

These instructions are adapted from [Instructions & Forms for an Agreed Divorce without Children](#), found at www.Texaslawhelp.org, for use in an Agreed Divorce without 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.

Instructions & Forms for an Agreed Divorce without Children

These instructions explain the basic steps in an **agreed** divorce without 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 do not have any minor children together, - and -
- you and your spouse agree about all the issues and will both sign the necessary court forms.

Have you read the Frequently Asked Questions and related Articles?

These instructions are part of this TexasLawHelp.org Toolkit: **I need a divorce. We do not 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, not legal advice. It's a good idea to talk with a lawyer about your particular situation.

You can print these instructions to use as a checklist.

To print out both instructions and forms, [click here](#) (for opposite-sex couples) or [here](#) (for same-sex couples).

[Hide Checklist](#)

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 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 without Children**, for more information.

Step 2: Fill out the starting forms.

Fill out an Original Petition for Divorce form (called the Petition for short)

- Use this version if you have an opposite-sex marriage: **Original Petition for Divorce (Set A)**
- Use this version if you have a same-sex marriage: **Original Petition for Divorce (Set D)**

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.).
- Information on Suit Affecting the Family Relationship** (required for all cases)
- Statement of Inability to Afford Payment of Court Costs** (use **only** if you cannot afford to pay the filing fee for your case) 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:

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D

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D

- Original Petition for Divorce

D

- Statement of Inability to Afford Payment of Court Costs (**only** if you are asking the court to waive court costs)

D

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

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

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

D

You are strongly encouraged to use E-File Texas.

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

D

D

D

There is. Attachment for Atascosa County.

D

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 is for you and one copy is for your spouse.

Step 4: Ask your spouse to sign an 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 A or D)*** form OR a **blank *Respondent's Original Answer (Set A or D)*** 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: **Instructions & Forms for a Default Divorce without Children**. Ask your spouse to:
- **fill out and sign** the *Waiver of Service Only (Set A or D)* form **OR** the *Respondent's Original Answer (Set A or D)* 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.

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* form and ***Waiver of Personal Appearance and Consent to Uncontested Trial by Affidavit form***. (copy at end of this document) now and send it to your spouse with the *Waiver of Service* or *Answer* form. Read **Step 5** for information about filling out the *Decree*.

Step 5: Fill out the Final Decree of Divorce form.

Fill out the Final Decree of Divorce form.

- Use this form if you have an opposite-sex marriage: **Final Decree of Divorce (Set A)**
- Use this form if you have a same-sex marriage: **Final Decree of Divorce (Set D)**
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 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 using 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.

If you or your spouse wants a name change (back to a name used before the marriage, also fill out this form:

- **Order Restoring Name Used Before Marriage**

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.**

Step 6: Have your 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 talk to the district clerk's office or court coordinator in your county about 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 7: 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, **and**
- **review and sign** your completed **Waiver of Personal Appearance and Consent to Uncontested Trial by Affidavit form**, (copy at end of this document) **and**
- **return** the signed *Final Decree of Divorce* and **Waiver of Personal Appearance and Consent to Uncontested Trial by Affidavit** forms to you.

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

- sign the *Final Decree of Divorce* form and **Waiver of Personal Appearance and Consent to Uncontested Trial by Affidavit**, **and**
- keep the signed *Final Decree of Divorce* form until it is time to finish your case. **Note:** If your spouse filed an answer or waiver of service only but will not sign the *Final Decree of Divorce* form, your divorce is contested. To finish a contested divorce, you must set a contested final hearing. You must give your spouse at least 45 days’ notice of the final hearing. Read this article to learn more: **How to Set a Contested Final Hearing (Family Law)**. It’s always best to have a lawyer if your case is contested.

Step 8: Wait the 60-day waiting period.

In almost all cases, you must wait at least 60 days before you can finish your divorce in court. You can always wait longer than 60 days, but your divorce cannot be finished in fewer than 60 days.

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.

- 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.



- 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.

Step 9: Get ready for court.

Read the article **Tips for the Courtroom** for more information about going to court. Print and complete the **Information on Suit Affecting the Family**

Relationship form (also known as the "Austin" or “BVS” form) on one sheet of paper, printed on the front and back of the page.

You must fill out, and sign in front of a notary public, the *Affidavit for Prove-Up of Agreed Divorce Without Children.*

Step 10: File the papers with the District 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 and your spouse have completed, and signed, every paper.

Mail, or send by [E-File Texas](#), these papers to the District Clerk to finish your case:

- Waiver of Service or Answer form filled out and signed by your spouse; **and**
- Final Decree of Divorce form completely filled out and **signed by both you and your spouse; and**



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



- 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.



- **Signed and notarized Affidavit for Prove-Up of Agreed Divorce without children**;



- 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 11: File the signed 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.



Step 12: 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 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.



<ul style="list-style-type: none"> ○ Your local Department of Public Safety (DPS) office to change your driver's license or state identification card. 	D
<ul style="list-style-type: none"> ○ Your County Voter Registrar to change your voter registration card. (For more information, contact the Texas Secretary of State.) 	D
<ul style="list-style-type: none"> ○ Contact the U.S. State Department to change your name on your passport. 	D
<ul style="list-style-type: none"> • Transfer car titles. If a vehicle (not already in your name alone) was awarded to you, give a certified copy of the <i>Final Decree of Divorce</i> to your county tax office and apply for title. <i>The vehicle identification number (VIN) must be listed in your Final Decree of Divorce.</i> 	D
<ul style="list-style-type: none"> • File deeds to transfer title to real property (house or land) at the real property records office in the county where the property is located. 	D
<ul style="list-style-type: none"> • 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. 	D
<ul style="list-style-type: none"> • Revise your will, insurance policies and all financial account beneficiary designations as needed. 	D

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: _____

Respondent’s Counsel
SBN: _____

Date: _____

Date: _____