

FAQs: Filing a Divorce with Children

TexasLawHelp (<https://texaslawhelp.org/directory/legal-resource/texaslawhelp>) [1]

This article answers frequently asked questions about filing a divorce with children.

Can I file for divorce in Texas?

You can file for divorce in Texas if you **or** your spouse has lived:

- in Texas for at least the last **6 months**, and
- in the county where you file for divorce for at least the last **90 days**.

See Texas Family Code 6.301 (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.301>) [2].

Note for military families: If you are serving in the military or other government service outside of Texas you may still file for divorce in Texas if:

- Texas has been the home state of either you or your spouse for at least 6 months and
- the county where you plan to file the divorce has been the home county of either spouse for at least 90 days.

The same rule applies if you accompanied your spouse who is serving in the military or other government service outside of Texas. If Texas is your home state, time spent outside of Texas with your military spouse counts as time spent in Texas.

See Texas Family Code 6.303 (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.303>) [3].

Note for military families with children: Talk to a lawyer if you and your spouse have children together and your children have lived in another state or country for the last 6 months. A Texas court may not have jurisdiction to make orders about your children.

What if my spouse doesn't live in Texas?

As long as you meet the residency requirements for divorce, you can get divorced in Texas even if your spouse lives in another state.

Note: The court must have personal jurisdiction over your out-of-state spouse



to include orders in your divorce that impose a personal obligation on your spouse—such as ordering your spouse to pay a debt or pay child support. The Original Petition for Divorce form includes a list of situations that give the Court personal jurisdiction over an out-of-state spouse. Check any that apply to your case. Talk to a lawyer if none apply or you have questions about personal jurisdiction.



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 152.201 (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.152.htm#152.201>) [4].

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

What if my spouse already filed for divorce?

Get information about being a respondent in a divorce here: **My spouse filed for divorce. (<https://texaslawhelp.org/family-divorce-children/divorce/toolkit/divorce-my-spouse-filed-divorce>) [5]**

What if there is already a court order about our children?

Do **not** use the divorce with children toolkit if there is already a court order about your children (*not including a family violence protective order*).

If the court order (1) is a final custody and support order (such as an attorney general child support order) **and** (2) it includes all your children **and** (3) you do not want to change the order, you can use this toolkit instead: **I need a divorce. We have minor children. A final custody and support order is already in place.** (<https://texaslawhelp.org/family-divorce-children/divorce/toolkit/divorce-i-need-divorce-we-have-minor-children-final-custody-and-support-order-already->

place) [6]

If the court order (1) is a temporary order **or** (2) it does not include all your children **or** (3) you want to change the order, use **Ask a Question** (<https://texaslawhelp.org/ask-question>) [7] to chat with a lawyer about your options



Note: If the court order is a family violence protective order, you **can** use the divorce with children toolkit. However, it's a good idea to talk with a lawyer first. If you were the victim of family violence, you may qualify for free legal help.

How much does it cost to file for divorce?

When you file for divorce, you must usually pay a “filing fee.” If you need to have your spouse served, you must also pay an “issuance fee” and a “service fee.” These fees vary by county. Contact the district clerk’s office in the county where you plan to file for divorce to learn the fees.

If you don’t have enough money to pay the fees, you can ask a judge to waive the fees by completing and filing a *Statement of Inability to Afford Payment of Court Costs*. Read this short article to learn more: **Court Fees & Fee Waivers** (<https://texaslawhelp.org/article/court-fees-fee-waivers>) [8].

How long will my divorce take?

In almost all cases, you must wait at least 60 days before you can finish your divorce.

When counting the 60 days, find the day you filed your *Original Petition for Divorce* on a calendar, and then count out 60 more days (including weekends and holidays). If the 60th day falls on a weekend or holiday, go to the next business day. **Note:** When counting the 60 day waiting period, don’t count the day you filed your *Original Petition for Divorce*. Day 1 is the next day.

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

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

Note: You can always wait longer than 60 days, but your divorce cannot be finished in fewer than 60 days unless one of these exceptions applies.

What if we don't agree on child support?

If you and your spouse do not agree on child support your case is contested. It's a good idea to talk with a lawyer if your case is contested.

The **Office of the Attorney General (OAG)** may also be able to help. Although the OAG cannot represent either parent, the OAG can ask a judge to make an order for child support, medical support, **dental support** (<https://texaslawhelp.org/faq/what-dental-support>) [9], custody and possession (visitation).

Once there is a final court order for custody and support of your children, you can use this toolkit to get a divorce: **I need a divorce. We have minor children. A final custody and support order is already in place.** (<https://texaslawhelp.org/family-divorce-children/divorce/toolkit/divorce-i-need-divorce-we-have-minor-children-final-custody-and-support-order-already-place>) [6]

For information about opening a case with the OAG, call (800) 255-8014 or go to their website, www.oag.state.tx.us/cs (<http://www.oag.state.tx.us/cs>) [10].

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/>) [11] 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>) [12] at 1-800-374-HOPE (4673)
- **Advocates for Victims of Crime** (<http://www.tlsc.org/victims-of-crime.html>) [13] 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/>) [14] 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/>) [15] (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>) [16] 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>) [17] 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>) [18] 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 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>) [19].

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 doesn't want a divorce?

Your spouse cannot stop you 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.

Is my divorce uncontested or contested?

TexasLawHelp.org has instructions for **uncontested** divorces. Your divorce is uncontested if it can be finished by agreement or by default.

- Your divorce can be finished by **agreement** if you and your spouse agree about all the issues (including custody, visitation and child support) and are both willing to sign the divorce forms.
- Your divorce can be finished by **default** (without your spouse) if your spouse is served and your spouse does not file an answer or otherwise appear in court.

Your divorce is **contested** if your spouse files an answer or waiver of service and will not sign the *Final Decree of Divorce*. To finish a contested divorce, you must set your case for final hearing and give your spouse at least 45 days' notice of the hearing. It's important to talk with a lawyer if your case is contested.

Read this article to learn more: **[How to Set a Contested Final Hearing \(Family Law\)](https://texaslawhelp.org/article/how-set-contested-hearing-family-law-case)** (<https://texaslawhelp.org/article/how-set-contested-hearing-family-law-case>) [20].

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

No. You don't have to be separated to get a divorce.

Can I get a divorce in Texas if I wasn't married here?

Yes. You can get divorced in Texas if:

- your marriage is valid in the place where you were married, and
- you or your spouse has lived in Texas for at least the last six months and in the county where you file for divorce for at least the last 90 days.

Can I get a divorce in Texas if I'm not a U. S. citizen?

Yes. You may file for divorce in Texas even if you do not have legal status in the United States, if you or your spouse has:



- lived in Texas for at least the last **6 months**, and
- lived in the county where you file for divorce for at least the last **90 days**.

What if I previously filed for divorce in another state or county?

Before you can file a new divorce case, all prior divorce cases must be dismissed. You must tell the judge about all other court cases between you and your spouse. If a prior case is still active, the court might not have jurisdiction in the new case. Talk to a lawyer if you have a prior case that might be active.



Can I get a legal separation instead of a divorce?

No. There is no legal separation in Texas.

Can I get an annulment or an order declaring my marriage to be void?

Most people do not qualify for an annulment or order declaring their marriage is void.

A judge can annul your marriage only if:

- You were 16 or 17 years old when you got married and you were married without your parent's consent or a court order. (Note: An annulment case in this situation must be filed by your parent or another designated adult before you turn 18.) **or**
- You were under the influence of alcoholic beverages or narcotics, and as a result did not have the capacity to consent to the marriage and you have not voluntarily lived with your spouse since the effects of the alcoholic beverages or narcotics ended. **or**
- Either you or your spouse, for physical or mental reasons, was impotent (unable to have sex). You did not know of the impotency at the time of the marriage and you have not voluntarily lived with your spouse since learning of the impotency. **or**
- Your spouse used fraud, duress, or force to make you get married and you have not voluntarily lived with your spouse since learning of the fraud or being released from the duress or force. **or**
- You did not possess the mental capacity to consent to marriage or to understand the nature of the marriage ceremony because of a mental disease or defect. Since the marriage ceremony, you have not voluntarily

lived with the Respondent during a period that you possessed the mental capacity to recognize the marriage relationship. **or**

- Your spouse did not possess the mental capacity to consent to marriage or to understand the nature of the marriage ceremony because of a mental disease or defect. At the time of the marriage, you did not know of your spouse's mental disease or defect and you have not voluntarily lived with your spouse since you discovered your spouse's mental disease or defect. **or**
- Your spouse hid the fact that he or she got divorced from someone else during the 30 days before your marriage ceremony. At the time of the marriage ceremony you did not know about the divorce and you have not lived with your spouse since you found out about the divorce. It also must have been less than 1 year since you were married. **or**
- You were married less than 72 hours after the marriage license was issued. A judge did not sign an order waiving the 72 hour waiting period and none of the exceptions set out in Texas Family Code Section 2.204 (b) apply. (At the time of the marriage, you were not a member of the U.S. armed forces on active duty, you did not perform work for the U.S. Department of Defense as an employee or under a contract with the Department, and you did not seek a waiver based upon completion of a premarital course as set out in Section 2.204 (b) (4).) And, it has been less than 30 days since the marriage took place.



See Texas Family Code, Chapter 6, Subchapter B.

A judge can declare your marriage void only if:

- Either you or your spouse was married to someone else at the time of your marriage. **or**
- You and your spouse are close relatives. **or**
- Either you or your spouse was under 16 when you got married (unless a court order allowed you to marry). **or**
- You are married to your step-parent or step-child.

See Texas Family Code, Chapter 6, Subchapter C.

Talk to a lawyer if you have questions about annulment or void marriage.

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

You must attach a copy of any protective order involving you and your spouse or your children to your *Original Petition for Divorce*.

What if I have a same-sex marriage?

You can get divorced in Texas if you have a same-sex marriage. Read this article to learn more: **Same-Sex Marriage & Divorce** (<https://texaslawhelp.org/article/same-sex-marriage-divorce>) [21].

**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>) [19].

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 I have to prove fault to get a divorce in Texas?

No. 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 can’t be fixed.

Note: The TexasLawHelp.org divorce forms only include the “no-fault” grounds for divorce. They do not include any fault-based grounds for divorce. Talk to a lawyer if you want to ask for a divorce based on fault.

Do I have to tell my spouse that I’m filing for divorce?

Yes. Your spouse has the right to know if you file for divorce. The instructions included in this toolkit explain how to give your spouse proper legal notice of the divorce.

What does “pro se” mean?

Pro se means you are representing yourself in a court case and don’t have a lawyer.

What if I can't find my spouse?

If you cannot find your spouse (after looking really hard) you can serve your spouse by publication in a local newspaper, by publication on the state's citation by publication web site (<https://www.txcourts.gov/judicial-data/citation-by-publication/>) [22], or both.

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>) [23].



What if my spouse is in jail or prison?

You must still notify your spouse about the divorce if he or she is in jail or prison.

If your divorce is agreed, your spouse can sign the necessary court forms in jail or prison and return them to you. Follow these instructions: **Instructions & Forms for an Agreed Divorce with Children** (<https://texaslawhelp.org/checklist/instructions-forms-agreed-divorce-with-children>) [24].

If your divorce is not agreed (or you don't want to have contact with your spouse), you must have a constable or sheriff serve your spouse with the initial divorce papers in jail or prison. Follow these instructions: **Instructions & Forms for a Default Divorce with Children** (<https://texaslawhelp.org/checklist/instructions-forms-default-divorce-with-children>) [25].

Note: If your spouse must be served, you will need the physical address of the jail or prison. If your spouse is in a county jail, call the jail or sheriff's office in that county to get the address. If your spouse is in prison, you may be able to use one of the following websites to get the address.

- Use this website if your spouse is in a Texas prison: **Texas Department of Criminal Justice Offender Search** (<https://offender.tdcj.texas.gov/OffenderSearch/>) [26].
- Use this website if your spouse is in a federal prison: **Federal Bureau of Prisons Inmate Locator** (<https://www.bop.gov/inmateloc/>) [27].
- Use this website if your spouse is being held by U.S. Customs and Immigration Enforcement (ICE): **ICE Detainee Locator**

(<https://locator.ice.gov/odls/homePage.do>) [28]

What if my spouse is in the military?

Having a spouse on active military duty can complicate your divorce case. It may be difficult to find and serve papers on a service member stationed overseas. In addition, you cannot finish your case by default if your spouse is on active duty. Talk to a lawyer if you are filing for divorce and your spouse is on active military duty.



Get more information here: **[www.StatesideLegal.org \(http://statesidelegal.org/library/2652\)](http://statesidelegal.org/library/2652)** [29]

Can my spouse also file for divorce?

Yes. If you start the divorce by filing an Original Petition for Divorce, your spouse can file their own request for a divorce by filing a Counter-Petition for 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 \(https://texaslawhelp.org/article/divorce-when-wife-pregnant\)](https://texaslawhelp.org/article/divorce-when-wife-pregnant)** [30].

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 \(https://texaslawhelp.org/article/divorce-when-husband-not-father\)](https://texaslawhelp.org/article/divorce-when-husband-not-father)** [31].

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

It's a good idea to talk with a family law lawyer familiar with LGBTQIA issues if

either spouse in a same-sex marriage is pregnant or gave birth to a child during the marriage. The law in this area is unclear.



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.

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 6.406 (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.6.htm#6.406>) [32].

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 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, medical support, and dental support (<https://texaslawhelp.org/faq/what-dental-support>) [9] 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) [33]

- **Child Visitation & Possession Orders** (<https://texaslawhelp.org/article/child-visitation-possession-orders>) [34]
- **Child Support, Medical Support, and Dental Support** (<https://texaslawhelp.org/article/child-support-medical-support-and-dental-support>) [35]



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>) [36].

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>) [36].

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>) [37].

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>) [38]

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;
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;
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>) [39].

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 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) [40]**

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 to 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.



What if I change my mind about getting divorced?

If you change your mind about getting divorced, you may be able to dismiss your case by filing a notice of nonsuit or an agreed motion. Read this article to learn more: **How to Dismiss a Case You Filed** (<https://texaslawhelp.org/article/how-dismiss-case-you-filed>) [41].

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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