one will interrupt.

GENERAL START-UP

When beginning to start a civil matter, such as a divorce, change of name, or an adoption, as a pro se/ self-representative, everything begins with going to the District Clerk's Office. A District Clerk representative will assist in providing the application and instructions into what type of civil proceeding will be taken.

If the Pro Se, or Self Representative, wants to start the process first, they will become the Petitioner. If the other party starts the process first, then the Pro Se will be the Respondent.

The next page will begin to provide general information what a Pro Se/ Self Representative will follow for certain legal proceedings they will do.

DIVORCE

A significant emotional event is an experience or event that shapes a person's life. Such events like the birth of a child, marriage, grieving over the loss of a person, illness, job promotion or layoff.

Divorce is one significant emotional event that triggers to a person's life. However, divorce carries more than just being an emotional event. It is also brings 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.

Some people hire attorneys to follow up and resolve with the most common issues for their client.

This is only a general guideline in the event you decide to file for divorce and decide to represent yourself as a Pro Se/ Self Representative.

GETTING STARTED

Filing the Petition

The spouse who files for divorce first 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: (1) you and/or your spouse must have lived in Texas for at least six months before filing for divorce; and (2) 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 to seek a greater award of the marital property assets. You should take extreme caution when pleading specific grounds for divorce. 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 (also known as the Petition), along with two extra copies, and the appropriate filing fee, should be filed by hand delivery or e-filed to 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. Keep in mind that the District Clerk's Office will require you to pay fees. The fees will vary, and you should call the District Clerk's Office to determine how much the fees will be for your case.

If you cannot afford the filing fee, you must file an Affidavit of Inability to Pay Court Costs, at the same time you file your Petition. An Indigency Hearing must be scheduled before the case can move forward. This hearing will determine whether the Judge will decide whether to accept your Affidavit of Inability to Pay Court Costs after the review. If accepted, your filing fee and other court costs will be waived.

It is **recommended** that once your case has been assigned to a court and if an Affidavit of Inability to Pay Court Costs was filed, please reach out to the court by email to have the Indigency Hearing scheduled.

Notifying the Spouse

The second step is to serve your spouse (the Respondent) with the Petition for Divorce. You, as the Petitioner, must serve the Respondent unless the Respondent signs a Waiver of Citation. A Waiver of Citation is a document that waives the right of the Respondent to be personally served with legal papers. If the Respondent signs the waiver, then you can, (1) hire a county constable, sheriff, or a private process server, a professional that serves legal documents on individuals and/ or businesses, to personally serve the Respondent with the 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.

1. The first and simplest method of legal notice to the Respondent is through a waiver of service. A waiver of service is when the Respondent has agreed to save the Petitioner the time and expense of having to hire and pay a county constable, or sheriff, or a private process server to serve the divorce complaint.

The waiver of service 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.

To file the waiver, first make a copy of the waiver. Then take the waiver and the copy to the District Clerk's Office and tell the clerk you would like to file the waiver of service. The clerk will file stamp the original and the copy. The District Clerk will keep the original document and return the copy to you for your records.

Unless e-filing is used, only one copy is needed to file with the District Clerk's Office.

The waiver of service should be on file for a minimum of 10 days before a divorce can be finalized.

2. The second method to provide legal notice to the Respondent is to personally serve the Respondent with the citation. This will generally involves paying fees. To accomplish personal service, you will need to provide to the District Clerk the address where you believe the Respondent can 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 County Constable or Sheriff 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 the Respondent was 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 their fees even if an Affidavit of Inability is 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.

3. The third method of providing legal notice to 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, as the Petitioner, have tried everything possible and cannot locate the Respondent. To obtain service by posting, you must request that the District Clerk Office 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, the Petitioner must request that the District Clerk issue publication in a 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.

Answer

Once the Respondent has been notified of the Petition for Divorce, whether through 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. Even if the Respondent fails to file an answer, the Respondent will still receive all notices to all court hearings. Should the Respondent continue to not answer any notices with regards to the case, then a default judgment will be issued in the final hearing. The District Clerk will send the default judgement notice to the case.

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

that the Respondent is requesting from the Court. A citation does not have to be served in 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 (60) 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. However, this generally gives the parties the time to reach an agreement regarding specifics of their pending divorce. Reaching an agreement with your spouse during the waiting period can prevent an outside party (normally 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 from 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 regarding such matters as the protection of both parties, the preservation of property, 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 an 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 a 45-day notice prior to a final trial. However, an earlier date may be scheduled if the Court is available and if all parties agree.

CONCLUDING DIVORCE PROCEEDING

Timing

Once the 60-day waiting period ends, you have the opportunity to set your case for a final hearing. A final hearing may consist of a jury trial, if requested, or a bench trial, where the judge acts as the jury. However, if you and the Respondent are in complete agreement and have reduced your agreement to writing, the final hearing can be as simple as answering a few questions and having the Judge enter the agreement into the court's records.

Final Decree of Divorce

The Final Decree of Divorce is a court order that ends a marriage and states the terms of the divorce. It is completed when it is either reached by an agreement or decided by the judge or a jury. The decree provides for the division of all community property and all community debt, all matters of child custody, and provide for the amount and frequency of child support payments.

A Final Decree of Divorce may also provide a name change of either party to a name previously used. Generally, the wife may use the Final Decree of Divorce to change her last name back to her maiden name or any other name, so long as it was previously used. You may not use a Final Decree of Divorce to change your name to a brand-new name. This requires a separate proceeding.

Some courts require that a pro se litigant self-representative submit a draft of the Final Decree of Divorce and receive approval of the decree before appearing in court for the final hearing.

The court administrator may be able to tell you whether this is required. Be sure not to leave blanks in the Final Decree of Divorce that you are presenting to the court.

Any order you are requesting a judge to sign must be completed in full.

Uncontested Divorce

A simple, uncontested divorce may be concluded when you appear before the judge and give evidence and testimony as to the terms of your divorce.

However, if your divorce involves contested issues, such as division of property or child custody issues, this simple proceeding will not work, and you should consider hiring an attorney.

In the event you wish to conduct an uncontested divorce, contact the court to schedule an appointment. Appointments are scheduled by email. Uncontested divorce hearings are normally conducted virtually.

On the day of final hearing, you should have the original Final Decree of Divorce, the Employer's Withholding Order (if child support is an issue), and proof of service on the Respondent, or a file-stamped

copy of the Waiver of Service, showing that the Waiver of Service has been on file for at least 10 days ready for submission before the final hearing, and three copies of each document.

When your case is up with the Court, remember the proper courtroom etiquette. The Judge will review the original Final Decree of Divorce and any other documents brought forth. The Judge may ask some questions. If the Judge approves the divorce, the divorce is granted and the Final Decree of Divorce is signed, along with any other orders to the case.

Once the order is signed, the Court files it with the District Clerk's Office. If the Petitioner and Respondent want a copy of the Final Decree of Divorce, they will go to the District Clerk's Office to request copies. The District Clerk's Office may charge fees for copies.

In cases where child support is ordered, you may also be required to complete forms necessary for the Attorney General or the Child Support Disbursement Unit to process the court ordered support. The court clerk will have copies of these forms for you to complete.

Your divorce is considered final as soon as the judge signs and dates the Final Decree of Divorce.

You and the Respondent will have a 30-day waiting period. This waiting period allows the Court that issued the final decree to retain plenary power which makes it possible for the Petitioner and the Respondent to file an appeal or motion for a new trial. During this waiting period neither you, nor the Respondent are allowed to get married to another person. However, if the Petitioner and the Respondent want to remarry to each other, the waiting period does not exist and may proceed. After the 31st day, you and the Respondent are allowed to get married without any legal consequences.

The 388th District Court will grant a Self-Represented (Pro Se) divorce if the above-described rules and procedures are complied with by all parties.

LEGAL ISSUES INVOLVING CHILDREN

If you and the Respondent are filing for divorce, and children is involved, both parties should follow guidelines.

Parenting Plan

In 2005, the Texas Legislature made policy for the Texas Family Code to require the addition of a “Parenting Plan” in the Final Decree of Divorce. This is known as Texas Family Code Section 153.603, Requirement of Parenting Plan in Final Order.

Section 153.603 - Requirement of Parenting Plan in Final Order

- (a)** Except as provided by Subsection (b), a final order in a suit affecting the parent-child relationship must include a parenting plan.
- (b)** The following orders are not required to include a parenting plan:
 - (1)** an order that only modifies child support;
 - (2)** an order that only terminates parental rights; or
 - (3)** a final order described by Section 155.001(b).
- (c)** If the parties have not reached agreement on a final parenting plan on or before the 30th day before the date set for trial on the merits, a party may file with the court and serve a proposed parenting plan.
- (d)** This section does not preclude the parties from requesting the appointment of a parenting coordinator to resolve parental conflicts.

The Parenting Plan covers in detail custody arrangements, visitation schedules, decision-making authority, child support, and communication between the parents. Items that are not required to be included in the parenting plan is modifications of child support, termination of parental rights, and any final orders described by Section 155.001 (b). This Texas Family Code is help provide a clarity and structure for co-parenting arrangements after legal proceedings. Any legal questions regarding a Parenting Plan should be consulted with an attorney.

Parenting Coordinator and Parenting Facilitator

In 2005, the Texas legislature introduced provisions to parenting coordinators in suits affecting the parent-child relationship.

In a lawsuit affecting the parent-child relationship (such as a divorce, custody, or child support), the court may appoint someone known as the Parenting Coordinator. The primary duties of the parenting coordinator are limited to matters of: identifying disputed issues, reducing misunderstandings, clarifying priorities, exploring possibilities for problem-solving, developing methods of collaboration in parenting, understanding parenting plans and reaching agreements about parenting issues to be included in a parenting plan, complying with the court's order regarding conservatorship or possession of and access to the child, implementing parenting plans, obtaining training regarding problem-solving, conflict management, and parenting skills, and settling disputes regarding parenting issues and reaching a proposed joint resolution or statement of intent regarding those disputes.

One of the main qualifications of parenting coordinator is that they are not an attorney that does not constitute the practice of the law. The appointed parenting coordinator must comply with the Ethical Guidelines for Mediators as adopted by the Supreme Court of Texas (Misc. Docket No. 05-9107, June 13, 2005). The appointed parenting coordinator and the parties or parties' attorneys must sign a statement of agreement to comply with the Ethical Guidelines for Mediators. Any noncompliance from the parenting coordinator within the guidelines will result in their removal.

Duration of a Child Custody and Child Support Order

Texas courts generally have jurisdiction to make orders regarding the support and conservatorship of a child until that child reaches the age of eighteen or until the child graduates from high school, whichever occurs later. However, this jurisdiction can be extended if the court determines that a child has a physical or mental disability that exists prior to the child's 18th birthday and the court determines that the child will not be capable of self-support.

If you have a child that has any form of disability, it is important for you to consult with an attorney prior to the finalization of your divorce to ensure that you are preserving the rights of the disabled child.

Child Custody

The court that handles a divorce proceeding also determines who shall have custody of any children from the marriage. The vast majority of parents are awarded "Joint Managing Conservatorship" in a divorce, that all rights and duties concerning the children are shared by both parents. However exclusive right to a make certain decision may be awarded to one party. Joint Managing Conservatorship can be established by either an agreement from the parents or a court order.

Even in the joint custody situation, the court must designate one parent who has the authority to determine the location of the children's primary residence. This parent is known as the Primary Joint Managing Conservator or "custodial parent." The other parent is commonly referred to as the "non-custodial parent." Most Primary Joint Managing Conservators will decide that the children's primary residence is in that parent's home. Aside from the decision regarding the location of the children's primary residence, most other major parenting decisions are shared between the conservators. In rare circumstances, one parent may be appointed as the Sole Managing Conservator, and the other as the Possessory Conservator.

In every case, the court will ultimately decide what custody arrangement is in the best interest of the children.

In making the decision between joint and sole conservatorship, the court shall consider: (1) family violence; (2) child abuse or neglect; or (3) a final protective order is rendered. The court will also consider other factors, such as: the other parent has been absent from the children's lives, a history of extreme conflict between the parents over educational, medical, or religious values. However, this does not mean that the other parent loses their right to visit their children. The only rights a Sole Managing Conservator has over a Primary Joint Managing Conservator relate to the sole right to make certain decisions regarding the children's lives, such as education and health matters.

Other legal custody arrangements that can be ordered at divorce include split custody, in which one or more children live with one parent while the remaining children live with the other parent, and divided custody. This form of custody allows each parent to have the child for alternating blocks of time, often every year or two years, with equal visitation rights. Such legal arrangements are much less common. Judges are reluctant to order split custody, in particular, because of a firm belief that children should not be separated from their brothers and/or sisters as it is not in their best interest.

Supervised Visitation

If there has been a history of abuse or neglect, the court may require that any visitation from that parent be supervised. Generally, courts will appoint a mutually agreed upon family member or third party to supervise the periods of possession or will appoint a supervision facility to conduct the supervision.

The Right to Decide Where a Child Will Live

Only one parent may have the right to establish the primary residency of the children. The parent who is named the Primary Joint Managing Conservator will typically be restricted geographically on where they can reside with the children. This geographic restriction will be listed in the Final Decree of Divorce and will usually restrict the residence of the children to the county in which the children resided prior to the divorce if both parties still reside in the same county or the county where the divorce is pending. Courts will sometimes expand this geographic restriction to also include the counties that are contiguous to the restricted county.

Standard Possession Order (SPO)

Visitation arrangements can have many variations that parents can agree with regards to child custody. If parents cannot agree, child custody will generally follow a schedule developed by the Texas Legislature that is designed to be fair and workable for both parents in most circumstances. The Standard Possession Order (SPO) provides the noncustodial parent is granted visitation of the child beginning at 6 p.m. every first, third and fifth Friday of each month and ending at 6 p.m. on the following Sunday, as well as every Thursday evening from 6 p.m. to 8 p.m. during the regular school year. All holidays, including Thanksgiving, Christmas, and Spring Break are divided between the parents, giving one parent the right to spend a

particular holiday with the child every other year. The SPO also provides for the noncustodial parent to have 30 days with the child during the summer, or if the child lives more than 100 miles away from that parent.

Expanded or Extended Standard Possession Order

In 1995, the Texas Legislature enacted a provision that allows for the noncustodial parent to elect alternate beginning and ending possession times when exercising the SPO.

Under the current statute, the noncustodial parent can elect to modify their possession period to begin at the time the child's school is regularly dismissed to end at the time the child's school resumes as opposed to the 6 p.m. start and end time.

To make this election, the noncustodial parent must make this election prior to or at the time the Judge signs the possession order. The election must be made in a written document filed with the court or must be made orally by the noncustodial parent in open court hearing to the Judge.

Establishing Child Support

The custodial parent has the right to request to receive child support on behalf of the child. The amount of support owed by the non-custodial parent will depend on their income, as well as the number of children for whom the non-custodial parent has a duty to support (both from the marriage at issue and as any other children).

If there is only one child of the marriage and no children outside the marriage, child support will be set at 20% of the non-custodial parent's net income, after FICA, Social Security, and Medicare have been taken out from their paycheck. If there are two children, the child support will be set at 25% of the net income. If there are three children, child support will be set at 30% of the net income, and it will increase at 5% increments thereafter. If there are more than six children, the child support will be not less than the amount for five children.

As of September 1, 2021, the Texas legislature updated the family code to child support to include guidelines for low-income child support. This guideline is under Texas Family Code 154.125. Under this guideline:

If there is only one child of the marriage and no children outside the marriage, child support will be set at 15% of the non-custodial parent's net income. If there are two children, the child support will be set at 20% of the net income. If there are three children, child support will be set at 25% of the net income, and it will increase at 5% increments thereafter. If there are more than six children, the child support will be not less than the amount for five children.

Below explains Texas Family Code Section 154.125 regarding the guidelines to child support.

Sec. 154.125. APPLICATION OF GUIDELINES TO NET RESOURCES. (a) The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are not greater than the maximum amount of net resources to which the statutory guidelines are applicable, as most recently published by the Title IV-D agency in the Texas Register.

(a-1) The amount prescribed by Subsection (a) is adjusted every six years as necessary to reflect inflation. The Title IV-D agency shall compute the adjusted amount, to take effect beginning September 1 of the year of the adjustment, based on the percentage change in the consumer price index during the 72-month period preceding March 1 of the year of the adjustment, as rounded to the nearest \$50 increment. The Title IV-D agency shall publish the adjusted amount in the Texas Register before September 1 of the year in which the adjustment takes effect. For purposes of this subsection, "consumer price index" has the meaning assigned by Section 341.201, Finance Code.

(b) If the obligor's monthly net resources are not greater than the amount described by Subsection (a) and the obligor's monthly net resources are equal to or greater than the amount described by Subsection (c), the court shall presumptively apply the following schedule in rendering the child support order:

CHILD SUPPORT GUIDELINES

BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

1 child	20% of Obligor's Net Resources
2 children	25% of Obligor's Net Resources
3 children	30% of Obligor's Net Resources
4 children	35% of Obligor's Net Resources
5 children	40% of Obligor's Net Resources
6+ children	Not less than the amount for 5 children

(c) If the obligor's monthly net resources are less than \$1,000, the court shall presumptively apply the following schedule in rendering the child support order:

LOW-INCOME CHILD SUPPORT GUIDELINES

BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR

1 child	15% of Obligor's Net Resources
2 children	20% of Obligor's Net Resources
3 children	25% of Obligor's Net Resources

4 children	30% of Obligor's Net Resources
5 children	35% of Obligor's Net Resources
6+ children	Not less than the amount for 5 children

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 620 (H.B. 448), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 767 (S.B. 865), Sec. 5, eff. June 19, 2009.

Acts 2021, 87th Leg., R.S., Ch. 552 (S.B. 286), Sec. 4, eff. September 1, 2021.

No parent may be required to pay more than 50% of their net earnings to fulfill all their child support obligations. These percentages are adjusted slightly when the non-custodial parent has other children from outside the marriage for whom the non-custodial parent must also pay child support.

Any factors such as the non-custodial parent is intentionally unemployed, or not earning as much as they are capable to live will be considered by the court.

Finally, a custodial parent, whether named as Primary Joint Managing Conservator, or Sole Managing Conservator, need not have ever been married to the non-custodial parent to receive child support. This child support calculation does not apply when the noncustodial parent has net income per month in the amount of \$8,550.00 or more.

The Texas Legislature has found that the following items constitute net resources for purposes of calculating child support: (1) 100 percent of all wage and salary income and other compensation for personal services (i.e., commissions, overtime pay, tips, and bonuses); (2) interest, dividends, and royalty income; (3) self-employment income; (4) net rental income (rent after deducting operating expenses and mortgage payments, but not including noncash items such as depreciation); and (5) all other income actually being received, which includes severance pay, retirement benefits, pensions, trust income, annuities, capital gains, social security benefits other than supplemental security income, unemployment benefits, disability and workers' compensation benefits, interest income from notes regardless of the source, gifts and prizes, spousal maintenance, and alimony.

Additional Factors in Determining Child Support

Texas courts can order child support amounts that are different from the guidelines if the court find that the application of the guidelines would not be in the best interest of the child.

The court will look at additional factors that include the age and needs of the child, the child care costs of the child, the ability of both parents to contribute to the support of the child, the amount of time and possession both parents have with the child, any special or extraordinary educational, health care, or other expenses of the parties and the child, and the cost of travel in order for the noncustodial parent to exercise

possession of or access to the child. These factors and other factors the court may deem will determine child support for the child.

Medical Expenses as Additional Child Support

The noncustodial parent is generally required to pay for the children's health insurance expenses as additional child support.

If the custodial parent maintains health insurance on the children, then the noncustodial parent will be required to reimburse the custodial parent for the cost of the health insurance premium for the children's health insurance. If the noncustodial parent maintains health insurance on the children, then the noncustodial parent will be required to maintain health insurance coverage on the children at their own expense.

The court will also require the parents to pay for any or all reasonable and necessary healthcare expenses of the children that are not covered by the health insurance premium or reimbursed by health insurance such as copays and deductibles for the children. Typically, the court will require the parents to split these costs as additional child support.

As of September 1, 2018, the parents are required to maintain dental support of a child.

Employer's Order to Withhold

Texas courts require that an Employer's Order to Withhold be signed at the time that a divorce with children is finalized. An Employer's Order to Withhold orders the employer of the non-custodial parent to take the child support owed directly from the paycheck of the non-custodial parent. All child support payments are then sent by the employer to a central processing center where the checks are processed and submitted to the parent to whom the support is owed.

Modifying Child Support

To request a change, the parent who is requesting the modification must file a Petition to Modify, in which they seek to modify the Final Decree of Divorce. Unless there is a material and substantial change in circumstances, such as the non-custodial parent getting a big raise, or the child suddenly requires additional support due to illness, child support may generally only be modified every three years, and then, only if the amount of the child support payment would increase or decrease by 20% or \$100.

Court Mandated Parenting Courses

In Texas, many counties now require parties in a divorce with children to attend a parenting course before the date of divorce. If this parenting course is required, most courts will not allow the parties to prove-up

up their divorce until both parties have filed their certificate of completion with the court. If you have not received any form of notice of this requirement from the court, contact the court administrator to ensure that this course is not required before you schedule the prove-up of your divorce. If this is required, be sure to get the certificate of completion for both parties filed with the court before your date of divorce.

ADOPTION

Under the Texas Department of Family and Protective Services, adoption is the legal process through which a child joins a family different from their birth parents. It is a permanent, lifelong commitment to a child. Adoption transfers all rights and responsibilities from the biological parents to the adoptive parents.

In general, any adult who meets the Texas Family Code requirements can adopt a child. If a married couple seeking to adopt a child, both spouses must sign the petition for adoption.

In the state of Texas, a child is under 18 years of age, not married, and have not been married. Children that are 12 years of age or older must consent to the adoption.

A child residing in Texas can be adopted if:

1. The parent-child relationship as to each of the child's living parents has been terminated or is sought to be terminated with the adoption suit.
2. The child is at least two years old; the parent-child relationship has been terminated as to one parent, and:
 - a. The adult seeking to adopt has been a managing conservator or had "actual care, possession, and control" of the child for six (6) months before the adoption, or is the child's former stepparent, and the non-terminated parent consents to adoption, or
 - b. The adult seeking to adopt is the child's former stepparent and has been a managing conservator or had "actual care, possession, and control" of the child for one year before the adoption.

In the event a Pro Se/ Self-Representative wishes to adopt a child, the adoptive parent must submit a Petition to Adopt in the court of the county where the child resides.

A court hearing is scheduled where the Judge reviews the case. The adoption is complete once the Judge reviews and confirms that that the adoptive parent serves the child's best interest and grants parental rights.

For more information on adoption, the Texas Department of Family and Protective Services will provide additional guidance at <https://www.dfps.texas.gov/>.

MARITAL PROPERTY

With regards to the information relating to marital property, it is recommended to visit a licensed attorney for legal advice. Multiple risk factors could be involved with marital property for the parties. If the case involves a certain risk relating to the information stating below, an attorney may be a viable option to help reduce the risk.

Presumption of Community Property

Texas is a “community property” state. Meaning that all property owned by married persons on the dissolution of a marriage, whether by death or divorce, is presumed to be the property of both spouses. Any debts incurred during marriage are presumed to be community debt and are presumed to be owed by both spouses. Community debt must also be divided in a divorce.

The presumption of community property may only be overcome by clear and convincing evidence that certain property is separate, rather than community property. This is done by tracing and clearly identifying property as separate property at the moment when the property was first acquired. Documentation that clearly proves that the property is separate is always necessary if the parties do not agree on whether an asset is separate or community. Consequently, testimony that property is separate likely will be insufficient to prove the separate nature of an asset without other documentary support.

Separate Property

Property acquired before a marriage and property acquired during marriage through gift or inheritance, or with funds that were themselves separate property, is considered separate property.

A recovery for personal injury by a spouse for a loss sustained during the marriage is also separate property. However, recovery for loss of earning capacity is not separate property.

Spouses may enter into a signed written agreement known as a Premarital or Marital Property Agreement, which documents separate property rights or can convert community property into separate property.

Claims for Reimbursement

When the spouses contribute community property funds or pay debt towards one spouse’s separate property, or if a spouse’s separate property contributes funds or pays debt that is community or the other spouse’s separate debt, a claim for reimbursement can be made.

Example: a spouse purchased a home before marriage, but then paid down the mortgage on the home during the marriage or if one spouse used inherited funds to pay toward a community credit card.

There are certain types of payments or debts that are not subject to a claim for reimbursement. A party cannot seek reimbursement for payment of student loans, payments of nominal value, living expenses of

a child or a spouse or payments for child support or spousal maintenance. The laws on reimbursement claims can be complicated depending on the situation, so it is advisable to consult an attorney if this issue arises.

Premarital and Marital Property Agreements

At any point before or during the marriage, spouses may enter into a signed written agreement regarding whether certain assets or debts are to be community or separate and how property would be divided in the event of a divorce. An agreement that is entered into before the marriage is called a “Prenuptial” or “Premarital” Agreement. A Premarital agreement takes effect on the date the parties are married and is usually designed to limit the accumulation of community assets and debts.

An agreement entered during the marriage is a Marital Property Agreement, also known as a “Partition” or “Postnuptial” Agreement.

An agreement entered after marriage is often very similar to a Premarital Agreement. However, the parties to a Marital Property Agreement often agree to convert community property into the separate property of the parties, thereby “partitioning” the community property between the spouses. It is important to disclose the existence of a property agreement to the court so that the Judge can divide the property based upon the agreement of the parties.

Division of Community Property

Community property and community debt are supposed to be divided in a manner that the court “deems just and right, having due regard for the rights of each party and any children of the marriage.” This does not mean that community property or debt must necessarily be equally divided, and it often will not be. The Judge dividing community property and debt may consider many factors, such as the size of both spouse’s separate estates and any fault that caused the divorce.

Community property cannot always be easily divided. For example, the situation where two people own a home and want to get a divorce. The easiest solution would be for the Judge to order the parties to sell the house and divide the proceeds. However, there are children involved. The Judge will often order that the spouse with whom the children will live be permitted to remain in the house with the children. They will continue to live in the home to not disturb or upset their lives. However, this does not necessarily mean that the other spouse loses community interest in the house. The Judge may order that the house be sold, and the proceeds divided after the youngest of the children reaches the age 18. Another remedy may be to award full ownership of the house to the spouse with whom the children will be living with but give the other spouse the full interest in some other community property, such as a ranch, vacation home, savings account, or a retirement account to offset equity in the home awarded to the other spouse.

Many factors go into a Judge’s decision regarding the division of community property in a contested divorce matter. Sometimes the parties may agree to almost any type of division that they deem to be fair. If an agreement is made, it is important that the agreement divide all the marital property to the risk of having it to return to court to request the Judge divide an asset or debt that was not addressed in the original divorce proceeding.

Spousal Maintenance

Spousal Maintenance is a payment ordered to be made from future income of one spouse for the support of the other spouse. Texas does not recognize the common term of “alimony”, but maintenance is essentially the same term. Spouses can agree to spousal maintenance.

A Judge can order spousal maintenance only if the spouse seeking maintenance will lack sufficient property, including the spouse’s separate property, on divorce to provide for that spouse’s minimum reasonable needs and: (1) the paying party has been convicted of or received deferred adjudication for an act constituting family violence within the two years prior to filing, or during the divorce; (2) the parties have been married for at least 10 years and the receiving spouse lacks the ability to earn sufficient income to provide for that spouse’s minimum reasonable needs; (3) the spouse is unable to earn sufficient income to provide for that spouse’s minimum reasonable needs because of an incapacitating physical or mental disability; or (4) due to the spouse caring for a disabled child, the spouse cannot earn sufficient income to provide for that spouse’s minimum reasonable needs.

The court is also limited on the amount of support it can order and the duration of the support. The Judge must only order what is necessary to meet the minimum reasonable needs of the receiving spouse and the Judge cannot order more than \$5,000 per month or 20% of the paying spouse’s gross monthly income, whichever is less.

Spousal maintenance awards are also limited to a period of time based upon the length of the marriage unless the receiving spouse cannot provide for his or her own support due to an incapacitating mental or physical disability or because that spouse is providing care for a child with mental or physical disabilities. Chapter 8 of the Texas Family Code specifically delineates the parameters for the court to order spousal maintenance as a result of a divorce. If spousal maintenance is court ordered, it is often as enforceable as child support and failure to pay it may result in fines or even jail time. Spousal maintenance can also have income tax implications and it is important to consult a CPA to determine if the payments are deductible or should be declared as income.

CHANGE IN NAME

There are two types of name change. 1.) Changing your name as an adult, and 2.) changing the name of the child.

If you continue to pursue as a Pro Se/ Self-Representative for a change in name, do not contact the court or court staff for legal advice. Remember that you are responsible for obtaining and filing the necessary documents and move your case forward.

NAME CHANGE FOR ADULTS

Changing your name does not take away any legal rights, responsibilities, or debts you had under your original name. It does not grant any new rights. It will not allow you to escape civil or criminal responsibility. It will not help you escape your creditors; you will still be held responsible for any debts you have under your original name.

Under Texas Family Code for adult name change,

Sec. 45.101. WHO MAY FILE; VENUE. An adult may file a petition requesting a change of name in the county of the adult's place of residence.

Amended by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 45.102. REQUIREMENTS OF PETITION.

(a) A petition to change the name of an adult must be verified and include:

- (1) the present name and place of residence of the petitioner;
- (2) the full name requested for the petitioner;
- (3) the reason the change in name is requested;
- (4) whether the petitioner has been the subject of a final felony conviction;
- (5) whether the petitioner is subject to the registration requirements of Chapter 62,

Code of Criminal Procedure; and

(6) a legible and complete set of the petitioner's fingerprints on a fingerprint card format acceptable to the Department of Public Safety and the Federal Bureau of Investigation.

(b) The petition must include each of the following or a reasonable explanation why the required information is not included:

- (1) the petitioner's:
 - (A) full name;
 - (B) sex;
 - (C) race;

- (D) date of birth;
 - (E) driver's license number for any driver's license issued in the 10 years preceding the date of the petition;
 - (F) social security number; and
 - (G) assigned FBI number, state identification number, if known, or any other reference number in a criminal history record system that identifies the petitioner;
- (2) any offense above the grade of Class C misdemeanor for which the petitioner has been charged; and
- (3) the case number and the court if a warrant was issued or a charging instrument was filed or presented for an offense listed in Subsection (b)(2).

(c) A petitioner is not required to provide the street address of the petitioner's place of residence or the petitioner's reason for the requested change of name as otherwise required by Subsection (a) if the petitioner provides a copy of an authorization card certifying in accordance with Article 58.059, Code of Criminal Procedure, that the petitioner is a participant in the address confidentiality program administered by the attorney general under Subchapter B, Chapter 58, Code of Criminal Procedure.

Amended by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995; Acts 2003, 78th Leg., ch. 1003, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1300, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 6.001, eff. September 1, 2005.

Acts 2021, 87th Leg., R.S., Ch. 339 (H.B. 2301), Sec. 1, eff. September 1, 2021.

1. For a change in name through a divorce usually relates to the female spouse that took the husband's last name and is changing it back to their maiden name. She must petition to the court in the Final Decree of Divorce to make the request the change of name back to their maiden name. The Judge will review the request and may follow up with questions before a final decision.
2. For a general change in name, you will go to the District Clerk's Office to request and file an application for a name change. Follow the instructions given by the District Clerk. Keep in mind that a fee will be charge from the District Clerk's Office.

Under the Texas Family Code, Section 45.102, you will be **required** to complete a background check by submitting fingerprints to the Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI). Fingerprints must be done by a certified service provider approved by DPS and FBI. The fingerprint application will provide the approved service provider from DPS and the FBI and how much you will need to pay for the service. File the fingerprints with the District Clerk's Office as well. DPS will send the response to the court.

Notify the court about scheduling a hearing once all documents have been filed. The court will schedule a hearing where the Judge will review the application for a name change. The Judge will ask to follow up questions before a final decision is made.

NAME CHANGE FOR CHILDREN

A child's name is not an automatic change when a parent changes their legal name. If a parent gets married or divorced and want to change their children's name, they may have to apply for a court order.

Under Texas Family Code for a name change of a child,

Sec. 45.001. WHO MAY FILE; VENUE. A parent, managing conservator, or guardian of a child may file a petition requesting a change of name of the child in the county where the child resides.

Amended by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 45.002. REQUIREMENTS OF PETITION. (a) A petition to change the name of a child must be verified and include:

- (1) the present name and place of residence of the child;
- (2) the reason a change of name is requested;
- (3) the full name requested for the child;
- (4) whether the child is subject to the continuing exclusive jurisdiction of a court under

Chapter 155; and

(5) whether the child is subject to the registration requirements of Chapter 62, Code of Criminal Procedure.

(b) If the child is 10 years of age or older, the child's written consent to the change of name must be attached to the petition.

Amended by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995; Acts 1999, 76th Leg., ch. 1390, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1300, Sec. 5, eff. Sept. 1, 2003.

Sec. 45.003. CITATION. (a) The following persons are entitled to citation in a suit under this subchapter:

- (1) a parent of the child whose parental rights have not been terminated;
- (2) any managing conservator of the child; and
- (3) any guardian of the child.

(b) Citation must be issued and served in the same manner as under Chapter 102.

Amended by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 45.0031. WAIVER OF CITATION. (a) A party to a suit under this subchapter may waive the issuance or service of citation after the suit is filed by filing with the clerk of the court in which the suit is filed the waiver of the party acknowledging receipt of a copy of the filed petition.

(b) The party executing the waiver may not sign the waiver using a digitized signature.

(c) The waiver must contain the mailing address of the party executing the waiver.

(d) Notwithstanding Section 132.001, Civil Practice and Remedies Code, the waiver must be sworn before a notary public who is not an attorney in the suit. This subsection does not apply if the party executing the waiver is incarcerated.

(e) The Texas Rules of Civil Procedure do not apply to a waiver executed under this section.

(f) For purposes of this section, "digitized signature" has the meaning assigned by Section 101.0096.

Added by Acts 2015, 84th Leg., R.S., Ch. 198 (S.B. 814), Sec. 3, eff. September 1, 2015.

Sec. 45.004. ORDER. (a) The court may order the name of a child changed if:

(1) the change is in the best interest of the child; and

(2) for a child subject to the registration requirements of Chapter 62, Code of Criminal

Procedure:

(A) the change is in the interest of the public; and

(B) the person petitioning on behalf of the child provides the court with proof that the child has notified the appropriate local law enforcement authority of the proposed name change.

(b) If the child is subject to the continuing jurisdiction of a court under Chapter 155, the court shall send a copy of the order to the central record file as provided in Chapter 108.

(c) In this section, "local law enforcement authority" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

Amended by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995; Acts 2003, 78th Leg., ch. 1300, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.05, eff. September 1, 2005.

Sec. 45.005. LIABILITIES AND RIGHTS UNAFFECTED. A change of name does not:

(1) release a child from any liability incurred in the child's previous name; or

(2) defeat any right the child had in the child's previous name.

Amended by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

The parent will file a petition with the court to request the change of the name of the child. This includes submitting an application through the District Clerk's Office.

The consent of the child for a name change will be required if they are of the age of 10 years or older. The consent form must be signed by the child. No consent is needed if they are under the age of 10 years old.

A court hearing will be conducted where the Judge will review and decide whether to approve the name change on the child.

CLOSING

The 388th District Court designed this handbook for the benefit of litigant representatives that cannot afford legal representation or opted for self-representation.

The aforementioned is an overview tool to assist and does not pretend to substitute legal advice or representation. This handbook is for informational purposes only.

By representing yourself, you are acting as your own attorney. You must do the research to your case and move it forward to the final result.

As previously stated within this handbook, the Court and Court Staff **ARE NOT ALLOWED** to give legal advice.

ONLY licensed attorneys can provide legal advice.

APPENDIX

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

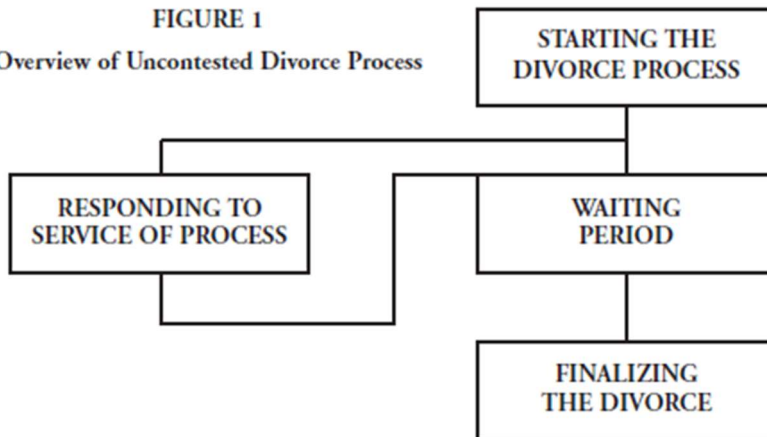


FIGURE 2

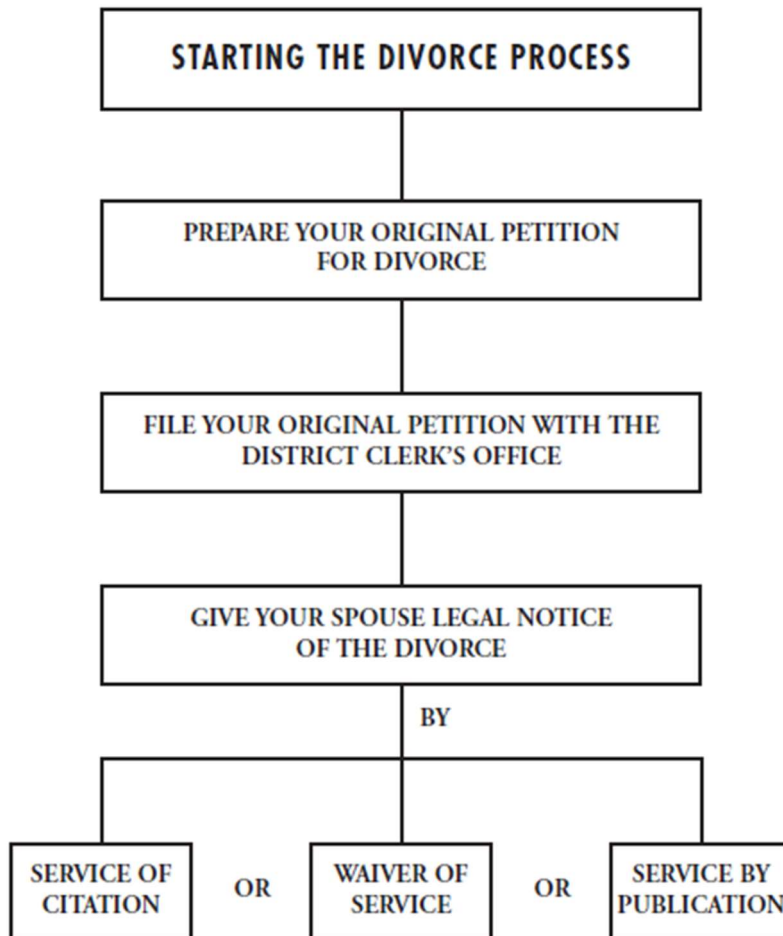


FIGURE 3

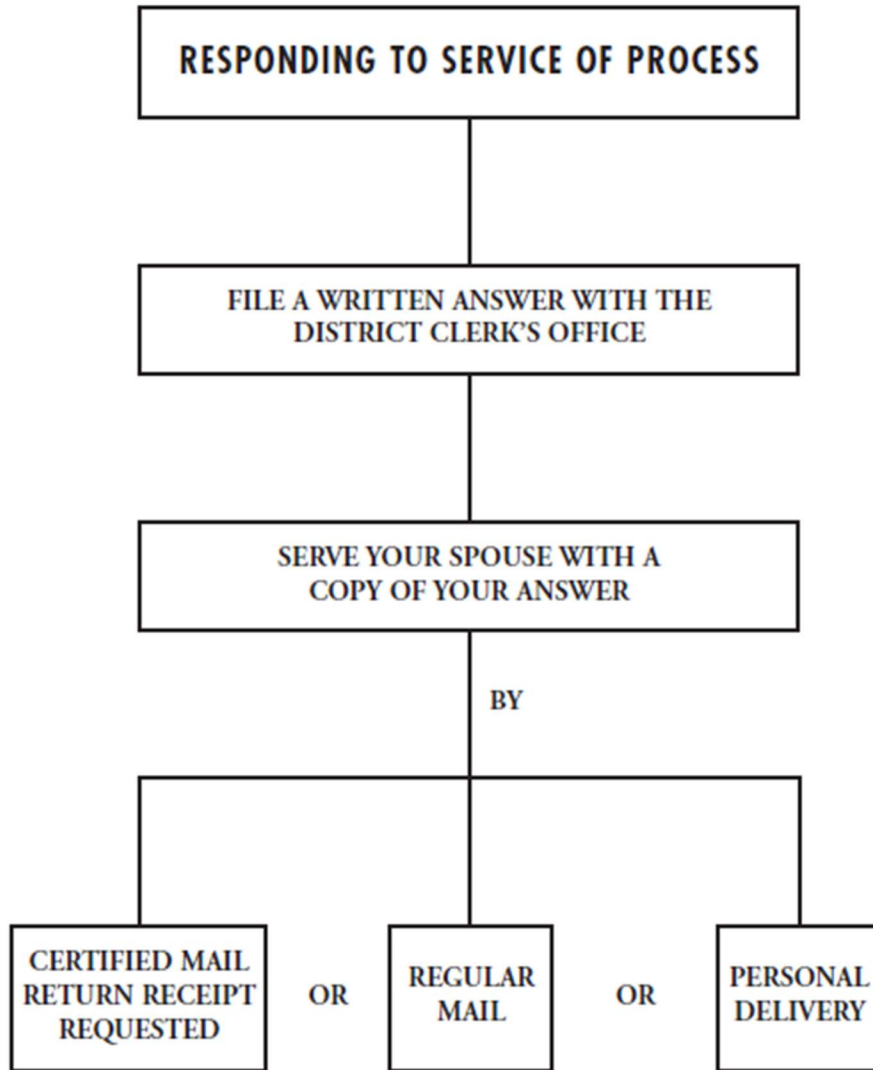
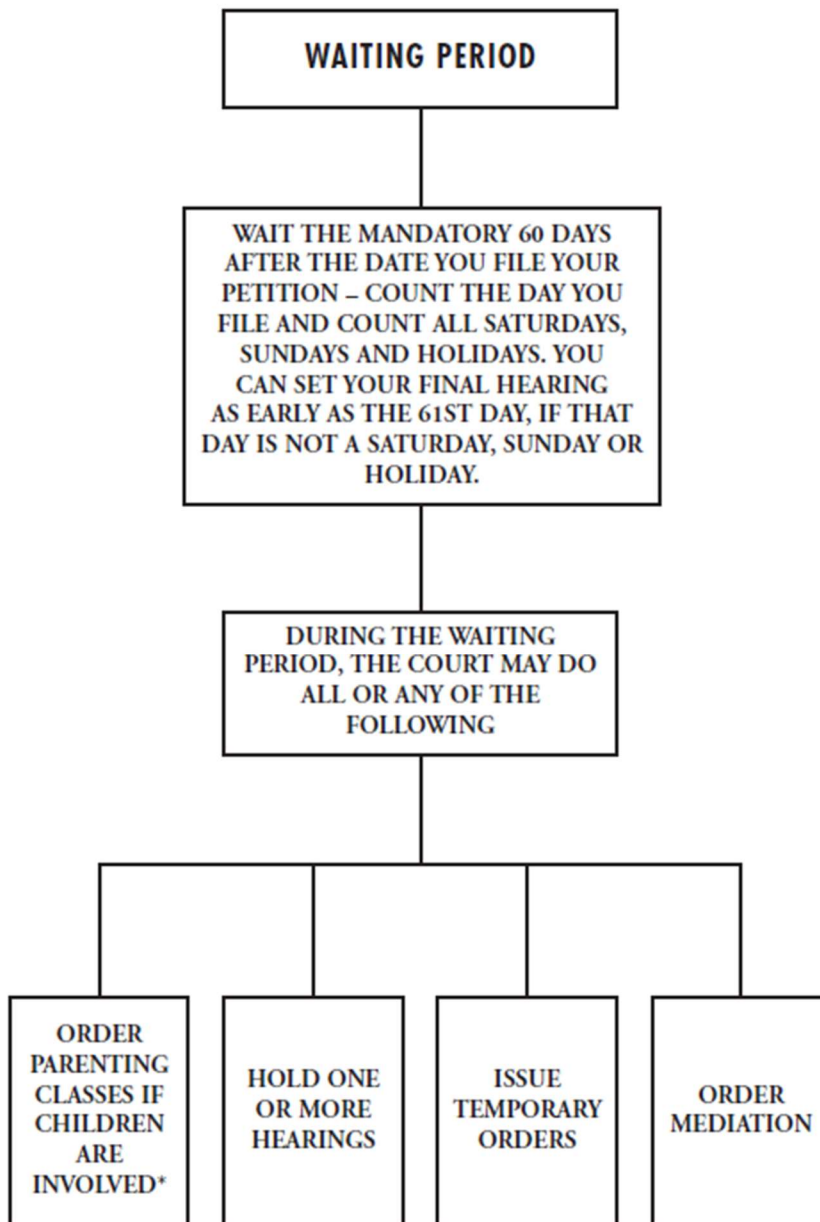
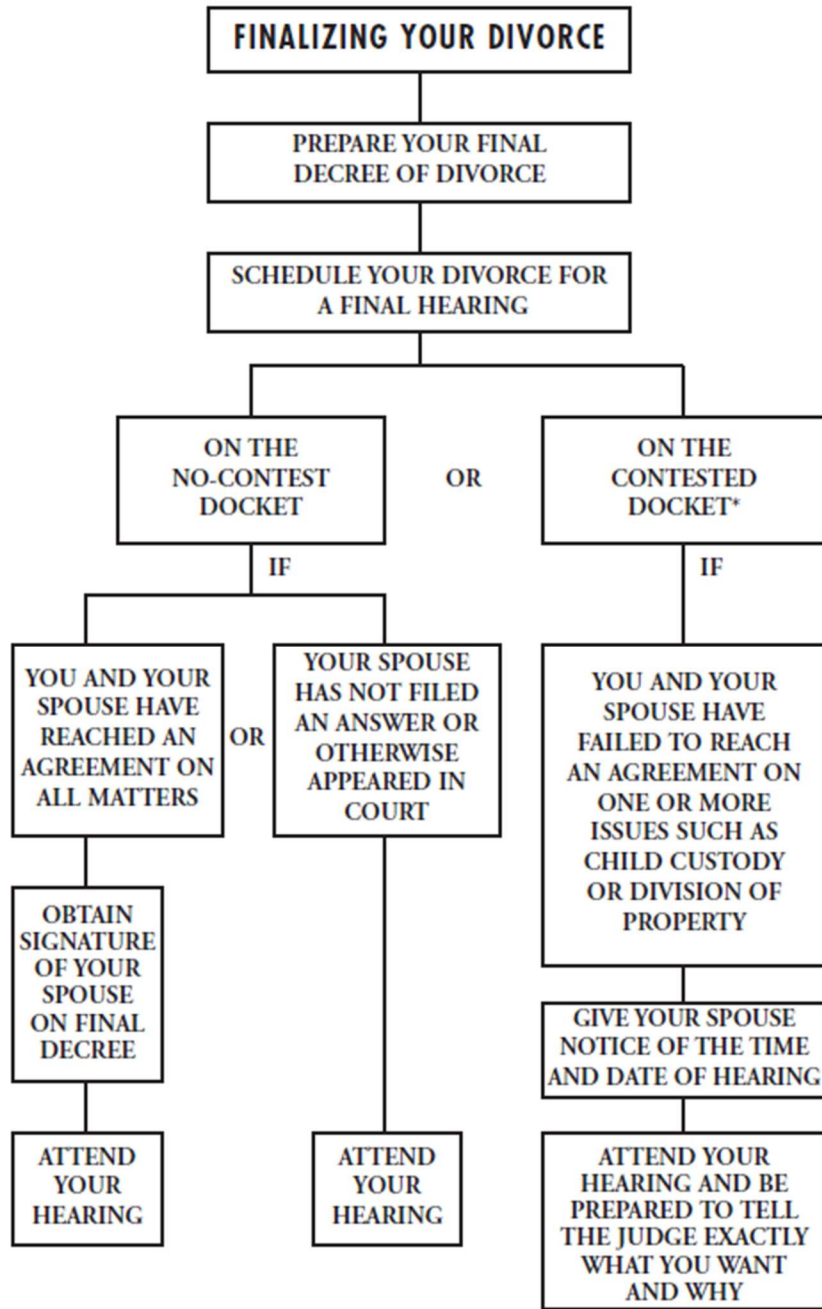


FIGURE 4



****WE RECOMMEND THAT YOU SEEK THE ADVICE OF A LAWYER IF DISPUTES REGARDING CHILD CUSTODY ARE INVOLVED.***

FIGURE 5



WE RECOMMEND THAT YOU SEEK THE ADVICE OF A LAWYER FOR CONTESTED ISSUES.

*SAMPLE PROVE UP QUESTIONS FOR
UNCONTESTED DIVORCE WITHOUT CHILDREN*

1. You Honor, my name is _____. I am the Petitioner in the suit for divorce.
2. I am presently married to _____.
3. At the time I filed for divorce, I was a domiciliary of Texas for the preceding six-month period and a resident of this county for the preceding 90-day period.
4. My spouse and I stopped living together as husband and wife on or about _____. We were married on *(DATE OF MARRIAGE)* .
5. My marriage to my spouse has become insupportable because of a discord or conflict of personalities that destroys the legitimate ends of the marriage relationship.
6. There is no children born or adopted during this marriage.
7. There were no children born or adopted during this marriage.
8. We are not expecting any children at this time, or not expecting a child from this marriage.
9. I am requesting the following division of property and debts: (briefly tell the judge how the property and debts will be divided)
10. I believe this is a fair and equitable division of the community property and debts.
11. I am requesting my name be changed from _____ to my maiden name: _____.
12. I am not requesting a name changed to avoid creditors or to avoid criminal prosecution.
13. This is a copy of the Final Decree of Divorce, which bears my signature (and my spouse's signature).
14. I respectfully ask the court to grant me a divorce and approve all provisions in the proposed Final Decree of Divorce.

*SAMPLE PROVE UP QUESTIONS FOR
UNCONTESTED DIVORCE WITH CHILDREN*

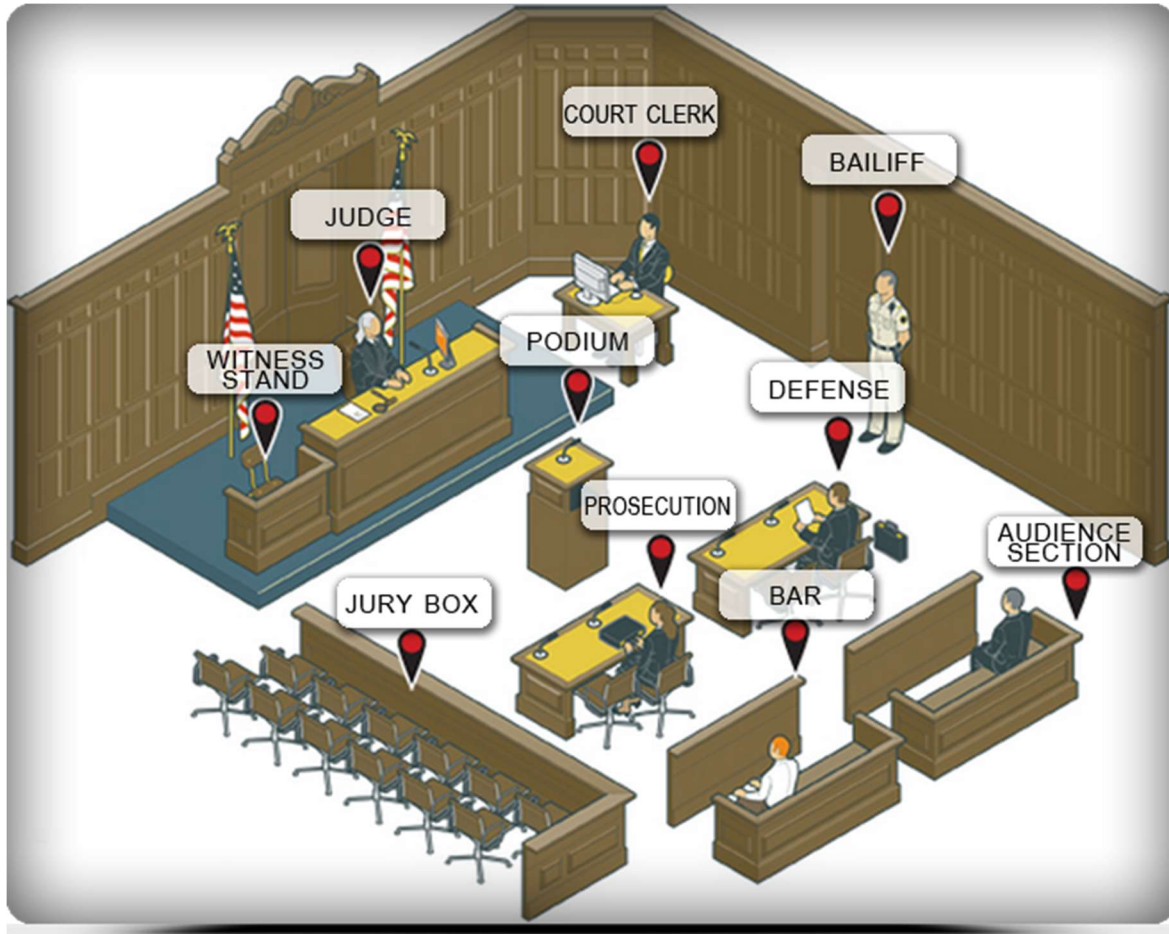
1. Your Honor, my name is _____. I am the Petitioner in this suit for divorce.
2. I am presently married to _____.
3. At the time I filed for divorce, I was a domiciliary of Texas for the preceding six-month period and a resident of this country for the preceding 90-day period.
4. My spouse and I stopped living together as husband and wife on or about _____. We were married on *(DATE OF MARRIAGE)* .
5. My marriage to my spouse has become insupportable because of a discord or conflict of personalities that destroys the legitimate ends of the marriage relationship.
6. There is no reasonable expectation of reconciliation.
7. There were *(Number)* of children born to or adopted by my spouse and I.
8. We are not expecting any children at this time, or she is not pregnant or expecting a child from this marriage.
9. I am requesting the following rulings regarding the children: (briefly tell the judge the terms regarding custody, visitation and child support).
10. I believe these rulings would be in the best interest of my children.
11. I am further requesting the following division of property and debts: (briefly tell the judge how the property and debts will be divided).
12. I believe this is a fair and equitable division of the community property and debts.
13. I am requesting my name be changed from _____ to my maiden name: _____.
14. I am not requesting a name change to avoid creditors or to avoid criminal prosecution.
15. This is a copy of the Final Decree of Divorce, which bears my signature (and my spouse's signature).
16. I respectfully ask the court to grant me a divorce and approve all provisions in the proposed Final Decree of Divorce.

HELPFUL TIPS:

1. Always write down the date and name of the person you talk with at the courthouse and the information given to you.
2. Mail important documents by certified mail and ask for a return receipt so you will have proof that you mailed the document and it was received.
3. Keep all documents related to the divorce in one place such as an envelope, folder, or binder.
4. When filing documents with the court, always include the full court docket number, court number and case name on the document.
5. Always keep a copy of every document for yourself. Do not give away your only copy.
6. When you get your copy of the Final Decree of Divorce conformed by the court administrator or clerk, ask for at least one certified copy of the order. In some counties you can obtain a free certified copy of your divorce decree on the day your divorce is proved up. After that date, you will usually be charged a fee for this copy. A certified copy is normally required to prove that your copy is an authentic copy of the order and will be required by many entities when transferring accounts from one party to the other or when changing your name on certain accounts like your social security account.

Sample Courtroom Diagram.

*Not all courtrooms will appear the same.



GLOSSARY

ABUSE

An act of causing someone distress or harm. It can be intentional or unintentional. It can take many forms such as physical, psychological, emotional, or misuse of something.

ADOPTION

The action or fact of legally taking another's child and bringing it up one's own.

AFFIDAVIT OF INABILITY TO PAY COURT COSTS

A stated document required to be completed and filed with the District Clerk's Office that the person cannot afford paying the fees to the case charged by the court. The statement is required to be notarized.

ANSWER

The first formal written statement from the Respondent or Defendant to the initial petition/complaint from the Petitioner or Plaintiff.

ATTORNEY

A person admitted to practice law in at least one jurisdiction and authorized to perform criminal and civil legal functions on behalf of the client. Their functions include providing legal counsel, drafting legal documents, and representing clients before courts, administrative agencies, and other tribunals. They are also known as lawyers.

BATTER

Also known as Battery. When a person intentionally causes harmful or offensive contact with another person.

CASE

A dispute between opposing parties that may be resolved by a court or a similar legal process.

CAUSE NUMBER

The number assigned to any case that is opened in a particular court.

CHILD SUPPORT

Payments made to one parent by the other parent for the financial benefit of the children. This is often written into the Decree of Divorce, or child custody and visitation order.

CITATION

A legal document that notifies a person that the spouse has filed for divorce and requires the other spouse to respond or appear in court.

COMMUNITY PROPERTY

An asset(s) that were acquired during marriage by either spouse. Community property can be property, income, and debt.

CONTEMPT

Any disobedience or disregard to a court order or misconduct in the presence of a court.

COUNTERPETITION

A response from the Petitioner that was created to respond from the Respondent's answer to the original petition filed.

COURT ADMINISTRATOR / COORDINATOR

An officer of the judicial system who performs administrative duties essential to the proper operation of the business of the court.

DIVORCE

A legal termination of a marriage by a court in a legal proceeding.

EMOTIONAL EVENT

An event cause from emotional distress due to the actions or negligence of another party.

EMPLOYER'S ORDER TO WITHHOLD

A court order that requires an employer to withhold a specific amount from the paycheck of one of their employees.

EVIDENCE

An item or information proffered to make the existence of a fact more or less probable. Evidence can take the form of testimony, documents, photographs, videos, voice recordings, DNA testing, or tangible objects.

EX PARTE

Improper communication with a party or judge without the other party not being present.

FAMILY VIOLENCE

Any act or threatened act of violence from one family member that results in physical injury to another family member.

FINAL DECREE OF DIVORCE

A court's formal order granting the termination of a marriage.

INTERPRETER

A professional who translates one language to another in a legal setting. The professional may be translating to another person that is not proficient to the primary language used in the court setting.

MEDIATION

An alternative method to settle a dispute through a neutral third party. It is a structured process that allows people to negotiate the issues with a hands-on approach.

MEDIATOR

A neutral person who attempts to make conflicting parties come to an agreement.

PARENTING COORDINATOR

A person who helps parents communicate, defuse tension, and make day to day child rearing decisions.

PARTY

A person or entity that takes part in a legal transaction.

PETITION OF DIVORCE

The first document filed for divorce proceeding. It is submitted by the first person that wants to file for a divorce.

PETITION TO MODIFY

A modification. The act of changing, altering, or amending something that is already established.

PETITIONER

Person or party who presents a formal, written application to a court, officer, or legislative body that requests action on a certain matter.

PLEADING

A formal, written document asking the court to grant relief, or decide a dispute.

PLENARY

The complete or absolute authority granted to a governing body over a specific area without limitations on a specific issue.

PRENUPTIAL AGREEMENT (PREMARITAL AGREEMENT)

A contract entered prior to marriage setting the terms for separation. It establishes property and financial rights of each spouse should the marriage end in divorce.

PRIVATE PROCESS SERVER

A person who delivers legal documents to the defendant or person involved in a court case.

PRO SE

Latin for "in one's own behalf." In legal proceedings, it is a person acting on their own behalf during a legal action instead of having a licensed attorney.

RESPONDENT

The person or party against whom a petition is filed.

SANCTION

A punishment or penalty that is imposed by a legal system as a response to a crime or other unlawful behavior.

SEPARATE PROPERTY

Property that is owned by one spouse and not the other.

SPOUSAL MAINTENANCE

Also known as alimony or spousal support. Financial or monetary assistance provided by one spouse to another after the marriage ends in a divorce.

STANDARD POSSESSION ORDER (SPO)

A visitation schedule that lays out a parent's rights of possession and access to their child. This is imposed by the court when parents cannot reach custody and visitation agreements on their own.

SUPERVISED VISITATION

A situation where a parent is allowed to spend with their child only when someone supervises their interactions. This occurs when one parent believes the other parent presents a risk of harm to the child and can request supervised visitation.

WAIVER OF CITATION

A legal document that allows a person to waive their right to be personally served with a legal notice. Example of a legal notice is a summons or subpoena.

WAIVER OF SERVICE

The defendant/ respondent agrees to save the plaintiff/ petitioner the time and expense for paying a court official or any legal party to serve a complaint.

WITNESS

A person who has knowledge relevant to the case presented.

AVAILABLE RESOURCES

DIRECTORY AND CONTACT INFORMATION

EL PASO COUNTY COURT DIRECTORY/ CONTACT INFORMATION

<https://www.epcounty.com/directory.htm>

EL PASO COUNTY GOVERNMENT

EL PASO COUNTY COURTHOUSE

500 E. SAN ANTONIO

EL PASO, TX 79901

(915) 546-2000

www.epcounty.com

EL PASO COUNTY DISTRICT CLERK OFFICE

500 E. SAN ANTONIO

SUITE 103

EL PASO, TX 79901

(915) 546-2021

districtclerk@epcounty.com

www.epcounty.com/districtclerk/

EL PASO DOMESTIC RELATIONS OFFICE (DRO)

500 E. SAN ANTONIO

SUITE LL - 108

EL PASO, TX 79901

(915) 834-8200

domesticrelations@epcounty.com

www.epcounty.com/dro/

EL PASO COUNTY ATTORNEY – PROTECTIVE ORDERS

(915) 273-3238

CAProtectiveOrders.gem@epcounty.com

<https://www.epcounty.com/ca/protectiveorders>

GUIDANCE

TEXAS ONLINE E-FILE

www.efiletexas.gov

TEXAS E-FILE SELF HELP

<https://selfhelp.efiletexas.gov/srl>

TEXAS JUDICIAL BRANCH

<https://www.txcourts.gov/>

TEXAS COURT HELP

<https://texascourthelp.gov/>

TEXAS LAW HELP

<https://texaslawhelp.org/>

LEGAL AID AND LOW-COST ASSISTANCE

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

EL PASO BAR ASSOCIATION

<https://elpasobar.com/>

EL PASO COUNTY LAW LIBRARY

500 E. SAN ANTONIO

SUITE 1202

EL PASO, TX 79901

Hours: 8:00 a.m. to 5:00 p.m.

(915) 546-2245

Eplawlibrary@epcounty.com

TEXAS RIO GRANDE LEGAL AID – EL PASO

1331 TEXAS AVENUE

EL PASO, TX 79901

(915) 585-5100

www.trla.org

TEXAS STATE LAW LIBRARY
TOM C. CLARK BUILDING
RM G01
AUSTIN, TX 78701
www.sll.texas.gov

FORT BLISS – FAMILY ADVOCACY PROGRAM
ARMY COMMUNITY SERVICE
2494 RICKER ROAD
FORT BLISS, TX 79916
Hours: 7:30 a.m. to 4:30 p.m.
(915) 568-9129
www.bliss.armymwr.com/programs/acs/family-advocacy

OFFICE OF THE ATTORNEY GENERAL OF TEXAS
(512)-463-2100
www.texasattorneygeneral.gov

LAMDBA LEGAL
Provides referrals, information and accepts a limited number of cases for direct representation.
www.lambdalegal.org

TEXAS LEGAL SERVICES CENTER
LEGAL HELPLINE
1-800-622-2520
www.tlsc.org/help

TEXAS CIVIL RIGHTS PROJECT
(512) 474-5073
www.txcivilrights.org

TEXAS FREE LEGAL ANSWERS – PRO BONO
<https://texas.freelegalanswers.org/>

THE ARC OF TEXAS
DISABILITY LAW
8001 CENTRE PARK DR
AUSTIN, TX 78754
(512) 454-6694
info@thearcoftexas.org
www.thearcoftexas.org

DISABILITY RIGHTS TEXAS
INTAKE- 1-800-252-9108
EL PASO AREA- (915) 542-0585
<https://disabilityrightstx.org/en/home/>

TEXAS ADVOCACY PROJECT
FAMILY VIOLENCE LEGAL HOTLINE
Hours: Monday to Friday, 8:00 a.m. to 4:00 p.m.
1-800-374-4673
www.texasadvocacyproject.org

NATIONAL DOMESTIC VIOLENCE HOTLINE
1-800-799-7233
1-800-787-3224 (TTY)
www.thehotline.org

CENTER AGAINST SEXUAL AND FAMILY VIOLENCE
(915) 593-7300
<https://casfv.org/>

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES
www.dfps.texas.gov
Texas Abuse Hotline
1-800-252-5400
www.txabusehotline.org

EL PASO CHILD GUIDANCE CENTER
2211 E. MISSOURI, STE 310
EL PASO, TX 79903
(915) 562-1999
www.epcgc.org

FAMILY SERVICE OF EL PASO
6040 SURETY DR.
EL PASO, TX 79905
(915) 781-9900
www.familyserviceofelpaso.org

VETERAN'S JUSTICE OUTREACH
(915) 471-0704
EMAIL: ELPVeteransJusticeOutreachTeam@va.gov

RIO GRANDE DISPUTE RESOLUTION CENTER (DRC)
8037 LOCKHEED, STE 100
EL PASO, TX 79925
(915) 533-0998
www.riocog.org

YWCA SUPERVISED VISITATION AND SAFE EXCHANGE PROGRAM
2044 TRAWOOD DR
EL PASO, TX 79935
(915) 590-9622

YWCA – EL PASO DEL NORTE REGION
1600 BROWN ST.
BUILDING B
EL PASO, TX 79902
(915) 533-2311
info@ywcaelpaso.org

PROJECT AMISTAD
3210 DYER ST.
EL PASO, TX 79930
(915) 532-3790

CHILD CRISIS CENTER OF EL PASO
2100 N. STEVENS ST.
EL PASO, TX 79930
(915) 562-7955

CO-PARENTING CLASSES
Approved by the 388th District Court

EL PASO COUNTY DOMESTIC RELATIONS OFFICE (DRO)
ONLINE TRAINING (ENGLISH and SPANISH)
(915) 834-8200
www.epcounty.com/dro/familycourt.htm

KIDS FIRST
ONLINE CO-PARENTING
(361) 799-9490
www.kidsfirsttoday.com

PUTTING KIDS FIRST
ONLINE
www.puttingkidsfirst.org

TEXAS COOPERATIVE PARENTING COURSE FOR DIVORCE
www.txparent.com

PARENT CLASS ONLINE
www.parentclassonline.com

CO-PARENTING INTO THE FUTURE
www.coparentingintothefuture.com

PARENTING CHOICE
www.parentingchoice.com

FAMILY AFFAIRS: EDUCATION FOR FAMILIES IN TRANSITION
(361) 248-8190
www.familyaffairs.org

ADDITIONAL INFORMATION

<https://odysseyguideandfile.zendesk.com/hc/en-us/articles/360051796812-Texas-Information-for-filers-without-lawyers>

<https://texas.tylertech.cloud/srl>