

How to Set a Contested Final Hearing (Family Law)

This article tells you how to set a contested final hearing in a family law case.
FORMS ARE INCLUDED.



Texas Notice of Final Hearing Forms (Family Law)

Divorce Contested Hearing

Notice of Final Hearing (Divorce Set A or D) (https://texaslawhelp.org/sites/default/files/fm_divad_403_notice_of_final_hearing_divorce_no_childrenseta_ord_0.pdf) [1]

Notice of Final Hearing (Divorce Set B) (https://texaslawhelp.org/sites/default/files/fm_divb_403_notice_of_final_hearing_divorce_with_childrensetb.pdf) [2]

Notice of Final Hearing (Divorce Set C) (https://texaslawhelp.org/sites/default/files/fm_divc_403_notice_of_final_hearing_divorce_with_children_and_priorordersetc.pdf) [3]

Other Family Law Contested Hearing

Notice of Final Hearing (SAPCR / Modification / Paternity / Child's Name Change) (https://texaslawhelp.org/sites/default/files/fm-chil-403_notice_of_final_hearing_sapcr_-_modification_-_paternity_0.pdf) [4]

What is a contested final hearing?

If you and the other side do not agree on all the issues in your case, you can ask a judge to decide those issues at a contested final hearing. The judge will listen to both sides and then make a decision. You will be expected to follow court rules of evidence and procedure at a contested final hearing.

Note: Contested final hearing can be complicated. It's important to talk with a lawyer about your case **before** setting a contested final hearing.

If you need help finding a lawyer, you can:

- Use our **Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [5] 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>) [6] for free legal clinics in your area.
- Use **Ask a Question** (<https://texaslawhelp.org/ask-question>) [7] to chat online with a lawyer or law student.



Can I set a contested final hearing if I'm the Respondent?

Yes. Either party can set a contested final hearing. If you are the Respondent, be sure to file a *Counter-Petition*. A *Counter-Petition* says what orders *you* want the judge to make.

How much notice do I have to give the other side?

You must give the other side **at least 45 days' notice** of the final hearing. You cannot simply tell the other side about the hearing. You must give notice in a way that is legally acceptable and be able to prove that you did so to the judge. Follow the steps below.

What are the steps to set a contested final hearing?

☐ **Step 1: Print a Notice of Final Hearing form.**

Print this form if you have a divorce without children: **Notice of Final Hearing (Divorce Set A or D)** (https://texaslawhelp.org/sites/default/files/fm_divad_403_notice_of_final_hearing_divorce_no_childrenseta_ord_0.pdf) [1]

Print this form if you have a divorce with children: **Notice of Final Hearing (Divorce Set B)** (https://texaslawhelp.org/sites/default/files/fm_divb_403_notice_of_final_hearing_divorce_with_childrensetb.pdf) [2]

Print this form if you have a divorce with children with final court order: **Notice of Final Hearing (Divorce Set C)** (https://texaslawhelp.org/sites/default/files/fm_divc_403_notice_of_final_hearing_divorce_with_children_and_priorordersetc)

[3]

Print this form if you have a modification, SAPCR or paternity case: **Notice of Final Hearing (Any Family Law)** (<https://texaslawhelp.org/form/notice-final-hearing-sapcr/modification/paternity/name-change>) [8]

☐ **Step 2: Learn when the judge schedules contested final hearings.**



Call the clerk's office to learn what days and times the judge in your county schedules contested final hearings. It will help you to know your options before moving to Step 3.

☐ **Step 3: Talk to the other side (if possible).**

In most counties, you must make a reasonable effort to talk with the other side and agree on a final hearing date. If the other side has a lawyer, talk with the lawyer.

If the other side will not agree to a hearing date, that's okay. You just have to make a reasonable effort.

Important! If you are concerned about your safety, call the Family Violence Legal Line at 1-800-374-4673 for free advice **before** talking with the other side.

Warning! If a judge has signed a Protective Order ordering you not to contact the other side, do **not** violate that order. Talk with a lawyer about your options.

☐ **Step 4: Schedule the contested final hearing.**

Call the clerk's office. Tell the clerk you want to set your case for a contested final hearing.

Ask for a hearing date that is **at least 60 days** away. (Remember, the other side must receive a copy of your Notice of Final Hearing form at least 45 days before the date of the final hearing.)

Be prepared to tell the clerk how much time you think the hearing will take **for both you and the other side**. A typical hearing is 3 hours or less. However, you may need more time than that. Talk with a lawyer about how much time to estimate for your hearing. The judge will usually limit you to your estimated time.

The clerk will give you a date and time for the hearing.

☐ **Step 5: Fill out the Notice of Final Hearing form.**

Fill out the Notice of Final Hearing form completely in blue or black ink and sign it.

Remember to:

- write in the date and time of the hearing,
- write in the full physical address of the court where the hearing will be held,
- write in how much time you estimate the hearing will take for both you and the other side,
- fill out and sign the Certificate of Service, and
- sign the Certificate of Conference if you made a “reasonable effort” to talk with the other side about the hearing date.

Note: The Notice of Final Hearing asks for your address. The other side will get a copy of this form. If you are concerned about the other side knowing your address, call the Family Violence Legal Line at 1-800-374-4673 for free advice.

☐ **Step 6: Make copies of the Notice of Final Hearing form.**

Make a copy of your completed Notice of Final Hearing form for each person named as a party in your case, including yourself.

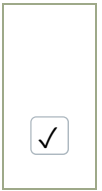
☐ **Step 7: File the Notice of Final Hearing form.**

File (turn in) your completed Notice of Final Hearing form (and copies) at the clerk’s office.

The clerk will “file-stamp” your forms with the date and time and return the copies to you.

Tell the clerk if you want a sheriff, constable or private process server to serve the Notice of Final Hearing on the other side.

TIP: Ask the clerk if there are local rules or procedures that apply to your case. For example you may need to file pretrial forms, attend mediation or complete a parenting class before you can finish your case. Each county has different rules.



☐ **Step 8: Send a file-stamped copy of the Notice of Final Hearing to the other side.**

You must send a file-stamped copy of the Notice of Final Hearing to each person (or agency) named as a party in your case. If the other side has a lawyer, send it to the lawyer.



Send the Notice of Final Hearing by:

- constable, sheriff or private process server; (This is best if the other side doesn't have a lawyer)
- certified mail, return receipt requested and regular mail;
- fax;
- email; or
- commercial delivery service (such as FedEx or UPS).

You must bring proof that you sent the Notice of Final Hearing with you to court. If you don't, you might have to reschedule your hearing.

- If you arranged for a constable, sheriff or private process server to serve the Notice of Final Hearing, the officer will fill out and sign a Return of Service form. Make a copy of the Return of Service form and file the original at the clerk's office. Ask the clerk to "file-stamp" your copy. This is your proof.
- If you sent the Notice of Final Hearing by certified mail, return receipt requested, keep the white receipt as proof that you mailed it. Keep the green return receipt card as proof that the other party received it. The green card should be signed by the other party. The white receipt and green card are your proof.
- If you sent the Notice of Final Hearing by fax, the fax confirmation page is your proof.
- If you sent the Notice of Final Hearing by email, print the email, and any emails you receive in response from the other party. The emails are your proof.
- If you sent the Notice of Final Hearing by commercial delivery (such as FedEx or UPS), the receipt signed by the commercial delivery service is your proof.

What are pre-trial forms?

Pre-trial forms give detailed information about your case to the judge. Ask the

clerk if pre-trial forms are required for your case. If so, fill out and turn in your pretrial forms as required. Send a copy of your pretrial forms to the other side. Bring the other copy with you to your final hearing.

What is mediation?

In mediation, an independent person (the mediator) will try to help you and the other side reach an agreement. Be sure to talk to a lawyer first. A lawyer can help you understand your options and negotiate a fair agreement.



Mediation is required in some counties before you can have a contested final hearing. Ask the clerk if mediation is required for your case. If there has been family violence, you can file a motion to ask the judge to waive the mediation requirement. Call the Family Violence Legal Line at (800) 374-4673 for free advice if there has been family violence.

How do I get ready for my hearing?

Every hearing is different. It's important to talk with a lawyer about your particular case.

Are the steps different if my case is uncontested?

Yes. You don't need a contested final hearing if your case is uncontested (agreed or default). Call the clerk's office to learn when the court hears uncontested family law cases.

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Links

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[5] <https://texaslawhelp.org/legal-help/legal-help-finder>

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