

# Instructions & Forms for Filing an Answer and Counter-Petition for Divorce

These instructions explain how to file an answer and a counter-petition for divorce. Each step includes the form or forms needed for that step.

These instructions are part of a TexasLawHelp.org toolkit: **My spouse filed for divorce. (https://texaslawhelp.org/family-divorce-children/divorce/toolkit/my-spouse-filed-divorce) [1]** It's important to read the Frequently Asked Questions and Articles included in the toolkit before getting started.

## Need Help?

- Use our **Legal Help Finder (https://texaslawhelp.org/legal-help/legal-help-finder) [2]** 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) [3]** for free legal clinics in your area.
- Use **Ask a Question (https://texaslawhelp.org/ask-question) [4]** to chat online with a lawyer or law student.

***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.**

## ☐ **Step 1: Calculate the deadline to file your answer. (if you were served)**

**If you have been officially served** with a *Citation* and *Original Petition for Divorce*, there is a deadline to file your answer.

- To determine 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 20<sup>th</sup> 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 **Click here to chat** you (as

*long any other applicable waiting periods have passed*). This is called a “default judgment.”

- You **may** be able to file your answer late. 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. If your spouse has finished the divorce without you, talk to a lawyer right away. Depending on how much time has passed, you may be able to file a “motion to set aside the default judgment.”
- You do not have to file an answer and counter-petition for divorce together. It is okay to file an answer first (to meet the deadline) and file a counter-petition for divorce later.

**If you have NOT been officially served**, there is no deadline to file your answer. You can file your answer (or waiver of service only form) at any time after your spouse files an *Original Petition for Divorce* (the form that starts the divorce process) with the court. If you file your answer (or waiver of service only form) now, your spouse will not need to have you served.

## ☐ **Step 2: Fill out an answer form and counter-petition for divorce form.**

Fill out an answer form and counter-petition for divorce form.

- Use these forms if you have an opposite-sex divorce without minor children:
  - **Respondent's Original Answer (Set A or Set D)**  
**([https://texaslawhelp.org/sites/default/files/fm\\_divad\\_102\\_div\\_no\\_kids\\_answer.pdf](https://texaslawhelp.org/sites/default/files/fm_divad_102_div_no_kids_answer.pdf)) [5]**
  - **Respondent's Original Counter-Petition for Divorce (Set A)**  
**(<https://texaslawhelp.org/sites/default/files/fm-diva-101-div-no-kids-counter-petition-final.pdf>) [6]**
- Use these forms if you have an opposite-sex divorce with minor children and there are no court orders about your children:
  - **Respondent's Original Answer (Set B) ([https://texaslawhelp.org/sites/default/files/fm\\_divb\\_102\\_div\\_w\\_kids\\_answer\\_english\\_respondent.pdf](https://texaslawhelp.org/sites/default/files/fm_divb_102_div_w_kids_answer_english_respondent.pdf)) [7]**

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- **Respondent's Original Counter-Petition for Divorce (Set B)**  
([https://texaslawhelp.org/sites/default/files/fm-divb-101\\_div\\_w\\_kids\\_counter\\_petition\\_english\\_respondent\\_v2018\\_10\\_0.p](https://texaslawhelp.org/sites/default/files/fm-divb-101_div_w_kids_counter_petition_english_respondent_v2018_10_0.p)  
[8]
- Use these forms if you have an opposite-sex divorce and there is already a final court order for custody and support of your children in place:
  - **Respondent's Original Answer (Set C) (<https://texaslawhelp.org/form/respondents-original-counter-petition-divorce-divorce-set-c>) [9]**
  - **Respondent's Original Counter-Petition for Divorce (Set C)**  
(<https://texaslawhelp.org/form/respondents-original-counter-petition-divorce-divorce-set-c>) [9]
- Use these forms if you have a same-sex divorce without minor children:
  - **Respondent's Original Answer (Set A or Set D)**  
([https://texaslawhelp.org/sites/default/files/fm\\_divad\\_102\\_div\\_no\\_kids\\_answer.pdf](https://texaslawhelp.org/sites/default/files/fm_divad_102_div_no_kids_answer.pdf)) [5]
  - **Respondent's Original Counter-Petition for Divorce (Set D)**  
(<https://texaslawhelp.org/sites/default/files/fm-divd-101-div-same-sex-no-kids-counterpetition-final.pdf>) [10]

Although it is free to file an answer, there is a fee to file a counter-petition. Call the district clerk's office (in the county where the divorce was filed) to learn the filing fee for a counter-petition. Fill out this additional form if you cannot afford to pay the fee.

- **Statement of Inability to Afford Payment of Court Costs**  
([https://texaslawhelp.org/sites/default/files/tx-pr-pay-112\\_scot\\_statement\\_of\\_inability\\_to\\_pay\\_court\\_costs.pdf](https://texaslawhelp.org/sites/default/files/tx-pr-pay-112_scot_statement_of_inability_to_pay_court_costs.pdf)) [11]

When filling out your forms:

- Print using blue or black ink.
- Find the cause number and court number on the Original Petition for Divorce filed by your spouse. Write the same cause number and court number on your answer and counter-petition for divorce forms.
- On your answer, you are the "respondent" and ~~your spouse is the~~ **Click here to chat.**

“petitioner.”

- On your counter-petition for divorce, you are the “counter-petitioner” and your spouse is the “counter-respondent.” **Note:** Your spouse should still be listed as the petitioner and you should be listed as the respondent in the court information box at the top of the first page.
- Do not leave blanks. If something doesn’t apply write “not applicable” or “none.”
- Talk to a lawyer if you have questions or need help.
- The answer and counter-petition for divorce ask for your mailing address. Your spouse will get a copy of these forms. If you are concerned about your spouse knowing your mailing address, call the Family Violence Legal Line at 1-800-374-4673 for free advice.

Make two copies of each completed form.

### ☐ **Step 3: File (turn in) your forms.**

File (turn in) your completed answer and counter-petition for divorce forms with the court.

- To file online, go to **E-File Texas (<https://efile.txcourts.gov/ofswb>)** [12] and follow the instructions.
- To file in person, take your forms (and copies) to the district clerk’s office in the county where your spouse filed for divorce.
  - Turn in your answer and counter-petition for divorce forms (and copies).
  - Pay the filing fee for your counter-petition for divorce (or file your completed *Statement of Inability to Afford Payment of Court Costs* if you cannot afford the fee).
  - Ask the clerk if there is a local standing order that you need to follow or attach to any of your documents.
  - Ask the clerk if there are local rules or procedures you need to know about for your divorce.

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- The clerk will “file-stamp” your forms with the date and time. The clerk will keep the originals and return your copies. One copy of each form is for you and one copy of each form is for your spouse.

☐ **Step 4: Send a copy of each form to your spouse.**

You must send a file-stamped copy of your answer and counter-petition for divorce to your spouse. If your spouse has a lawyer, send the copies to the lawyer instead of directly to your spouse.

It's best to use one of these delivery methods (so that you will have proof of delivery):

- Certified mail, return receipt requested and regular mail
- Fax
- Email
- Commercial delivery service (such as FedEx or UPS)
- Electronic service through the electronic filing manager. (**Note:** This method is required if you electronically file (E-File) this document and the email address of your spouse or your spouse's lawyer is on file with the electronic file manager.)

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

☐ **Step 5: Learn more.**

Filing an answer protects your right to have a say in the issues involved in your divorce. Once you file an answer, your spouse cannot finish the divorce unless:

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

Filing an answer does **not** mean your divorce is over.

To learn more, read the **Frequently Asked Questions** and **Articles** included in this TexasLawHelp.org toolkit: **My spouse filed for divorce.**

**(<https://texaslawhelp.org/family-divorce-children/divorce/toolkit/my-spouse-filed-divorce>) [1]**

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## Links

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- [2] <https://texaslawhelp.org/legal-help/legal-help-finder>
- [3] <https://texaslawhelp.org/legal-clinic-calendar>
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- [6] <https://texaslawhelp.org/sites/default/files/fm-diva-101-div-no-kids-counter-petition-final.pdf>
- [7] [https://texaslawhelp.org/sites/default/files/fm\\_divb\\_102\\_div\\_w\\_kids\\_answer\\_english\\_respondent.pdf](https://texaslawhelp.org/sites/default/files/fm_divb_102_div_w_kids_answer_english_respondent.pdf)
- [8] [https://texaslawhelp.org/sites/default/files/fm-divb-101-div\\_w\\_kids\\_counter\\_petition\\_english\\_respondent\\_v2018\\_10\\_0.pdf](https://texaslawhelp.org/sites/default/files/fm-divb-101-div_w_kids_counter_petition_english_respondent_v2018_10_0.pdf)
- [9] <https://texaslawhelp.org/form/respondents-original-counter-petition-divorce-divorce-set-c>
- [10] <https://texaslawhelp.org/sites/default/files/fm-divd-101-div-same-sex-no-kids-counterpetition-final.pdf>
- [11] [https://texaslawhelp.org/sites/default/files/tx-pr-pay-112\\_scot\\_statement\\_of\\_inability\\_to\\_pay\\_court\\_costs.pdf](https://texaslawhelp.org/sites/default/files/tx-pr-pay-112_scot_statement_of_inability_to_pay_court_costs.pdf)
- [12] <https://efile.txcourts.gov/ofsweb>

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