

FAQs: Responding to a Divorce Case

Frequently asked questions about responding to a divorce case.

Who is the “petitioner” and who is the “respondent” in a divorce?

The “petitioner” is the spouse who starts the divorce by filing an *Original Petition for Divorce* with the court. The “respondent” is the other spouse.



What does it mean to be “served” with divorce papers?

Unless the divorce is agreed, the petitioner (the spouse who starts the divorce) must have the respondent (the other spouse) served with the initial court papers.

The initial court papers in a divorce include:

- a Citation (the form issued by the court to officially notify the respondent of the divorce) and
- a copy of the Original Petition for Divorce (the form filed by the petitioner to start the divorce).

The initial court papers will also include the following (if applicable in your case):

- any other forms filed by the petitioner at the beginning of the case, and
- any orders signed by the judge at the beginning of the case.

If you are the respondent, there are several ways you can be served.

- You can be **served in person** by a constable, sheriff, or private process server. (If you are served in person, you will **not** need to sign anything.)
- You can be **served by certified or registered mail** (return receipt requested) by the court clerk, constable, sheriff, or private process server. (Service by certified mail is valid only if you sign the return receipt showing that you received the letter.)
- You can be **served by posting or publication** if the petitioner can't find you. This means the citation will be posted at the courthouse, published in a newspaper, or published on the [state's citation by publication web site](https://www.txcourts.gov/judicial-data/citation-by-publication/) (<https://www.txcourts.gov/judicial-data/citation-by-publication/>) [1].
- You can be **served any other way approved by the judge**. For example, if the constable, sheriff or private process server is unable to serve you in person or by certified mail but can confirm your home address or work address; the judge could order that the Citation and Petition be:

- posted to your door, or
- left with anyone over 16 at your home or work, or
- mailed to you at your home or work by regular mail.

Note: Papers filed by the petitioner **later** in the case will usually be sent to you by regular mail or email.



Talk to a lawyer if you have questions about being served.

What should I do if I'm served with divorce papers?

Read the divorce papers right away. What orders does your spouse want the judge to make? Is there a standing order? Has the judge signed a temporary restraining order? Are there any hearing dates? If so, read these articles to learn more: **Standing Orders** (<https://texaslawhelp.org/article/standing-orders>) [2], **Temporary Orders & Temporary Restraining Orders (TROs)** (<https://texaslawhelp.org/article/temporary-orders-temporary-restraining-orders-tros>) [3]

Calculate the deadline to file your answer. If you have been served with divorce papers, there is a deadline to file an answer. To determine the deadline, find the day you were served with divorce papers on a calendar, count out 20 more days (including weekends and holidays) then go to the next Monday. You must file an answer with the court on or before this date at 10:00 a.m. If you don't, your spouse can finish the divorce without you (as long as any other applicable waiting periods have passed). **Note:** If the courts are closed on the day your answer is due, then your answer is due the next day the courts are open.

Try to talk to a lawyer. A family law lawyer can explain your options and give you advice. You can hire a lawyer to handle your whole case. You also have the option of hiring a lawyer **just** to give you advice or review your forms. Or, you may 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** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [4] to search for a lawyer referral service, legal aid office or self-help center in your area.

- Check our **Legal Clinic Calendar** (<https://texaslawhelp.org/legal-clinic-calendar>) [5] for free legal clinics in your area.
- Use **Ask a Question** (<https://texaslawhelp.org/ask-question>) [6] to chat online with a lawyer or law student.

Decide how you want to respond.

- **Option 1: File an answer.** If you have been served with divorce papers and want to have a say in your divorce, you **must** file (turn in) a *Respondent's Original Answer* form with the court by the deadline. If you don't, your spouse may finish the divorce without you. Get answer forms here: **Instructions & Forms for Filing an Answer in a Divorce** (<https://texaslawhelp.org/checklist/instructions-forms-filing-answer-divorce>) [7].

Warning! It's important to talk with a lawyer **before** filing an answer (or any other form) with the court if (1) you don't live in Texas or (2) you think the divorce should be transferred to another court in Texas.

- **Option 2: File an answer AND a counter-petition for divorce.** A counter-petition for divorce tells the judge what orders **you** want the judge to make in your divorce. If your divorce is contested, you may want to file (turn in) a *Respondent's Original Answer* form AND a *Respondent's Original Counter-Petition for Divorce* form. Get counter-petition for divorce forms here: **Instructions & Forms for Filing an Answer and Counter-Petition for Divorce** (<https://texaslawhelp.org/checklist/instructions-forms-filing-answer-and-counter-petition-divorce>) [8].

Warning! It's important to talk with a lawyer **before** filing a counter-petition (or any other form) with the court if (1) you don't live in Texas or (2) you think the divorce should be transferred to another court in Texas.

- **Option 3: Do nothing.** If you have been served with divorce papers and don't file an answer, your spouse can finish the divorce without you. This is called a "default judgment." You will not have a say in any of the issues involved in your divorce, including decisions about your property, money and debt. If you and your spouse have children, you will not have a say in decisions about custody, visitation and child support.

What if I don't want to be served with divorce papers?



If you don't want to be served with the divorce papers, you can voluntarily file an answer (or waiver of service only form). Filing an answer (or waiver of service only form) tells the judge that you know about the case and have received a file-stamped copy of the *Original Petition for Divorce*. Your spouse will not need to have you served if you voluntarily file an answer (or waiver of service only form).



What is an answer in a divorce?

An “answer” is a legal form you (the respondent) file with the court to protect your right to have a say in the divorce.

If you file an answer, your spouse cannot finish the divorce unless:

- you agree to and sign a *Final Decree of Divorce* or
- your spouse gives you written notice of a contested hearing date.

Where can I get an answer form for a divorce?

Get answer forms here: **Instructions & Forms for Filing an Answer in a Divorce** (<https://texaslawhelp.org/checklist/instructions-forms-filing-answer-divorce>) [7].

What is the deadline to file an answer in a divorce?

If you have been served with divorce papers (*Citation* and *Original Petition for Divorce*), there is a deadline to file an answer.

To calculate the deadline, find the day you were served on a calendar, count out 20 more days (including weekends and holidays) then go to the next Monday. You must file your answer with the court on or before this date at 10:00 a.m. If the 20th day falls on a Monday go to the next Monday. If the courts are closed on the day your answer is due, then your answer is due the next day the courts are open.

If you are served and do **not** file an answer on or before the deadline, your spouse can finish the divorce without any further notice to you (*as long as any other applicable waiting periods have passed*). This is called a “default judgment.”

Can I file my divorce answer late?

Maybe. If your spouse **has not** finished the divorce, you can file your answer after the deadline. If your spouse **has** finished the divorce, it is too late to file an

answer.

To learn if your spouse has finished the divorce, call the district clerk's office in the county where your spouse filed the divorce. Ask the clerk if the judge signed a *Final Decree of Divorce* in your case.

Note: If your spouse has finished the divorce without you, you may be able to ask the judge to set aside or cancel the *Final Decree of Divorce*. Read this article to learn more: **How to Set Aside (Cancel) a Default Judgment** (<https://texaslawhelp.org/article/how-set-aside-cancel-default-judgment>) [9].

How much does it cost to file an answer?

Filing an answer is **free**.

What if I'm afraid of my spouse?

Divorce can be a dangerous time. If you are concerned about your safety or the safety of your children, call the **National Domestic Violence 24 Hour Hotline** (<http://www.thehotline.org/>) [10] at **1-800-799-SAFE (7233)**. They can refer you to help in your community.

For legal help, you can also call:

- **Texas Advocacy Project Hope Line** (<https://www.texasadvocacyproject.org/free-legal-services/legal-phone-lines>) [11] at 1-800-374-HOPE (4673)
- **Advocates for Victims of Crime** (<http://www.tlsc.org/victims-of-crime.html>) [12] at 1-888-343-4414

For situations involving sexual assault, you can also call:

- **Legal Aid for Survivors of Sexual Assault** (<http://www.legalaidforsurvivors.org/>) [13] at 1-800-991-5153

If you are an immigrant, you can also call:

- **Refugee and Immigrant Center for Education and Legal Services** (<http://www.raicestexas.org/>) [14] (RAICES) 512-994-2199

In an emergency, please call 911.

Find out more in the **Protection from Violence or Abuse** (<https://texaslawhelp.org/protection-from-violence-or-abuse>) [15] section of this website.

Do I need a lawyer to help me with my divorce?

You do not *have* to have a lawyer to file or respond to a divorce case. However, divorce cases can be complicated and your rights as a parent, your property and your money may be at risk.

It's a good idea to talk with a family law lawyer about your particular situation. Family law lawyers specialize in cases involving families, like divorce. A family law lawyer can explain your rights and options.



It's **really** important to talk with a family law lawyer if any of the following are true.

- You are afraid for your or your children's safety.
- Your case is contested.
- Your spouse has a lawyer.
- You or your spouse have a house, retirement, business, other valuable property or a lot of debt.
- You need spousal maintenance (alimony).
- You and your spouse have a child with a disability.
- You or your spouse have an ongoing bankruptcy or are planning to file for bankruptcy.
- You are in a same sex-marriage and you and your spouse have a child but there is no adoption or other court order stating that you are both legal parents.

If you need help finding a lawyer, you can:

- Use our **Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [4] to search for a lawyer referral service, legal aid office or self-help center in your area.
- Check our **Legal Clinic Calendar** (<https://texaslawhelp.org/legal-clinic-calendar>) [5] for free legal clinics in your area.
- Use **Ask a Question** (<https://texaslawhelp.org/ask-question>) [6] to chat online with a lawyer or law student.

Can I hire a lawyer just to give me advice?

Yes! You can hire a family law lawyer just to give you legal advice, review your forms, draft a document, or help you prepare for a hearing. You may then be able to handle the other parts of your divorce yourself. Hiring a lawyer for a limited purpose is called **“limited scope representation.”**

Can my spouse’s lawyer give me advice?

No. A lawyer is only allowed to represent one side in a divorce. Your spouse’s lawyer cannot give you legal advice. You cannot rely on your spouse’s lawyer to protect your interests.



Can my spouse be ordered to pay for a lawyer to represent me in our divorce?

If you cannot afford to hire a lawyer, you may ask that your spouse be ordered to pay for a lawyer to represent you in your divorce. This is called asking for “interim attorney’s fees.”

A judge may or may not grant your request for interim attorney’s fees. A judge is more likely to grant your request for interim attorney’s fees if:

- your spouse has a lot more money than you do, *and*
- your spouse has a lawyer, *and*
- the issues in your divorce are complicated.

You can ask for interim attorney’s fees as part of a Motion for Temporary Orders. Get information about temporary orders here: **Temporary Orders & Temporary Restraining Orders (TROs)** (<https://texaslawhelp.org/article/temporary-orders-temporary-restraining-orders-tros>) [3].

It’s a good idea to talk with a lawyer in your county about local practice regarding interim attorney’s fees.

What if my spouse or I have (or had) a protective order?

Attach a copy of any protective order involving you and your spouse or your children to your answer.

How long will my divorce take?

In almost all cases, you must wait **at least 60 days** before you (or your spouse) can go back to court to finish your divorce.

When counting the 60 days, find the day your spouse filed the *Original Petition*

for *Divorce* on a calendar, and then count out 60 more days (including weekends). Don't count the day the *Original Petition for Divorce* was filed; day one is the next day. If the 60th day falls on a weekend or holiday go to the next business day.

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

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

See *Texas Family Code Section 6.702*.

Note: If your divorce is contested, it will probably take a lot longer than 60 days.

What if I don't want a divorce?

You cannot stop your spouse from getting a divorce. Texas is a "no-fault" divorce state. This means that a divorce can be granted without either spouse being at fault. As long as one spouse believes that the relationship cannot be fixed, the judge will grant the divorce.

What if I don't live in Texas?

Talk with a lawyer **before** filing an answer, if you 1) do not live in Texas and 2) do not want a Texas Court to have the power to make orders that would impose a personal obligation on you, such as orders that:

- order you to pay a debt or spousal maintenance (in a divorce),
- order you to pay child support (if children are involved), or
- order you to pay court costs and lawyer's fees (if requested).

If you file an answer (or any other pleading) before filing a "special appearance" you will give up your right to argue that Texas can't make such orders because you live out-of-state.

Ask a Texas lawyer to help you determine if Texas has "personal jurisdiction"



over you.

What if I think the case was filed in the wrong county?

Talk with a lawyer before filing an answer if you think the case was filed in the wrong county. If you file an answer before filing a “motion to transfer venue,” you may give up your right to argue that the case should be filed in a different county.



What if the divorce papers include a hearing date?

If you have been served with divorce papers that include a hearing date:

- Make plans to go to the hearing. If you **do not** go to the hearing, the judge can make orders about your money, property and children (if applicable) without any input from you.
- Talk with a lawyer about your legal rights and what to expect at the hearing. If possible, hire a lawyer to represent you at the hearing.
- If you need more time to hire a lawyer or time to get ready for the hearing, you can ask the judge to reset the hearing date to a later date by filing a Motion for Continuance. Read this article to learn more: **How to Ask for a Continuance** (<https://texaslawhelp.org/article/how-ask-continuance>) [16].

What if I’m served with a Temporary Restraining Order (TRO)?

Sometimes the spouse who files for divorce will ask the judge to sign a Temporary Restraining Order (TRO). A TRO orders you not to do certain things until a temporary orders hearing can be held. A TRO usually lasts for 14 days or until the hearing, whichever is sooner.

If you have been served with a TRO:

- Read the TRO carefully and obey it. The judge can hold you in contempt if you do not obey a court order.
- Make plans to go to the hearing. If you do not go to the hearing, the judge can make orders about your money, property and children (if applicable) without any input from you.
- Talk with a lawyer about your legal rights and what to expect at the hearing. If possible, hire a lawyer to represent you at the hearing.
- If you need more time to hire a lawyer or time to get ready for the hearing, you can ask the judge to reset the hearing date to a later date by filing a

Motion for Continuance. Read this article to learn more: **How to Ask for a Continuance** (<https://texaslawhelp.org/article/how-ask-continuance>) [16].

Note: A Temporary Restraining Order is different from a family violence protective order. Getting served with a TRO does not necessarily mean you've done anything wrong.



What if my spouse or I already filed for divorce in another state or county?

You **must** tell the court about any other cases involving you, your spouse and/or your children. Talk to a lawyer if you or your spouse has already filed for divorce in another state or county.

What is a waiver of service?

There are two kinds of waiver of service forms:

1. **Specific Waiver** - A specific waiver waives your right to be formally served with the divorce papers. A specific waiver does not waive any other rights. Filing a specific waiver (like filing an answer) protects your right to have a say in your divorce.

If you file a specific waiver with the court, your spouse cannot finish the divorce unless:

- you agree to and sign the Final Decree of Divorce, or
- your spouse gives you notice of a contested hearing date.

The TexasLawHelp.org Waiver of Service Only (Specific Waiver) form is a specific waiver.

2. **Global Waiver** - A global waiver is different. A global waiver waives your right to be formally served with the initial divorce papers **AND** waives your right to know anything else about the case. It's **NOT** a good idea to sign a global waiver. **If you sign a global waiver, your spouse can finish the divorce without further notice to you.** You will not get notice of court dates, you will not get copies of future paperwork filed in the case, and you will not get to tell your side of the story to the judge.

Note: It can be hard to tell the difference between a specific waiver and global waiver. If you are not using a TexasLawHelp.org Waiver of Service Only (Specific Waiver) form, you may want to file an Answer instead.

Where can I get a waiver of service form (for a divorce)?

If your divorce was filed in Texas, you can use one of these waiver of service forms.

- Use this form for a divorce without minor children: **Waiver of Service Only (Specific Waiver) (Divorce Set A or Set D)** (https://texaslawhelp.org/sites/default/files/fm_divad_103_div_no_kids_waiver.pdf) [17].
- Use this form for a divorce with minor children: **Waiver of Service Only (Specific Waiver) (Divorce Set B)** (https://texaslawhelp.org/sites/default/files/fm_divb_103_div_w_kids_waiver_english_respondent.pdf) [18].
- Use this form for a divorce with minor children if there is already a final court order for custody and support of your children in place and you do not want to change the order: **Waiver of Service Only (Specific Waiver) (Divorce Set C)** (https://texaslawhelp.org/sites/default/files/fm_divc_103_div_kids_priororder_waiver_english_respondent.pdf) [19].



How much does it cost to file a waiver of service?

Filing a waiver of service is **free**.

What is a counter-petition for divorce?

A counter-petition for divorce tells the judge what orders **you** want the judge to make in your divorce. If your divorce is contested, you may want to file an answer and a counter-petition for divorce.

Where can I get a counter-petition for divorce form?

Get counter-petition for divorce forms here: **Instructions & Forms for Filing an Answer and Counter-Petition for Divorce** (<https://texaslawhelp.org/checklist/instructions-forms-filing-answer-and-counter-petition-divorce>) [8].

How much does it cost to file a counter-petition for divorce?

There is a fee to file a counter-petition for divorce. The fee varies by county. Contact the district clerk's office in the county where your spouse filed for divorce to learn the fee.

If you don't have enough money to pay the fee, you can ask a judge to waive the fee by completing and filing a *Statement of Inability to Afford Payment of Court Costs*. Read this article to learn more: **Court Fees & Fee Waivers** (<https://texaslawhelp.org/article/court-fees-fee-waivers>) [20].

What if I need orders right away?

If you need orders right away, you may ask a judge to make a temporary restraining order (TRO) and/or temporary orders. A temporary restraining order lasts until you can have a temporary orders hearing. Temporary orders typically last until the divorce is finished. Read this article to learn more: **Temporary Orders & Temporary Restraining Orders (TROs)** (<https://texaslawhelp.org/article/temporary-orders-temporary-restraining-orders-tros>) [3].



Note: A family violence protective order is different from a temporary restraining order. If you need a family violence protective order call the National Domestic Violence 24 Hour Hotline at 1-800-799-SAFE (7233).

Do my spouse and I have to be separated to get a divorce?

No. You do not have to be separated to get a divorce.

What if I'm pregnant or my spouse is pregnant?

If you or your spouse is pregnant, you cannot finish your divorce until after the child is born. Read this article to learn more: **Divorce when the Wife is Pregnant** (<https://texaslawhelp.org/article/divorce-when-wife-pregnant>) [21].

What if the wife had a child with another man while married to the husband?

If the wife had a child with another man while married to the husband, paternity of the child must be established before you can finish your divorce. This is true even if you have been separated for a long time. Read this article to learn more: **Divorce when the Husband is Not the Father** (<https://texaslawhelp.org/article/divorce-when-husband-not-father>) [22]

What if either wife in a same-sex marriage gave birth during the marriage?

It's a good idea to talk with a LGBT family law lawyer if either wife in a female same-sex marriage is pregnant or gave birth to a child during the marriage. The law in this area is unclear.

Do we have to include our children in our divorce?

Yes. You **must** list all children born or adopted during your marriage in your *Original Petition for Divorce*. See *Texas Family Code, Section 6.406*.

When it's time to finish your case the judge will ask you, under oath, if any children were born or adopted during your marriage.

What if our children don't live in Texas?

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 less than 6 months.



See *Texas Family Code Section 152.201*.

There are a few exceptions to this rule. Talk with a lawyer if this is an issue.

What gets decided in a divorce?

A divorce:

- ends your marriage,
- divides your property and debts,
- changes a spouse's name back to a name used before if requested by that spouse.

If you and your spouse have minor children together, a divorce will also include orders about your children (unless there is already a final court order for custody and support of your children and you do not want to change that order).

There may be other issues involved in your particular case.

What orders will the judge make about our children (in a divorce)?

If you and your spouse have minor children together, the judge will make custody, visitation, child support and medical support orders as part of your divorce (unless there is already a final court order for custody and support of your children in place and you do not want to change that order).

Read these three articles to learn more:

- **[Child Custody & Conservatorship \(https://texaslawhelp.org/article/child-custody-conservatorship\)](https://texaslawhelp.org/article/child-custody-conservatorship)** [23]
- **[Child Visitation & Possession Orders \(https://texaslawhelp.org/article/child-visitation-possession-orders\)](https://texaslawhelp.org/article/child-visitation-possession-orders)** [24]
- **[Child Support & Medical Support \(https://texaslawhelp.org/article/child-support-medical-support\)](https://texaslawhelp.org/article/child-support-medical-support)** [25]

Can my spouse and I work out the terms of our divorce?

Yes. The judge will usually approve an agreed Final Decree of Divorce, as long as you can show that:

- the proposed orders about property and debt are fair to both you and your spouse, and
- the proposed orders about your children (if any) are in their best interest.



How will our property and debts be divided?

Texas law says that community property and debt should be divided in a way that is “just and right.” This doesn’t always mean 50/50. Separate property is not divided. Read this article to learn more: **Dividing Your Property & Debt in a Divorce** (<https://texaslawhelp.org/article/dividing-property-debt-upon-divorce>) [26].

How does a divorce affect debt?

Your divorce does not affect a creditor’s right to collect a debt. So, if your *Final Decree of Divorce* orders your spouse to pay a debt that is in both of your names (such as a mortgage or car loan) but your spouse doesn’t pay it, the creditor can still seek payment from you. Ask a lawyer how to protect yourself in this situation.

Read this article to learn more: **Dividing Your Property & Debt in a Divorce** (<https://texaslawhelp.org/article/dividing-property-debt-upon-divorce>) [26].

Can a retirement account be divided in a divorce?

Yes. Retirement funds (such as 401k, pension, profit sharing, stock option plans and IRAs) earned by either spouse during the marriage are usually considered to be community property that can be divided by the judge. This is true even if you or your spouse has not yet retired.

If you want the Judge to divide retirement funds (other than an IRA), you will need to have the Judge sign an additional form, usually called a “Qualified Domestic Relations Order” (QDRO), to make the division effective. You should have the QDRO prepared **before** you go to court, so the judge can sign it when you finish your divorce. TexasLawHelp.org does not provide QDRO forms. You may be able to get a sample QDRO form from the employer or retirement fund administrator. If not, you should hire a lawyer to draft the QDRO form. If you use

the employer or retirement fund administrator's QDRO form, you should still have a lawyer review it to make sure you are not giving up important benefits. Read this article to learn more: **Dividing Retirement Benefits Upon Divorce** (<https://texaslawhelp.org/article/dividing-retirement-benefits-upon-divorce>) [27].

Note: If you and your spouse plan to keep your own retirement funds or do not have retirement funds, you do not need a QDRO.



What is the difference between temporary spousal support, contractual alimony and spousal maintenance?

Temporary spousal support: While the divorce is pending, the judge may order one spouse to make temporary payments for the support of the other spouse. A judge can order temporary spousal support if the judge decides it is necessary and fair. You can ask for temporary spousal support by filing a *Motion for Temporary Orders* and setting a hearing. Temporary spousal support doesn't have the same requirements as contractual alimony and spousal maintenance. Read the law here: *Texas Family Code, Section 6.502* (<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm#6.502>) [28]

Contractual alimony: Contractual alimony is money one spouse is ordered to pay the other spouse after the divorce, based on the agreement of the spouses. The agreement to pay contractual alimony should be included in the *Final Decree of Divorce*. The spouse who receives contractual alimony must usually claim it as income for tax purposes. The spouse who pays contractual alimony can usually deduct it from his or her income for tax purposes.

Spousal maintenance: Spousal maintenance can be ordered by the judge even if the parties do not agree. Spousal maintenance can be hard to get. The judge can only order spousal maintenance if the spouse asking for it will not have enough property after the divorce to provide for the spouse's minimum reasonable needs **and**:

1. The other spouse has been convicted or received deferred adjudication for a family violence offense against the other spouse or the other spouse's child within two years of the filing of the divorce or while the divorce is pending. **or**
2. The spouse asking for spousal maintenance is unable to earn enough money to meet his or her minimum reasonable needs because of an incapacitating physical or mental disability. **or**

3. The marriage has lasted for at least 10 years and the spouse asking for spousal maintenance lacks sufficient property or income to provide for his or her reasonable needs. **or**
4. The spouse asking for spousal maintenance is unable to earn enough money to meet his or her minimum reasonable needs because the spouse is the primary caretaker of a disabled child of the marriage. The disabled child may be an adult.



Read the law here: [Texas Family Code, Chapter 8](http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.8.htm)
(<http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.8.htm>) [29].

Like contractual alimony, the spouse who receives spousal maintenance must usually claim it as income for tax purposes. The spouse who pays spousal maintenance can usually deduct it from his or her income for tax purposes.

WARNING! The TexasLawHelp.org divorce forms **do not** include temporary spousal support, contractual alimony or spousal maintenance. Talk to a lawyer if you want temporary spousal support, contractual alimony or spousal maintenance.

Note for immigrant spouses: If a spouse is a sponsored immigrant, he or she could enforce the Affidavit of Support executed by the other spouse and ask the judge to order the other spouse to provide support until the immigrant spouse becomes a U.S. citizen or until he or she has earned 40 credits of work history. Talk to a lawyer if you think you qualify.

Will my spouse have to continue providing health insurance for me after our divorce?

The TexasLawHelp.org divorce forms **do not** include continued health insurance for a spouse after divorce. Talk with a lawyer right away if you need continued health insurance coverage from your spouse. If the insurance is cut-off, you may not be able to get it back.

Can I change my last name as part of my divorce?

You can change your name to a name you have used before as part of your divorce.

If you want to change your name to a name you have **not** used before, you must file a separate case. You can use this toolkit to change your name to a name you have not used before: **I want to change my name.** (<https://texaslawhelp.org>)

[/name-change/name-change-adult/toolkit/i-want-change-my-name](#)) [30]

Do I have to go back to my maiden name?

No. You can keep your married name or go back to your maiden name. It's your choice.

What is mediation?

If you and your spouse don't agree on the terms of your divorce, you may want to consider mediation. In mediation, an independent person (the mediator) will try to help you reach an agreement. The divorce process is usually easier when you have an agreement. Be sure to talk with a lawyer first. A lawyer can help you understand your options and negotiate a fair agreement.

Should I agree to mediation if my spouse has been abusive?

Mediation can be helpful when both people have equal power. Both people must be able to say what they want without being afraid or pressured.

Threats and control are common in relationships where one person is abusive. If the abuser is used to being in charge and making all the decisions, mediation probably won't work very well.

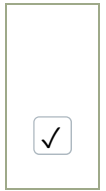
Mediation may be even more of a problem if your spouse abused you and you don't have a lawyer.

How do I finish my divorce?

If your divorce is agreed, you and your spouse can fill out and both sign a *Final Decree of Divorce* form.

Read the instructions for **filing** an agreed divorce to learn the steps in an agreed divorce.

- **Instructions & Forms for an Agreed Divorce without Children**
(<https://texaslawhelp.org/checklist/instructions-forms-agreed-divorce-without-children>) [31]
- **Instructions & Forms for an Agreed Divorce with Children**
(<https://texaslawhelp.org/checklist/instructions-forms-agreed-divorce-with-children>) [32]
- **Instructions & Forms for an Agreed Divorce (When there is Already a Final Court Order for Custody and Support of Your Children)**



<https://texaslawhelp.org/checklist/instructions-forms-agreed-divorce-when-there-already-final-court-order-custody-and-support-your> [33]

If your divorce is contested, you or your spouse must schedule a contested final hearing to finish the divorce. Read this article to learn more: **How to Set a Contested Final Hearing (Family Law)** (<https://texaslawhelp.org/article/how-set-contested-final-hearing-family-law>) [34].



How long do I have to wait to get remarried?

You must wait 30 days from the date of divorce before you can marry someone else. This 30-day waiting period can be waived by the judge if there is a good reason to do so.

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Links

- [1] <https://www.txcourts.gov/judicial-data/citation-by-publication/>
- [2] <https://texaslawhelp.org/article/standing-orders>
- [3] <https://texaslawhelp.org/article/temporary-orders-temporary-restraining-orders-tros>
- [4] <https://texaslawhelp.org/legal-help/legal-help-finder>
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- [10] <http://www.thehotline.org/>
- [11] <https://www.texasadvocacyproject.org/free-legal-services/legal-phone-lines>
- [12] <http://www.tlsc.org/victims-of-crime.html>
- [13] <http://www.legalaidforsurvivors.org/>
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- [28] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm#6.502>
- [29] <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.8.htm>
- [30] <https://texaslawhelp.org/name-change/name-change-adult/toolkit/i-want-change-my-name>
- [31] <https://texaslawhelp.org/checklist/instructions-forms-agreed-divorce-without-children>
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- [34] <https://texaslawhelp.org/article/how-set-contested-final-hearing-family-law>

