

# How to Serve the Initial Court Papers (Family Law)

TexasLawHelp (<https://texaslawhelp.org/directory/legal-resource/texaslawhelp>)

[1]

This article tells you how to serve the initial court papers in a family law case (such as a divorce, custody, modification, child's name change, or paternity case).



## Do I have to serve the respondent(s) with the initial court papers?

Yes. Each person named as a respondent in your petition (the form you file to start your case) **must** be served with the initial court papers.

**Exception:** A respondent **does not** need to be served with the initial court papers if he or she will voluntarily fill out and sign:

- a **Respondent's Original Answer** form or
- a **Waiver of Service Only (Specific Waiver)** form (this form must be signed in front of a notary).

You can skip the rest of this article if each respondent will voluntarily fill out and sign an answer or waiver of service.

## What papers do I have served?

Each respondent must be served with the “initial court papers,” which include:

- the citation (you will get this form at the clerk's office when you file your case),
- a copy of your petition (the form you file to start your case), and
- a copy of any other forms you file with your petition.

## Can I be the server?

No. You must arrange for a constable, sheriff, private process server, or the court clerk to serve the initial court papers.

### **How can the respondent be served?**

You can have a constable, sheriff, private process server, or the court clerk serve the respondent using one of these methods.



- **Personal Service. (This method is best.)**

The constable, sheriff, or private process server will:

- deliver the initial court papers to the respondent in person; **and**
- complete a Return of Service form that says when and where the respondent was served; **and**
- file the completed Return of Service with the court or send it to you to file with the court. (The Return of Service is proof the respondent was served.)

The respondent will NOT have to sign anything.

See **Texas Rules of Civil Procedure, Rule 106(a)(1).**

(<https://www.txcourts.gov/rules-forms/rules-standards/>) [2]

- **Service by Registered or Certified Mail, Return Receipt Requested.**

The clerk (or constable) will:

- mail the initial court papers to the respondent by registered or certified mail, return receipt requested; **and**
- **if the return receipt (or “green card”) is signed by the respondent and returned to the clerk**, the clerk (or constable) will complete a Return of Service form that says when and where the respondent was served, **and**
- file the completed Return of Service with the court or send it to you to file.

See **Texas Rules of Civil Procedure, Rule 106(a)(2).**

(<https://www.txcourts.gov/rules-forms/rules-standards/>) [2]

**Warning!** You should only use service by registered or certified mail if you know that the respondent will sign for the certified letter. If someone else signs for the letter or the respondent does not sign his or her name exactly as it is written on your petition, you will have to pay another fee and have the respondent served a different way.



- **Substituted Service by Court Order.**

You can ask the judge for permission to serve the respondent another way if the constable, sheriff, or private process server:

- has tried to serve the respondent in person or by registered or certified mail without success; **and**
- can confirm that the respondent lives, works, or can be found at the location where service was attempted.

You must file a **Motion for Substituted Service**

(<https://texaslawhelp.org/form/motion-substituted-service>) [3] and

a Rule 106(b) Affidavit from the constable, sheriff or private process

server. If the judge is convinced that the respondent can be found at

the location where service was attempted, the judge can sign an **Order**

**for Substituted Service** ([https://texaslawhelp.org/form/order-](https://texaslawhelp.org/form/order-substituted-service)

**substituted-service**)[4] that authorizes the constable, sheriff, or private process server to:

- leave a copy of the initial court papers with anyone over 16 at the location specified in the affidavit **or**
- authorize service in any other manner that will be reasonably effective to give the respondent notice.

See **Texas Rule of Civil Procedure 106(b).**

(<https://www.txcourts.gov/rules-forms/rules-standards/>) [2]

It is possible to serve someone by social media. See **Texas Civil Practice and Remedies Code 17.033**

(<https://statutes.capitol.texas.gov/Docs/CP/htm/CP.17.htm#17.033>)

[5]. Read **Can you serve someone citation through social media?** (<https://texaslawhelp.org/faq/can-you-serve-someone-citation-through-social-media>) [6]

- **Service by Posting.**

This method of service is used **if you cannot find** the respondent (after looking really hard), and there **are no children** involved. Read this article to learn more: **Service by Posting (when you can't find your spouse in a divorce without kids)** (<https://texaslawhelp.org/article/service-posting-when-you-cant-find-your-spouse-divorce-without-kids>) [7].

- **Service by Publication.**

This method of service is used **if you cannot find** the respondent (after looking really hard), and there **are children** involved. Read this article to learn more: **Service by Publication (when you can't find the other parent)** (<https://texaslawhelp.org/article/service-publication-when-you-cant-find-other-parent>) [8]. Citation is issued by both newspaper and by a statewide public information web site (<https://www.txcourts.gov/judicial-data/citation-by-publication/>) [9].

Getting the respondent served can be complicated. If you have questions, talk to a lawyer.

### **How do I serve the rest of the court papers I file?**

As a general rule, only the initial custody papers need to be served by a constable, sheriff, private process server or the court clerk. You can serve the rest of the papers yourself.

Send a copy of any papers you file in the case to each respondent. If a respondent has a lawyer, send a copy to the lawyer instead. You can use any of these delivery methods:

- Hand delivery
- Email



- Regular mail or certified mail, return receipt requested ([https://store.usps.com/store/product/shipping-supplies/certified-mail-receipt-form-3800-P\\_FORM\\_3800](https://store.usps.com/store/product/shipping-supplies/certified-mail-receipt-form-3800-P_FORM_3800)) [10]
- Commercial delivery service (for example FedEx)
- Fax
- Electronic service through the electronic filing manager. (**Note:** This method is required if you electronically file (E-File) the Petition, and the email address of the respondent or the respondent's lawyer is on file with the electronic file manager.)



**Exception:** If you file an amended petition (<http://www.texaslawhelp.org/node/5128>) [11] and the respondent has **not** filed an answer, you must:

- ask the clerk to reissue the citation and attach a copy of your amended petition, **and**
- arrange for the respondent to be served by a constable, sheriff, or private process server (with the new citation and amended petition).

### **Can you serve someone a citation through social media?**

Substituted service through social media is authorized under Texas Civil Practice and Remedies Code 17.033

(<https://statutes.capitol.texas.gov/Docs/CP/htm/CP.17.htm#17.033>) [5].

Check with your court! Look at the court's web site to see its local rules and procedures. Talk to a lawyer who practices in your jurisdiction about it.

If in-person service has not worked, ask your judge if you can have someone served through an alternative method. This is called alternative service. If you can show the judge that the alternative method you've come up with will successfully get the other party served, the judge may allow it. The bar is high to prove that social media is the best alternative method because of issues of privacy and ensuring the intended person actually received the notice.

Social media can also be helpful to build up proof that you know where the other party is located. If you can verify that the social media account is the other party's account, the judge may use the proof that you have to allow service to a location that is indicated on social media.

The Texas Supreme Court is supposed to adopt rules about service by social media by December 31, 2020.



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### Links

- [1] <https://texaslawhelp.org/directory/legal-resource/texaslawhelp>
- [2] <https://www.txcourts.gov/rules-forms/rules-standards/>
- [3] <https://texaslawhelp.org/form/motion-substituted-service>
- [4] <https://texaslawhelp.org/form/order-substituted-service>
- [5] <https://statutes.capitol.texas.gov/Docs/CP/htm/CP.17.htm#17.033>
- [6] <https://texaslawhelp.org/faq/can-you-serve-someone-citation-through-social-media>
- [7] <https://texaslawhelp.org/article/service-posting-when-you-cant-find-your-spouse-divorce-without-kids>
- [8] <https://texaslawhelp.org/article/service-publication-when-you-cant-find-other-parent>
- [9] <https://www.txcourts.gov/judicial-data/citation-by-publication/>
- [10] [https://store.usps.com/store/product/shipping-supplies/certified-mail-receipt-form-3800-P\\_FORM\\_3800](https://store.usps.com/store/product/shipping-supplies/certified-mail-receipt-form-3800-P_FORM_3800)
- [11] <http://www.texaslawhelp.org/node/5128>

**Cause Number** \_\_\_\_\_

Print cause number and other court information exactly as it appears on the petition filed in this case.

In the: **(check one)**:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Justice Court

☐ District Court

**Court Number**

☐ County Court at Law

\_\_\_\_\_  
County, Texas

## Motion for Substituted Service TRCP 106b

**Print your answers.**

This motion for substituted service is brought by Petitioner–Movant,  
\_\_\_\_\_, who shows in support:

[PRINT your first and last names.]

Attached is the affidavit of \_\_\_\_\_.  
[Name of process server who actually tried to serve the Respondent.]

The affidavit states facts showing that substitute service of citation on Respondent,  
\_\_\_\_\_, is authorized.

[PRINT Respondent's first and last names.]

Service of citation of Respondent has been attempted by:

[CHECK all that apply.]

☐ Personally delivering it to Respondent at Respondent's place of

☐ Residence (print address below):

\_\_\_\_\_  
\_\_\_\_\_

☐ Business or workplace (print address below)

\_\_\_\_\_  
\_\_\_\_\_

☐ By sending it by registered or certified mail to Respondent at the Respondent's place of

☐ Residence (print address below):

\_\_\_\_\_  
\_\_\_\_\_

☐ Business or workplace (print address below)

\_\_\_\_\_  
\_\_\_\_\_

The above attempts at service have not been successful, as shown by the attached affidavit.

As authorized by Rule 106(b), Texas Rules of Civil Procedure, service on Respondent by the following method will be reasonably effective to give the Respondent notice of the lawsuit.

Service on Respondent should be made by the following method:

[Check only one.]

- ☐ Leaving a copy of the citation, with a copy of the petition attached, with anyone over sixteen years of age at the following address that is specified in the attached affidavit:  
[PRINT address.]:

\_\_\_\_\_

- ☐ by affixing a copy of the citation, with a copy of the petition attached, to the door of .  
[PRINT address.]

\_\_\_\_\_

- ☐ sending the notice to Respondent by regular U.S. mail to the following address:  
[PRINT address.]

\_\_\_\_\_

- ☐ social media account. See Texas Civil Practice and Remedies Code 17.033.  
[Include the name of the social media platform and a short explanation of why this will actually get notice to the Respondent.]

\_\_\_\_\_

- ☐ Other: \_\_\_\_\_

\_\_\_\_\_

This manner of service will be reasonably effective in giving Respondent notice of this suit because:

- ☐ the above specified location is Respondent's place of residence  
☐ the above specified location is Respondent's place of business  
☐ Other: \_\_\_\_\_

Petitioner–Movant asks the Court to direct that citation be served on Respondent as described above.

Respectfully submitted,

\_\_\_\_\_  
Your signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Printed Name

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City, State

\_\_\_\_\_  
ZIP code



**Cause Number** \_\_\_\_\_

Print cause number and other court information exactly as it appears on the petition filed in this case.

In the: **(check one)**:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ Justice Court

☐ District Court

**Court Number**

☐ County Court at Law

\_\_\_\_\_  
County, Texas

## Order for Substituted Service TRCP 106b

Print your answers.

Today the Court considered the Motion For Substituted Service of Petitioner–Movant,

\_\_\_\_\_  
[PRINT your first and last names.]

The Court FINDS that substituted service is authorized on Respondent,

\_\_\_\_\_  
[PRINT Respondent's first and last names.]

The following method of service will be reasonably effective to give the Respondent notice of the pending lawsuit under Texas Rule of Civil Procedure 106.

IT IS ORDERED that service on Respondent must be effected by the following method:

[Check only one.]

- ☐ Leaving a copy of the citation, with a copy of the petition attached, with anyone over sixteen years of age at the following address: [PRINT address.]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ By affixing a copy of the citation, with a copy of the petition attached, to the door of: [PRINT address.]:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ sending the notice to Respondent by regular U.S. mail to the following address:  
[PRINT address.]

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- ☐ Sending the notice to Respondent's social media account.  
See Texas Civil Practice and Remedies Code 17.033.  
[Include the name of the social media platform and a short explanation of how notice will actually get to the Respondent].

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- ☐ Other: \_\_\_\_\_
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IT IS FURTHER ORDERED that the Return of Citation, endorsed on or attached to the citation, must state when and how the citation was served.

Signed,

\_\_\_\_\_  
JUDGE PRESIDING

\_\_\_\_\_  
Date