

Enforcing the Property Division in a Divorce

Texas Legal Services Center (<https://texaslawhelp.org/directory/legal-resource/texas-legal-services-center>) [1]

This article by [Texas Legal Services Center \(http://www.tlsc.org\)](http://www.tlsc.org) [2] answers some frequently asked questions about how to enforce the division of property after a divorce.



Who enforces the division of property within the divorce decree?

The court that rendered the final decree of divorce enforces the property division.

You return to this court to pursue enforcement if your ex-spouse is not following the orders that the court set out in the property division.

See [Texas Family Code chapter 9.002 \(http://https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.003\)](https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.003) [3].

What if my ex-spouse does not do what the judge orders in the property division?

You may request enforcement of the decree by filing a suit to enforce, asking the judge to enforce the property division in your divorce decree. An order of enforcement does not amend, modify, or alter the original property division. An enforcement will only specify how the property is to be divided. You must file a motion for enforcement in the same court where your divorce was originally filed. The other party must receive notice by citation and file a written answer to avoid a default judgment.

See [Texas Family Code chapter 9.001\(c\) \(https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.001\)](https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.001) [4].

How long do I have to request enforcement of a division of property order?

There is a two-year statute of limitation to file a suit to enforce against a former spouse. This two-year time period starts the date the original divorce decree was signed by the judge or becomes final after an appeal, whichever date is later.

See [Texas Family Code chapter 9.003 \(a\). \(https://statutes.capitol.texas.gov\)](https://statutes.capitol.texas.gov)

[/Docs/FA/htm/FA.9.htm#9.003](#) [5]

What can't an order of enforcement do?

An order of enforcement **cannot alter** the divorce decree in any way. It can only **clarify** the decree, or provide instructions on how to implement the divorce decree. Any type of enforcement that alters the divorce decree is beyond the powers of the court, and is unenforceable.



See (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.007>) [6] **Texas Family Code chapter 9.007.** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.007>) [6]

When can I file a motion to enforce the division of property order?

The court will be unable to grant an order of enforcement until 30 days have passed from the date the divorce decree is signed by the judge. If there has been a timely motion for a new trial or to vacate, modify, correct, or reform the decree, the court cannot grant an order of enforcement until 30 days after the motion has been granted or overruled.

See **Texas Family Code chapter 9.007(c)** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.003>) [5]. (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.007>) [6]

What if it is unclear how the property was divided in the divorce?

Sometimes, parties may not comply with a divorce decree because they are unclear about the specific details outlined by the judge. Either party can request a clarifying order before a filing a motion for contempt or in conjunction with a motion for contempt. This will let the court further specify what property belongs

to who and how it should be divided.

See **Texas Family Code chapter 9.008(a)** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm>) [7]. (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.008>) [8]



What if my ex-spouse does not comply with the clarifying order?

You can file a motion for delivery of property. The court can order the delivery of the property that was awarded in the divorce decree.

See **Texas Family Code chapter 9.009** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm>) [7]. (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.009>) [9]

What if my ex-spouse does not comply with the order for delivery of property?

If your ex-spouse fails to comply with the division of property in the divorce decree or the order for the delivery of property, the court can award you a money judgment for the damages caused by your ex-spouse's failure to comply.

See **Texas Family Code chapter 9.010 (a)** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm>) [7].

What is my last resort if my ex-spouse is not complying with the property division in the divorce decree?

You need a lawyer to help you draft and file a motion for contempt. Your ex-spouse can be held in contempt of court if they do not comply with a court order. Use TexasLawHelp's **Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [10] tool to locate a lawyer.

See **Texas Family Code chapter 9.012 (a)** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm>) [7].

What does “contempt” mean?

A party who does not comply with a court order can be held in contempt. A court can order fines or jail time if an ex-spouse does not comply with a divorce decree.

**Who pays the cost for the proceedings to enforce the division of property in the divorce decree?**

The court can award you court costs and reasonable attorney’s fees for the pursuit of enforcing the division of property in the divorce decree.

See **Texas Family Code chapters 9.012** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.012>) [11] and **9.014** (<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.014>) [12].

Should I talk to a lawyer about enforcing the property division?

These basic instructions are not a substitute for the legal advice and counsel of a lawyer. A lawyer is trained to protect your legal rights. Even if you decide to represent yourself, try to talk to a lawyer about your case before filing anything. Use the **TexasLawHelp Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [10] tool for assistance in locating a lawyer.

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[1] <https://texaslawhelp.org/directory/legal-resource/texas-legal-services-center>

[2] <http://www.tlsc.org>

[3] <http://https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.003>

[4] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.001>

[5] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.003>

[6] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.007>

[7] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm>

[8] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.008>

[9] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.009>

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

[11] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.012>

[12] <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.9.htm#9.014>

