

Service by Publication (for a case other than divorce involving a child)

Use these instructions & forms if:

- you are filing a case (other than divorce) involving a child and you cannot find the other parent

This packet includes:

1. Instructions for Service by Publication
2. Affidavit for Citation by Publication
3. Motion for Citation by Publication
4. Order on Motion for Citation by Publication
5. Military Status Affidavit
6. Certificate of Last Known Mailing Address
7. Statement of the Evidence

Note: You may not need all of the forms listed or you may need additional forms. Get more information at www.TexasLawHelp.org. Talk to a lawyer if you have questions.

Service by Publication (when you can't find the other parent)

I'm filing a court case involving a child. Do I have to notify the other parent?

Yes. The law says anyone who files a case involving a child (such as a divorce with children, a paternity case, a suit affecting the parent-child relationship (SAPCR), or a name change of a child) must serve each parent.

What if I can't find the other parent?

If you cannot find the other parent, you may be able to serve by having the notice published in a newspaper and the public information web site required by Texas Government Code 72.034.

To serve by publication, you must take a number of steps. These steps will delay your case—but they are required.

How hard do I have to look for the other parent?

Before serving by publication, the law says you must make a **diligent search** for the other parent. This means you must look really hard for the other parent—even if the other parent has not been involved in your child's life.

Use the steps set out in the **Affidavit for Citation by Publication (in a Divorce with Children)** form or the **Affidavit for Citation by Publication (Other)** as a guide when looking for the other parent. You should also use common sense. A diligent search must include the steps someone who really wants to find the other parent would take.

What are the risks of serving by publication?

When you serve by publication, the other parent may not actually find out about your case. Because of this, the law says the other parent has 2 years to ask for a new trial.

In addition, if the other parent can show that you did not look hard enough before serving by publication, he or she may be able to get a new trial no matter how much time has passed.

If you have questions, it's important to talk with a lawyer **before** serving by publication.

Do I have to hire an attorney to look for the other parent?

Yes. When serving by publication, the law says you must hire an attorney to look for the other parent. This attorney is called an **attorney ad litem**.

The attorney ad litem makes an independent search for the other parent. This protects the other parent's right to be notified about the case. You are responsible for locating, hiring, and paying for the attorney ad litem.

To learn more, read **Attorneys Ad Litem and Amicus Attorneys in Family Law Cases**.

How do I serve by publication?

To serve by publication if you are not asking the court for a divorce, fill out the following forms:

- **Affidavit for Citation by Publication (Other)**;

This form tells the judge that even though you made a diligent search, you could not find the other side. Fill it out completely and sign it in front of a notary.

- **Motion for Citation by Publication (Other)**; and

This form tells the judge you want to serve by publication. Fill it out completely and sign it.

- **Order on Motion for Citation by Publication (Other)**.

In some counties, you may need a court order before the clerk will issue citation by publication. If needed, use the Order on Citation by Publication (Other) to ask for a court order. You will ask the judge to sign this form to order you to serve by publication. Fill it out completely except for the judge's signature.

Take the completed Affidavit for Citation by Publication and Motion for Citation by Publication forms and at least one copy of each to the clerk's office where you filed the Petition in your case. The clerk will keep the original, stamp your copies, and give the copies back to you. This can be filed electronically as well.

Note: If your county requires a court order before the clerk will issue the citation, ask the clerk when you can give your proposed Order on Motion for Citation by Publication (called Order for short) to the judge. You may be able to see the judge that day. Or, you may have to come back another day. Read the article **Tips for the Courtroom** for information about going to court. After the judge has signed your Order, turn in the signed Order at the clerk's office. Get a file-stamped copy of the Order for your records.

Tell the clerk you need to serve by publication. Ask the clerk, constable, or sheriff to

- send the citation to a newspaper in the county where you filed your case, and
- issue citation to the **state's public information web site**.

The clerk, constable, or sheriff will then fill out a Return of Citation (this says when the notice was published). Make sure the Return of Citation is filed in the clerk's office.

If you're filing a divorce, the citation should also be published in the county where any land or house owned by you and your spouse is located. Pay the newspaper. (Research the cost ahead of time.).

You can serve the other party by publication on the public information site only—and not in the newspaper—if you have filed a **statement of inability to pay costs**; if serving by newspaper would cost \$200 or more per week; or if the jurisdiction where you are serving the other party does not have a newspaper. (See Texas Civil Practice and Remedies Code 17.032).

Read Texas Rules of Civil Procedure 114 through 117 for the rules that control service by publication.

How do I finish my case?

Hire the attorney ad litem to look for the other parent. If the attorney cannot find the other parent, set a date to meet the attorney at court to finish your case. Fill out these forms and bring them with you to court:

- **Military Status Declaration** (If your case is filed in Harris County, fill out a **Military Status Affidavit** instead. Sign it in front of a notary.)
- **Certificate of Last Known Mailing Address**
- **Statement of the Evidence (in a Divorce with Children)** or **Statement of the Evidence (Other)**
- Order or orders you want the court to sign

Note: If you or the attorney ad litem find the other parent, you cannot serve the other parent by publication. See **How to Serve the Initial Divorce Papers** or **How to Serve the Initial Court Papers (Family Law)**.

Cause Number: _____

In the interest of (List children):

1. _____
2. _____
3. _____
4. _____
5. _____

In the _____
Court Number

☐ District Court ☐ County Court of:

_____ County, Texas

Affidavit for Citation by Publication

THE STATE OF TEXAS

COUNTY OF _____

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

"My name is: _____
First Middle Last

"I am above the age of eighteen (18) years, and I am fully competent to make this affidavit.

"The facts stated in this affidavit are within my personal knowledge and are true and correct.

"I am the Petitioner in this case.

"The Respondent is: _____
First Middle Last

"I cannot find the Respondent.

"I do not know where the Respondent lives or works.

"I do not have a current phone number, email address or other way to contact the Respondent.

"I do not know of any location where the Respondent could be served.

"I understand that I must look really hard for the Respondent before having the Respondent served by publication.

"In order to fulfill my obligation to exercise due diligence in my search for the Respondent, I did the following:

(Check only the boxes that apply.)

- a. ☐ "I wrote to Respondent's friends and family and asked about where Respondent is.

Person Contacted

Relationship

Results

<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

- b. ☐ "I tried to have the Respondent served in person or by certified mail at the Respondent's last known address or addresses.

Address

Results

<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

- c. ☐ "I tried to find a forwarding address for the Respondent. I mailed a letter to the Respondent at the Respondent's last known address or addresses with the words "Address Correction Requested" printed on the front of the envelope. I included my return address so the Post Office could send me the Respondent's forwarding address.

Address

Results

<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

- d. ☐ "I wrote Respondent's current and previous employers and asked where Respondent is.

Employers Contacted

Results

- e. ☐ "I checked telephone directories or called telephone information in the city or cities where I think the Respondent might live.

City Directories Checked

Results

- f. ☐ "I checked online social networks (example: Facebook).

Social Network Sites Checked

Results

- g. ☐ "I conducted people-finder research on the internet.

Websites Researched

Results

- h. ☐ "I searched property tax listings in the following counties.

Counties Searched

Results

- i. ☐ "I checked to see if the Respondent was registered to vote in the following counties.

Counties Searched

Results

_____	_____
_____	_____
_____	_____

- j. ☐ "I checked to see if the Respondent was incarcerated by contacting the Texas Department of Criminal Justice at www.tdcj.state.tx.us or 800-535-0283 and the following city, county, state, or federal prisons and jails.

Jails/Prisons Contacted

Results

<i>TX Department of Criminal Justice</i>	_____
_____	_____
_____	_____
_____	_____

- k. ☐ "I submitted a record request for the Respondent on the Department of Defense website <https://scra.dmdc.osd.mil/scra> with the following results:

- l. ☐ "I believe the Respondent may be in the military. So I contacted the following military locator services:

Military Locator Service Contacted

Results

Air Force: 210-565-2660	_____
Navy: 866-827-5672	_____
Marines: 800-268-3710	_____

- m. ☐ "I have also done the following to look for the Respondent:

"I cannot find the Respondent.

"I do not know of any other way I can learn the whereabouts of the Respondent.

"The last time I saw or heard from the Respondent was on or about: _____.
(date)

"The last time I saw or heard from the Respondent, they were in: _____.
(city, state, country)

"The Respondent was originally from: _____.
(city, state, country)

"I understand that I must continue to look for the Respondent during this case.

I understand that if I find the Respondent during this case, service by publication will not be sufficient and I must have the Respondent served in person or by certified or registered mail return receipt requested or other method of service ordered by the court.

"This affidavit is made to authorize the clerk of the above named court to issue citation for the Respondent by publication in accordance with the Texas Rules of Civil Procedure."

Your Signature (Do not sign until you are in front of a notary.)

State of Texas

County of _____

SIGNED under oath before me on _____, 20____, by

PRINT the first and last names of the person who signed this affidavit.

Notary Public, State of Texas

(Notary's seal must be included.)

Cause Number: _____

In the interest of (List children):

1. _____

In the _____
Court Number

2. _____

☐ District Court

3. _____

☐ County Court of:

4. _____

_____ County, Texas

5. _____

Motion for Citation by Publication

My name is: _____
First Middle Last

I am the **Petitioner** in this case.

This case involves the following children:

	Child's name	Sex	Date of Birth	Current Address
1.	_____			
2.	_____			
3.	_____			
4.	_____			
5.	_____			

I am the children's: ☐ Mother ☐ Father ☐ Other: _____

The **Respondent** is: _____
First Middle Last

The Respondent is the children's: ☐ Mother ☐ Father ☐ other: _____

As shown in my attached Affidavit for Citation by Publication, I have made a diligent attempt to locate the Respondent but have been unable to do so.

I ask the Court to order that the Respondent be served with citation by publication as governed by:

- Texas Civil Practice and Remedies Code 17.032,
- Texas Rules of Civil Procedure Rules 109 and 244,
- Texas Government Code 72.034, and
- Texas Family Code 102.010.

I ask the Court to grant this Motion for Citation by Publication.

Respectfully submitted,

Your signature.

(PRINT your name and information.):

Name: _____ Telephone: _____

Mailing Address: _____

Email: _____

Fax (if available): _____

Cause Number: _____
(Fill in the same Cause Number as your SAPCR, modification, or enforcement case.)

In the Interest of the following Minor Children:

(Print the full name of each child.)

1. _____
2. _____
3. _____
4. _____
5. _____

In the (Check one.)

☐ _____ District Court

☐ County Court at Law No. _____

_____ County, Texas

Order on Motion for Citation by Publication

On this date the Court considered the Motion for Citation by Publication filed by the Petitioner and ORDERS that the Respondent, _____,
PRINT the Respondent's full name.

be served with citation by publication, as authorized by:

- Texas Civil Practice and Remedies Code 17.032,
- Texas Rules of Civil Procedure Rules 109 and 244,
- Texas Government Code 72.034, and
- Texas Family Code 102.010.

SIGNED on _____.

JUDGE PRESIDING

Case No: _____
(Print court information exactly as it appears on your Petition)

_____ In the (check one):
☐ District ☐ County ☐ Justice Court of:
_____ County, Texas

Military Status Affidavit

THE STATE OF TEXAS

COUNTY OF _____

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

"My name is: _____
First Middle Last

"I am above the age of 18 years.

"I am fully competent to make this affidavit.

"The facts stated in this affidavit are within my personal knowledge and are true and correct.

"I am the Petitioner in this case.

"The Respondent is: _____
First Middle Last

☐ "I submitted a record request using the Department of Defense personnel locator website, <https://scra.dmdc.osd.mil/scra/>, also known as the Defense Manpower Data Center (DMDC) database.

"The search results showed that the Respondent is not on active duty in any of the armed forces. I have attached a true and correct copy of the DMDC verification to this affidavit.

(If you check this box, you must attach a copy of the DMDC verification.

You can print a copy of the DMDC verification from this web address:
<https://scra.dmdc.osd.mil/scra/>.)

- ☐ "I believe the Respondent may be in the military. Therefore, I contacted the following military locator services:

Military Locator Service Contacted	Results
<u>Air Force: 210-565-2660</u>	<u></u>
<u>Navy: 866-827-5672</u>	<u></u>
<u>Marines: 800-268-3710</u>	<u></u>

- ☐ I know that the Respondent is not now in the military because:

- ☐ I do not know if the Respondent is in the military now.

Your Signature (Do not sign until you are in front of a notary.)

State of Texas

County of _____

SIGNED under oath before me on _____, 20_____, by

PRINT the first and last names of the person who signed this affidavit.

Notary Public, State of Texas

(Notary's seal must be included.)

Cause No. _____

(Print court information exactly as it appears on the Original Petition for Divorce)

In the Matter of the Marriage of _____

In the _____
Court Number

Print first, middle, and last name of the spouse filing for divorce.

☐ District Court

☐ County Court at Law

And

Print first, middle, and last name of the other spouse.

Fill in name of county above
Texas

County,

Certificate of Last Known Mailing Address

My name is: _____
First Middle Last

I am the Petitioner in this case.

The Respondent's name is: _____
First Middle Last

In accordance with Texas Rule of Civil Procedure 239a, I certify that the last known mailing address I have for the Respondent is:

Street City State ZIP code

Country

Respectfully submitted,



Petitioner (SIGN your name above)

Write out your name and contact information below.

:

Name (Print your name above)

Street City State ZIP

Email Address: Phone number: Fax (if available):

Cause Number: _____
(Write the cause number and other case information exactly as it appears on the Petition.)

In the Interest of the following Minor Child(ren):

(Print the full name of each child.)

1. _____
2. _____
3. _____
4. _____
5. _____

In the: (Check one.)

- ☐ _____ District Court
☐ County Court at Law _____

_____ County, Texas

Statement of the Evidence

A trial on the merits was held in this case today.

Petitioner's name is: _____
PRINT Petitioner's full name.

Respondent's name is: _____
PRINT Respondent's full name.

Appearances

Petitioner appeared in person and was self-represented.

Respondent was cited by publication, and did not appear.

The undersigned attorney ad litem, a licensed attorney, was appointed by the Court to represent the interest of Respondent and entered a general denial.

The parties announced ready for trial.

All witnesses were sworn, the Court took judicial notice of the contents of the court's file, any exhibits attached to this Statement of Evidence were introduced and admitted, and the case proceeded.

Respondent's Residence Unknown

The residence of Respondent is unknown to Petitioner. Petitioner has exercised due diligence to locate the whereabouts of Respondent and has been unable to do so as evidenced by Petitioner's Affidavit for Citation by Publication filed in this case.

Service of Citation

Respondent was served with citation by publication by the sheriff or constable of this county or the clerk of this Court by having the citation published on (date): _____.

The citation was returned to the Court on (date): _____.

The citation was published in. _____
Name of Newspaper
and on the statewide public information web site.

Long Arm Jurisdiction

The Court may exercise personal jurisdiction over the Respondent in this case because:

(Check all applicable boxes below.)

- ☐ The child(ren) live in Texas because of Respondent's actions.
- ☐ Respondent has lived in Texas with the child(ren).
- ☐ Respondent has lived in Texas and provided prenatal expenses or support for the child(ren).
- ☐ Respondent had sexual intercourse in Texas, and the child(ren) may have been conceived by that act of intercourse.
- ☐ The child(ren) were born in Texas and Respondent registered with the paternity registry maintained by the bureau of vital statistics or signed an acknowledgment of paternity.
- ☐ There is another basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction: _____

Children

Petitioner testified that the provisions regarding the child(ren) set out in the proposed final order submitted to the Court are in the best interest of the child(ren) the subject of this case.

APPROVED on _____.

JUDGE PRESIDING

I have read the foregoing and agree that it accurately represents the evidence introduced at the hearing described above.

Signature of Attorney Ad Litem

Name: _____

State Bar No: _____

Address: _____

Email: _____

Telephone and fax: _____