

DISTRICT COURT
STATE OF TEXAS
DIVORCE PACKAGE
ADULT CHILDREN
With or Without Property
Control Number TX-004 -D

This packet contains the following:

1. Information about Divorce
2. Form List
3. Form Explanations
4. Instructions and Steps
5. Checklist
6. Access to Law Summary

You and your spouse must agree to all terms of the divorce to use this packet.
ALL FORMS MUST BE PRINTED ON BOND PAPER

INFORMATION ABOUT DIVORCE

1. **WHO CAN USE THESE FORMS:** You may use this package for divorce only when all of the following facts are true:
 - (a) The marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation.
 - (b) There are no minor children. All children are adults.
 - (c) You and your spouse agree on all terms of the divorce.
 - (d) The residency requirements are met.
2. **THE BASICS:** In a typical divorce, there are basically two requirements that must be met before you can file for a divorce. Those requirements are below:
 - (a) You must satisfy the *residency* requirements.
 - (b) You must satisfy the *no-fault procedures*.
3. **RESIDENCY REQUIREMENTS:** A suit for divorce may not be maintained in this state unless at the time the suit is filed either the petitioner or the respondent has been: (1) a domiciliary of this state for the preceding six-month period; and (2) a resident of the county in which the suit is filed for the preceding 90-day period. § 6.301.
4. **GROUND FOR DIVORCE:**

INSUPPORTABILITY

On the petition of either party to a marriage, the court may grant a divorce without regard to fault if the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation. **§ 6.001.**

Additional grounds for divorce are as follows:

CRUELTY

The court may grant a divorce in favor of one spouse if the other spouse is guilty of cruel treatment toward the complaining spouse of a nature that renders further living together insupportable. **§ 6.002.**

ADULTERY

The court may grant a divorce in favor of one spouse if the other spouse has committed adultery. **§ 6.003.**

CONVICTION OF FELONY

(a) The court may grant a divorce in favor of one spouse if during the marriage the other spouse:

- (1) has been convicted of a felony;
 - (2) has been imprisoned for at least one year in the state penitentiary, a federal penitentiary, or the penitentiary of another state; and
 - (3) has not been pardoned.
- (b) The court may not grant a divorce under this section against a spouse who was convicted on the testimony of the other spouse. **§ 6.004.**

ABANDONMENT

The court may grant a divorce in favor of one spouse if the other spouse:

- (1) left the complaining spouse with the intention of abandonment; and
- (2) remained away for at least one year. **§ 6.005.**

LIVING APART

The court may grant a divorce in favor of either spouse if the spouses have lived apart without cohabitation for at least three years. **§ 6.006.**

CONFINEMENT IN MENTAL HOSPITAL

The court may grant a divorce in favor of one spouse if at the time the suit is filed:

- (1) the other spouse has been confined in a state mental hospital or private mental hospital, as defined in Section 571.003, Health and Safety Code, in this state or another state for at least three years; and
- (2) it appears that the hospitalized spouse's mental disorder is of such a degree and nature that adjustment is unlikely or that, if adjustment occurs, a relapse is probable. **§ 6.007.**

- 5. **DISTRIBUTION OF PROPERTY:** Since this is an agreed upon divorce, the parties will have agreed to property distributions.
- 6. **WAITING PERIOD:** The court may not grant a divorce before the 60th day after the date the suit was filed. A decree rendered in violation of this subsection is not subject to collateral attack.
- 7. **NAME CHANGE:** Whenever a decree of divorce is granted, the Court may restore to the wife her birth name, or the surname she legally bore prior to her marriage to the husband in the divorce action, or allow her to adopt another surname if the change is not sought with any fraudulent or evil intent.
- 8. **REMARRIAGE:**
 - (a) Except as otherwise provided by this subchapter, neither party to a divorce may marry a third party before the 31st day after the date the divorce is decreed.
 - (b) The former spouses may marry each other at any time.

For more information, see the Texas Divorce Law Summary.

FORMS LIST

The forms included in this package are:

- 1. Petition for Divorce (TX-801D)**
- 2. Waiver of Citation (TX-803D)**
- 3. Final Decree of Divorce (TX-804D)**
- 4. Notice of Oral Hearing (TX-806D)**
- 5. Order Setting Hearing Date (TX-807D)**
- 6. Civil Case Information Sheet (TX-829D)**
- 7. Information on Suit Affecting the Family Relationship (TX-VS-165)**
- 8. Sample Testimony (TX-830D)**

A Civil Cover Sheet, financial statement or other County specific forms may be required in your County. If so, they should be available from the Clerk.

FORM EXPLANATIONS

All forms included in this package, or needed, are identified below.

1. **Petition for Divorce (TX-801D)** - The Petition for Divorce is the document in which you are asking the court to grant your divorce along with any other relief requested.
2. **Waiver of Citation (TX-803D)** – This document is used by the Defendant to acknowledge receipt of the Petition for Divorce and to enter an appearance. It is further used to acknowledge that the allegations contained in the Petition for Divorce are true and to request that the Court grant a Decree of Dissolution of Marriage pursuant to the terms of Petitioner's Petition at any time and without further notice to Respondent. This form must be dated and signed AFTER the Complaint and other documents are filed.
3. **Final Decree of Divorce (TX-804D)** – This document is the final document and grants the divorce. It is signed by the Judge after hearing. In completing the Judgment you should make sure you add provisions needed to deal with your property issues. You may also delete provisions not needed, such as the reference to automobiles.
4. **Notice of Oral Hearing (TX-806D)** – This document is used to provide notice to parties of the date, time and place of a hearing to be held on the original petition for divorce.
5. **Order Setting Hearing Date (TX-807D)** – This document is used by the court to order the date, time and place of a hearing on an original petition for divorce.
6. **Civil Case Information Sheet (TX-829D)** – This document is used by the court to option information about the Defendant and the Respondent.
7. **Information on Suit Affecting the Family Relationship (TX-VS-165)**
– This document is used to notify the State of Texas that a divorce has occurred and between whom.
8. **Sample Testimony (TX-830D)** – This document is a sample testimony form. You must read this testimony to the judge when you go to court to finish your divorce.

INSTRUCTIONS AND STEPS

Note: If a form contains a space for the signature of a Notary Public, it must be signed by you (and if necessary by your spouse) in front of a Notary Public, who must notarize the document. Prepare an original and several copies of each of your completed documents. Your spouse should have a copy of everything you file, stamped “filed” by the clerk. You should keep copies and the court must have originals.

- STEP 1:** The filing party should complete the Petition for Divorce. The Petition for Divorce is then filed with the District Court Clerk. A filing fee is paid. Advise the clerk that the Defendant will sign a waiver of citation and not to issue a summons.
- STEP 2:** You should then provide the Defendant with a Copy of the filed Petition and the original and one copy of the Waiver of Citation, as well as the original Judgment.
- STEP 3:** The Defendant should sign the Waiver of Citation before a notary public. Both parties should complete and sign the Judgment. The Judgment contains the agreement of the parties about property division, debts and other matters. In completing the Judgment, you should make sure you add provisions needed to deal with your property issues. You may also delete provisions not needed, such as the reference to automobiles.
- STEP 4:** The Petitioner should next file the Waiver of Citation with the Clerk.
- STEP 5:** Wait at least 60 days from the filing of the Petition. Then ask the Clerk for a hearing date to present the agreed Judgment to the Court. The Clerk should provide you with a date to present the Judgment. If applicable, the Petitioner should complete, file and provide to the Defendant the Notice of Oral Hearing along with the Order Setting Hearing Date signed by the judge to provide notice to the Defendant of the date, time and place of a hearing to be held on the original petition for divorce.
- STEP 6:** Next, make four copies of the Judgment, then attend the hearing and answer any questions from the Court. Both parties may attend. After the hearing, present the original Judgment to the Court for signature.
- STEP 7:** File the signed Judgment with the Clerk and obtain several certified copies as proof of the divorce. Complete any required statistical forms provided by the Clerk.

When presenting pleadings to the Clerk make sure you have at least 4 copies for the Clerk. The Clerk will return the copies to you that the Court does not need.

CHECKLIST

- ☐ *Petition for Divorce* completed and filed with Clerk of Court.
- ☐ Filing fee paid.
- ☐ Copy of *Petition for Divorce* and *Waiver* form provided to the Respondent. Respondent signs *Waiver* and returns form to Petitioner.
- ☐ Both parties complete, agree and sign the *Judgment*.
- ☐ Petitioner files *Answer and Waiver* with Clerk.
- ☐ Wait more than 60 days and then ask the Clerk for a hearing date. If applicable, *Notice of Oral Hearing* and *Order Setting Hearing Date* signed by judge, completed, filed and provided to the Respondent.
- ☐ Hearing held and *Judgment* signed.
- ☐ *Judgment* filed with the Clerk.
- ☐ Certified copies of *Judgment of Divorce* obtained as proof of the divorce.

COMPLETING THE FORMS

The forms in this packet contain “form fields” created using Microsoft Word. “Form fields” facilitate completion of the forms using your computer. They do not limit your ability to print the form “in blank” and complete with a typewriter or by hand.

If you do not see the gray shaded form fields, go the View menu, click on Toolbars, and then select Forms. This will open the forms toolbar. Look for the button on the forms toolbar that resembles a shaded letter “a”. Click in this button and the form fields will be visible.

To complete the forms click on the gray shaded areas and type the information. For the separation agreement complete the gray shaded areas and also make any other changes or additions to resolve all issues.

Some forms are locked which means that the content of the forms cannot be changed unless the form is unlocked. You can only fill in the information in the fields. If you need to make any changes in the body of the form, it is necessary for you “unlock” or “unprotect” the form. **IF YOU INTEND TO MAKE CHANGES TO THE CONTENT, DO SO BEFORE YOU BEGIN TO FILL IN THE FIELDS. IF YOU UNLOCK THE DOCUMENT AFTER YOU HAVE BEGUN TO COMPLETE THE FIELDS, WHEN YOU RELOCK, ALL INFORMATION YOU ENTERED WILL BE LOST.** To unlock click on “Tools” in the Menu bar and then selecting “unprotect document”. You may then be prompted to enter a password. If so, the password is “uslf”. That is uslf **in lower case letters without the quotation marks**. After you make the changes relock the document before you begin to complete the fields. After any required changes relock the form, then click on the first form field and enter the required information. You will be able to navigate through the document from form field to form field using your tab key. Tab to a form field and insert your data. If you experience problems, please let us know.

LAW SUMMARY

You may access the law summary for your State by using the link below:

<http://secure.uslegalforms.com/lawsummary/TX/TX-004-D.htm>

DISCLAIMER

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THESE FORMS WERE PREPARED FOR STATEWIDE USE. HOWEVER, SOME COUNTIES OR JUDGES MAY REQUIRE CERTAIN MODIFICATIONS TO THE FORMS FOR USE IN YOUR PARTICULAR COUNTY AND MAY REQUIRE SPECIAL FORMS NOT INCLUDED. CHANGES REQUIRED BY PARTICULAR JUDGES ARE NOT UNCOMMON EVEN IF THE FORMS HAD BEEN PREPARED BY YOUR ATTORNEY. REGARDLESS, YOU SHOULD BE ABLE TO USE THESE FORMS AND INSTRUCTIONS, WITH ANY REQUIRED MODIFICATIONS, TO MAKE IT THROUGH THE PROCESS. IF YOU NEED TO MAKE CHANGES, OR IF SPECIAL FORMS ARE REQUIRED IN YOUR COUNTY, YOU CAN MAKE THE CHANGES AND REFILE, OR OBTAIN THE SPECIAL FORMS EITHER FROM THE CLERK OR A CLOSED DIVORCE FILE WHICH YOU CAN USE AS AN EXAMPLE.