

These instructions are adapted from [Instructions & Forms for an Agreed Divorce with Children](#), found at www.Texaslawhelp.org, for use in an Agreed Divorce with Children, where the parties do not appear in Court in person. They are not a substitute for legal advice, and are not suitable for circumstances.

These instructions explain the basic steps in an **agreed** divorce with children. **Each step includes a link to the form or forms needed for that step.** Click on the step to expand it with more information.

Use these instructions if:

- you and your spouse agree about all the issues (including child custody and child support) and will both sign the necessary court forms; **and**
- there are **no court orders** for custody and support of your children already in place (other than a family violence protective order).
 - If there is already a final court order for custody and support of your children (not including a family violence protective order), use this toolkit instead: **I need a divorce. We have minor children. A final custody and support order is already in place.**
 - If there is a family violence protective order, use **Ask a Question** to chat with a lawyer or law student about your options. If you were the victim of family violence, you may qualify for free legal help.

Have you read the Frequently Asked Questions and related articles?

These instructions are part of this TexasLawHelp.org toolkit: **I need a divorce. We have minor children.** Before getting started, it's important to read the **Frequently Asked Questions** and **Articles** included in the Toolkit.

WARNING! These instructions provide general information and are not a substitute for the advice and help of a lawyer.

To print out both instructions and forms, **click here.**

Step 1: Determine where to file your divorce.



It's important to file for divorce in the correct county. If you file in the wrong county, your case will be dismissed.

You can file for divorce in the county where you live or in the county where your spouse lives as long as you or your spouse meets these **residency requirements**:

- You can file for divorce in the county where you live as long as:
 - you have lived in that county for at least the last 90 days, **and**
 - you have lived in Texas for at least the last 6 months.
- Or, you can file for divorce in the county where your spouse lives as long as:
 - your spouse has lived in that county for at least the last 90 days, **and**
 - your spouse has lived in Texas for at least the last 6 months.

If neither you nor your spouse meet the residency requirements, talk with a lawyer.

Read the **Frequently Asked Questions, FAQs: Filing a Divorce with Children**, for additional information.

Step 2: Fill out the starting forms.

Fill out this **starting form**:

- **Original Petition for Divorce (Set B)** (called the Petition for short)

You will file (turn in) the Petition at the courthouse to start your divorce case. The Petition tells the judge and your spouse that you want a divorce and states what you want the judge to order in the Final Decree of Divorce. The **Frequently Asked Questions** and related **Articles** included with these instructions will help you understand your options.

When you fill out the Petition:

- Print your answers neatly in blue or black ink. Do not leave blanks.
- You are the “petitioner” and your spouse is the “respondent.”
- Talk to a lawyer if you have questions or need help.

Note: The Petition asks for your address. Your spouse will get a copy of the Petition. If you are concerned about your spouse knowing your address, call the Family Violence Legal Line at (800) 374-4673 for free advice.



Fill out these additional **starting forms** if required for your case:

- **Civil Case Information Sheet**

- (NOTE: the Texas Supreme Court has repealed the rule requiring the civil case information sheet, so you may not need this form. If you are filing paper documents in person at the clerk's office, you should complete it and bring it anyway, however).

- **Exhibit: Out-of-State Party Declaration** (required **only** if you or your spouse lives outside of Texas)

- **Statement of Inability to Afford Payment of Court Costs** (use **only** if you cannot afford to pay the filing fee for your case) You can call the clerk's office to learn the filing fee for your case. Learn more here: **Court Fees and Fee Waivers**.

Make two copies of these completed starting forms:

- Original Petition for Divorce
- Exhibit: Out-of-State Party Declaration (**only** if you or your spouse lives outside of Texas)
- Statement of Inability to Afford Payment of Court Courts (**only** if you are asking the court to waive court costs)

Step 3: File (turn in) your starting forms.

File (turn-in) your completed Petition and other starting forms with the court.

- To file your forms online, go to **E-File Texas** and follow the instructions.

You are strongly encouraged to use E-File Texas.

- To file your divorce forms in person, take your Original Petition for Divorce and additional starting forms (and copies) to the district clerk's office in the county you have determined is the correct county to file your divorce.

At the clerk's office:

- Turn in your Petition and other starting forms (and copies).



- Pay the filing fee (or file your completed Statement of Inability to Afford Payment of Court Costs if you cannot afford the fee). You can call the clerk's office ahead of time to learn the filing fee for your case.
- Ask the clerk if there is a local standing order that you need to follow or attach to any of your documents.

There is. Attachment for Atascosa County.

Attachment for Frio, Karnes, La Salle and Wilson.

- Ask the clerk if there are local rules or procedures you need to know about for your divorce.
- The clerk will write your "Cause Number" and "Court Number" at the top of the first page of your Petition. (Write these numbers at the top of any document you file in your divorce case.)
- The clerk will file stamp your copies with the date and time. The clerk will keep the original and give you back your copies. One copy for you and one copy is for your spouse.

Step 4: Notify the Office of the Attorney General (if applicable).

Has your child ever received TANF or Medicaid?

- If NO, skip this step.
- If YES, you must send a file-stamped copy of your Petition to the Office of the Attorney General (OAG) Child Support Division (and be able to prove that you did so).
 - **Send your Petition by Email** - You can scan a file-stamped copy of your Petition and email it. Find the email address for the OAG child support office in the county where your case is filed here: **Email Addresses for Child Support Offices**. Write the cause number and the county where you filed your case in the subject line of the email. Print a copy of your email. This is your proof. Bring it with you when you go to court to finish your case.
 - **Send your Petition by Certified Mail Return Receipt Requested** - Or, you can mail a copy of your Petition by certified mail return receipt requested. The post office has the forms for certified mail return receipt requested. Find the mailing address for the OAG child support office in the county where your case is filed here: **Mailing Addresses for Child Support Offices**. The post office will give you a receipt when you mail the Petition. The OAG will sign the return receipt (often called the "green card") and mail it back to you. This is your proof. Bring the

receipt and the return receipt (green card) with you when you go to court to finish your case.

Step 5: Ask your spouse to sign the Answer or Waiver of Service form.

Give your spouse:

- a **file-stamped** copy of your Original Petition for Divorce, **and**
- a **blank Waiver of Service Only (Set B)** form - **OR** - a **blank Respondent's Original Answer (Set B)** form.

WARNING! Do not hand-deliver any papers to your spouse if there has been violence during your relationship, especially if a judge has signed a Protective Order ordering you or your spouse to stay away from the other. You can have your spouse served instead. If you decide to have your spouse served, use these instructions instead: **Instructions & Forms for a Default Divorce with Children.**

Ask your spouse to:

- **fill out and sign** the Waiver of Service Only form - **OR** - the Respondent's Original Answer form.

Your spouse can fill out and sign **either** form.

The Waiver of Service Only form **must be signed in front of a notary**. If your spouse plans to sign the Waiver of Service Only form, tell your spouse to sign it in front of a notary at least one day **after** you filed the Petition. Otherwise your spouse will have to redo it.

The Respondent's Original Answer form does not have to be signed in front of a notary.

- **return** the signed form to you or turn it in at the clerk's office.

The Respondent is Strongly encouraged to use E-File Texas.

If your spouse returns the signed form to you, make a copy and file the original at the clerk's office. You can file it now or when you go to court to finish your case.

TIP: If your divorce is agreed, your spouse must also sign a **completed** Final Decree of Divorce form and a **completed Waiver of Personal**



Appearance and Consent to Uncontested Trial by Affidavit

form. (copy at end of this document) It may save you time to fill out the Final Decree of Divorce and **Waiver of Personal Appearance and Consent to Uncontested Trial by Affidavit** (copy at end of this document) forms now and send them to your spouse with the Waiver of Service or Answer form. Read **Step 6** for information about filling out the Final Decree of Divorce form.

Step 6: Fill out the Final Decree of Divorce and other ending forms.
Fill out this **ending form**:

- **Final Decree of Divorce (Set B)** (for divorces filed *after* September 1, 2018)
 - You will have to attach the Possession Order form. They can be found here: **Child Visitation and Possession Orders**.

You will ask the judge to sign the Final Decree of Divorce form when it's time to finish your divorce. When signed by the judge, the Final Decree of Divorce ends your marriage and makes orders about your children, property and debt. It may include other orders depending on your case.

The Final Decree of Divorce form must be completely filled out (except for the judge's signature) **before** you go to court. You and your spouse may want to fill out the Final Decree of Divorce form together.

When you fill out the Final Decree of Divorce:

- Print your answers neatly in blue or black ink. Do not leave blanks.
- You are the "petitioner" and your spouse is the "respondent."

Talk to a lawyer if you have questions or need help.

Print out and complete a **Standard Possession Order form**.

- If the standard possession schedule works for your family, fill it out and attach it to the Final Decree of Divorce. If it does not work for your family or would not be safe for your children, you can hire a lawyer to write a possession order that meets the specific needs of your family. Or, you may be able to use one of the sample possession orders included with this article: **Child Visitation and Possession Orders**.

- A Possession Order form will NOT automatically print with the Final Decree of Divorce form. Sample Possession Order forms can be found here: **Child**



Visitation and Possession Orders. You will have to attach a Possession Order form to your Final Divorce of Decree.

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Fill out these additional **ending forms** if required for your case:

- **Income Withholding Order for Support** (if child support will be ordered)

Note about retirement benefits: If you are dividing retirement benefits (other than an IRA), you must also complete a form called a Qualified Domestic Relations Order (QDRO). **TexasLawHelp.org does not provide QDRO forms.** You may contact the employer or retirement plan administrator to see if they have a sample QDRO form. If not, you should hire a lawyer to draft the QDRO form. If you use the employer or plan administrator’s form, you should still have a lawyer review it to make sure you are not giving up important benefits. You should have the QDRO prepared before you go to court, so the judge can sign it when you finish your divorce. Learn more here: **Dividing Retirement Benefits Upon Divorce.**

Also complete the **Information on Suit Affecting the Family Relationship** form (also known as the "Austin" or **“BVS”** form), which must be printed on one page (front and back).

Step 7: Have the Final Decree of Divorce form reviewed (if possible).

Some counties require this document to be reviewed by an attorney, while others do not. You should speak with the district clerk's office in your county regarding local requirements. Even if it's not required, it's a good idea to have a family law lawyer review your completed *Final Decree of Divorce* form. Family law lawyers specialize in cases involving families, such as divorce cases.

You can hire a family law lawyer **just** to review your forms. This is called limited scope representation. You may also be able to talk with a lawyer for free at a legal clinic. If you need help finding a lawyer, you can:

- Use our **Legal Help Finder** to search for a lawyer referral service, legal aid office or self-help center in your area.
- Check our **Legal Clinic Calendar** for free legal clinics in your area.
- Use **Ask a Question** to chat online with a lawyer or law student.

Step 8: Ask your spouse to sign the Final Decree of Divorce form.

Ask your spouse to:

- **review and sign** your completed Final Decree of Divorce form;
- **return** the signed Final Decree of Divorce form to you.
- **review and sign your completed Waiver of Personal Appearance and Consent to Uncontested Trial by Affidavit form** (copy at end of this document);
- **return** the signed Final Decree of Divorce form to you.

Note: Make sure the Final Decree of Divorce form (including the attached possession order) is completely filled out **before** your spouse signs it. You **CANNOT** make changes to the Final Decree of Divorce once it has been signed by your spouse, unless your spouse initials each change.

Keep the signed Final Decree of Divorce form until it is time to finish your case.

Step 9: Wait the 60-day waiting period.

In almost all cases, you must wait at least 60 days before you can finish your divorce.

When counting the 60 days, find the day you filed your Original Petition for Divorce on a calendar, and then count out 60 more days (including weekends and holidays). If the 60th day falls on a weekend or holiday, go to the next business day. **Note:** When counting the 60 day waiting period, don't count the day you filed your Original Petition for Divorce. Day 1 is the next day.

There are **only** two exceptions to the 60-day waiting period.

1. If your spouse has been convicted of or received deferred adjudication for a crime involving family violence against you or a member of your household, the 60-day waiting period is waived.
2. If you have an active protective order or an active magistrate's order for emergency protection against your spouse because of family violence during your marriage, the 60-day waiting period is waived.

Note: You can always wait longer than 60 days, but your divorce cannot be finished in fewer than 60 days unless one of these exceptions applies.



Step 10: Get ready for court.

If you sent a copy of your Petition to the Office of the Attorney General (OAG), ask the clerk if the OAG filed anything in your case.

- If no, you can finish your divorce without further notice to the OAG.
- If yes, talk to a lawyer about what to do next. You can use **Ask a Question** to chat with a lawyer online.

You must fill out, and sign in front of a notary public, the Affidavit for Prove-Up of Agreed Divorce With Children.

This form must be sworn in front of a notary. Everything in the affidavit must be true and correct. You can be charged with a crime for lying to the court. See **Texas Penal Code 37**.

Step 11: File the papers with the court clerk to finish your divorce.

STOP

If you have not checked as completed the task for EVERY check box above, or, understanding what the task is, concluded that the task does not apply to your case, you are not ready. Do not send the papers listed below to the Clerk 1 or 2 at a time. Wait until you have completed, and signed, every paper.

Mail, or E-File, these papers to the District Clerk:

- Waiver of Service or Answer form filled out and signed by your spouse;

- **completed Waiver of Personal Appearance and Consent to Uncontested Trial by Affidavit form** (copy at end of this form);

- Final Decree of Divorce form completely filled out and **signed by both you and your spouse** (make sure a completed possession order is attached);

- Income Withholding Order for Support if child support will be ordered;

- **Signed and notarized Affidavit for Prove-Up of Agreed Divorce with children;**

- Any additional documents needed for your specific case, such as a Qualified Domestic Relations Order (QDRO) **signed by both you and your spouse** if you are dividing a retirement account; and

- The completed Information on Suit Affecting the Family Relationship form (also known as the "Austin" or **“BVS”** form), printed on one sheet of paper (front and back).

The judge will review your papers. If everything is in order the judge will sign your Final Decree of Divorce.

Step 12: Final Decree of Divorce.

After the judge signs your *Final Decree of Divorce*, contact the clerk’s office.

- Get a certified copy of your *Final Decree of Divorce* and any other orders signed by the judge from the clerk while you are there. The clerk may charge a fee for the certified copies.

- If your name was changed, get at least 3 certified copies of your *Final Decree of Divorce* to take to the agencies listed in **Step 13**. The clerk may charge a fee for the certified copies.



- If child support was ordered, ask the clerk how to set up a child support account.

Step 13: After your divorce is finished.

Send a file-stamped copy of your *Final Decree of Divorce* and any other orders signed by the judge to your spouse.

Follow these additional steps if they apply:

- If you were ordered to pay child support and/or cash medical support, get additional information from the [Texas Attorney General Website](#) or by calling 1-(800) 252-8014.
- If your ex-spouse was ordered to pay child support and/or medical support and doesn't pay, contact the [Texas Attorney General Child Support Division](#) for help enforcing your order.
- If your name was changed, take a certified copy of your *Final Decree of Divorce* to the following agencies:
 - Your local Social Security Administration (SSA) office to change your social security card.
 - Your local Department of Public Safety (DPS) office to change your driver's license or state identification card.
 - Your County Voter Registrar to change your voter registration card. (For more information, contact the [Texas Secretary of State](#).)
 - Contact the [U.S. State Department](#) to change your name on your passport.
- Transfer car titles. If a vehicle (not already in your name alone) is awarded to you, give a certified copy of the *Final Decree of Divorce* to your county tax office and apply for title. **The vehicle identification number (VIN) must be listed in your Final Decree of Divorce.**
- File deeds to transfer title to real property (house or land) at the property records office in the county where the property is located.
- If the judge signed a QDRO dividing a retirement account, send a certified copy of the QDRO to the administrator of the retirement plan by certified mail return receipt requested. **If this isn't done, you won't get your share of the retirement funds.**



- Revise your will, insurance policies and all financial account beneficiary designations as needed.



CAUSE NO. _____

IN THE MATTER OF THE MARRIAGE OF §

Petitioner, and §

Respondent §
(AND IN THE INTEREST OF) §

(CHILDREN) §

IN THE 81st 218th DISTRICT COURT,
or ATASCOSA COUNTY COURT AT LAW,

ATASCOSA, FRIO, KARNES, LA SALLE
or WILSON COUNTY, TEXAS

**WAIVER OF PERSONAL APPEARANCE AND
CONSENT TO UNCONTESTED TRIAL BY AFFIDAVIT**

I waive my right to personally appear in court, and consent to trial by affidavit of my uncontested divorce, and, if applicable, suit affecting parent child relationship. I may withdraw this consent only by filing, before the case is ruled on by the judge, a notice of withdrawal of consent with the District Clerk, and sending a copy to my spouse, or spouse’s attorney, if any.

I UNDERSTAND THAT TEXAS LAW ASSUMES THAT ALL PROPERTY BELONGING TO A MARRIED PERSON IS COMMUNITY PROPERTY. I UNDERSTAND THAT THE DIVORCE DECREE MUST SHOW WHO WILL KEEP EVERY VALUABLE BELONGING TO EITHER OF US, REGARDLESS OF WHEN IT WAS ACQUIRED, WHOSE NAME IS ON THE TITLE, OR ANY AGREEMENT, OR LACK OF DISPUTE, BETWEEN US.

Petitioner
Date: _____

Respondent
Date: _____

Approval of Counsel, if any.

Petitioner’s Counsel
SBN: _____

Date: _____

Respondent’s Counsel
SBN: _____

Date: _____