

Resources for Divorce

Legal Services for Students

If you are currently married and seeking a divorce, the following information will help you start the process of filing for divorce in the state of Texas.

WHO, WHERE, WHEN & WHY

Who May File for Divorce in Texas?

- Those currently in a heterosexual marriage who meet the residency requirement. You or your spouse has lived in Texas for at least the last 6 months.

Where to File?

- The county in Texas where you or your spouse has lived for at least the last 90 days.

When to File?

- Anytime that you are ready to file for divorce. The filing process takes at least 60-90 days, depending on the circumstances.

Why File?

- There are 7 grounds for divorce in Texas: insupportability; cruelty; adultery; conviction of a felony; abandonment (for at least 1 year); living apart (for at least 3 years); confinement in a mental hospital. *Only the first ground (insupportable marriage) does not assign fault to either spouse for the break-up of the marriage, while the other 6 grounds do require one spouse to blame the other for the divorce.

HOW TO FILE

Once you have confirmed that you meet the residency requirements and have designated 1 of the grounds for divorce, i.e. insupportable marriage, follow these steps to file for divorce:

1. Draft Divorce Papers

- Draft your divorce papers (the applicable divorce form and a petition for divorce). An Original Petition for Divorce and the divorce form options are available at www.TexasLawHelp.org. You may need to visit an attorney to determine which divorce form you should file.

2. File Divorce Papers

- File your divorce papers in court and pay the filing fees. You can file your completed Original Petition for Divorce and divorce forms in person, by searching online for the address of the clerk's office in your county, or file electronically by visiting www.efiletexas.gov. In Travis County, the cost of filing for divorce is approximately \$295.00. Filing fees vary from county to county but this cost is typical throughout Texas.

3. Send Legal Notice

- Send a copy of the Petition to your spouse. When you file your Petition, inform the clerk that you want to use Official Service of Process.

4. Receive Response

- There is a 60-day waiting period after you file for divorce during which your spouse has an opportunity to file an answer. You can call the clerk to learn if your spouse has filed an answer. If your spouse agrees to the divorce and signs the papers you filed, or if 61 days have passed since you filed and your spouse does not respond, you can proceed with your divorce once the waiting period ends.

Steps continue on opposite side.



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Steps continued from opposite side.

5. Final Decree

- Fill out the Final Decree of Divorce, and fill out any other applicable forms, i.e. the Income Withholding for Support Order form (if child support will be ordered). If possible, have a lawyer review your completed forms.

6. Schedule Court Date

- Call the county clerk to learn when the court hears uncontested divorce cases. Show up at the time indicated and bring all of your completed forms to court to finish your divorce.

If you need affordable legal assistance in obtaining a divorce, contact:
The Lawyer Referral Service of Central Texas, MATCH Program: 512-472-8303.

Is It Okay to File for Divorce Pro Se? Filing for divorce *pro se* means that you follow the steps above and appear in court without an attorney's help. You should only file *pro se* if you do not have any children with your spouse and you do not own a house with your spouse. Otherwise it is best to get the advice of an attorney.

Considerations: Seeking legal advice is especially important if circumstances exist in your marriage that may complicate the divorce process. If any of the following may be an issue in your marriage, you should speak with an attorney before filing for divorce:

- **Joint debt** – credit card accounts, car loans, student loans, etc. that are in both spouses' names
- **Home mortgage**
- **Children** – child custody; child support
- **Bankruptcy**

DIVORCE OF SAME-SEX MARRIAGES

Texas does not recognize same-sex marriages performed out of state. There is disagreement as to whether Texas may grant a same-sex divorce: a Dallas court has ruled "no," while a Travis County Judge has granted such a divorce.

RESIDENCY REQUIREMENTS FOR MILITARY FAMILIES

If you are serving in the armed forces outside of Texas or you have accompanied your spouse who is serving in the armed forces outside of Texas, you can file for divorce in Texas if Texas has been the home state of either you or your spouse for at least 6 months and the county where you plan to file the divorce has been the home county of either you or your spouse for at least 90 days. Time spent away while serving in the armed forces counts as time spent in Texas and your home county.

OTHER RESIDENCY REQUIREMENTS

If your spouse lives outside of Texas or your spouse's whereabouts are unknown, as long as you meet the residency requirements for divorce, you can get divorced in Texas even if your spouse lives in another state.

If your children don't live in Texas or haven't lived in Texas for very long, a Texas court cannot make initial custody and visitation orders about a child unless:

- the child has lived in Texas for at least the last 6 months (or since birth), **OR**
- Texas was the child's home state and the child has been gone for less than 6 months.



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