

**DISTRICT COURT**

**STATE OF TEXAS**

**DIVORCE PACKAGE**

**MINOR CHILDREN**

**With or Without Property**

**Control Number TX-006-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 minor children of the marriage.
  - (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.       **GROUNDS 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. **§ 6.0002.**

### **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 distribution. As a general rule, in cases in which the parties have not reached an agreement regarding the division of property of the marriage, the court shall order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage. **§ 7.001**
- 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. **CHILD SUPPORT:** The court may order either or both parents to make periodic payments for the support a child:

- (a) Until the child is 18 years of age or until graduation from high school, whichever occurs later;
- (b) Until the child is emancipated through marriage, through removal of the disabilities of minority by court order, or by other operation of law;
- (c) Until the death of the child; or
- (d) If the child is disabled, for an indefinite period. **§ 154.001**

The amount of a periodic child support payment established by the child support guidelines established by the State of Texas at the time of the hearing is presumed to be reasonable, and an order of support conforming to the guidelines is presumed to be in the best interest of the child. The court may, however, determine that the application of the guidelines would be unjust or inappropriate under the circumstances. **§ 154.122**

8. **VISITATION/CUSTODY:** The best interest of the child shall always be the primary consideration of the court in determining the issues of conservatorship and possession of and access to the child. **§ 153.002**

The court shall consider the qualifications of the parties without regard to their marital status or to the sex of the party or the child. **§ 153.00**

The parties may enter into a written agreement containing provisions for conservatorship and possession of the child and for modification of the agreement, including variations from the standard possession order. If the court finds that the agreement is in the child's best interest, the court shall render an order in accordance with the agreement. **§ 153.007**

If the child is 12 years of age or older, the child may, by writing filed with the court, choose the managing conservator, subject to the approval of the court. **§ 153.008**

9. **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.

10. **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-870D)**
2. Waiver of Citation **(TX-823D)**
3. Employer's Order to Withhold from Earnings for Child Support **(TX-827D)**
4. Final Decree of Divorce **(TX-885D)**
5. Notice of Oral Hearing **(TX-806D)**
6. Order Setting Hearing Date **(TX-807D)**
7. Civil Case Information Sheet **(TX-829D)**
8. Information on Suit Affecting the Family Relationship **(TX-VS-165)**
9. 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. You will also need to obtain a Vital Statistics form from the Clerk prior to the final hearing.

## **FORM EXPLANATIONS**

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

1.                   **Petition for Divorce (TX-870D)** - 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-823D)** – 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 state that the cause may be taken up and considered by the Court without further notice to the Respondent only if an Agreed Decree of Divorce signed by the Respondent is presented to the Court for signature and entry. This form must be dated and signed AFTER the Complaint and other documents are filed.
3.                   **Employer's Order to Withhold from Earnings for Child Support (TX-827D)** – This form is used by the Court to order an employer to withhold from the paycheck of the child support obligor an amount sufficient to pay the ordered child support amount and any arrearages.
4.                   **Final Decree of Divorce (TX-885D)** – This document is a final document and grants the divorce. It is signed by the Judge after hearing.
5.                   **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.
6.                   **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.
7.                   **Civil Case Information Sheet (TX-829D)** – This document is used by the court to obtain information about the Defendant and the Respondent.
8.                   **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.
9.                   **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 (TX-870D)*. The *Petition for Divorce (TX-870D)* 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 (TX-823D)* and not to issue a *Summons*.
- STEP 2:** You should then provide the Defendant with a copy of the filed *Petition (TX-870D)* and the original and one copy of the *Waiver of Citation (TX-823D)*.
- STEP 3:** The Defendant should sign the *Waiver of Citation (TX-823D)* before a notary public. Either party may then file the *Waiver of Citation (TX-823D)* with the Clerk.
- STEP 4:** Both parties should complete and sign the *Final Decree of Divorce (TX-885D)*, as well as any applicable exhibits. In completing the *Final Decree of Divorce (TX-885D)*, both parties should make certain to agree to all of the terms contained in both the Decree and exhibit attachments.
- STEP 5:** The *Employer’s Order to Withhold from Earnings for Child Support (TX-827D)* should next be completed, based upon the child support amounts contained in the Judgment.
- STEP 6:** A parenting seminar may be required to be attended by the parties, depending upon the county of filing. Contact the Clerk regarding this possibility, and if required, attend.
- STEP 8:** Wait at least 60 days from the filing of the *Petition for Divorce (TX-870D)*. After the required waiting period has elapsed, ask the Clerk for a hearing date to present the *Final Decree of Divorce (TX-885D)* to the Court. If applicable, the Petitioner should complete, file and provide to the Defendant the *Notice of Oral Hearing (TX-806D)* along with the *Order Setting Hearing Date (TX-807D)* 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 9:** Next, make four copies of the *Final Decree of Divorce (TX-885D)* and its exhibit attachments, and the *Employer’s Order to Withhold from Earnings for Child*

*Support (TX-827D)*. Attend the hearing and answer any questions from the Court. Both parties may attend. After the hearing, present the original *Final Decree of Divorce (TX-885D)* and any exhibit attachments and the *Employer's Order to Withhold from Earnings for Child Support (TX-827D)* to the Court for signature.

**STEP 10:** File the signed *Final Decree of Divorce (TX-885D)* and any exhibit attachments, and the *Employer's Order to Withhold from Earnings for Child Support (TX-827D)* with the Clerk and obtain several certified copies as proof of the divorce.

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 (TX-870D)* completed and filed with Clerk of Court.
- ☐ Filing fee paid.
- ☐ Copy of *Petition for Divorce (TX-870D)* and original and one copy of *Waiver of Citation (TX-823D)* provided to Respondent.
- ☐ Respondent signs *Waiver (TX-823D)* and either party then files *Waiver* with Clerk.
- ☐ Both parties complete, agree and sign the *Final Decree of Divorce (TX-885D)*, along with all exhibit attachments.
- ☐ *Employer's Order to Withhold from Earnings for Child Support (TX-827D)* completed.
- ☐ Parenting seminar attended if required.
- ☐ Wait more than 60 days from date of filing of *Petition for Divorce (TX-870D)*, then ask the Clerk for a hearing date. If applicable, *Notice of Oral Hearing (TX-806D)* and *Order Setting Hearing Date (TX-807D)* signed by judge completed, filed and provided to the Respondent.
- ☐ Hearing held and *Final Decree of Divorce (TX-885D)* and any exhibit attachments, and the *Employer's Order to Withhold from Earnings for Child Support (TX-827D)* signed by Court.
- ☐ *Final Decree of Divorce (TX-885D)* and any exhibit attachments, and the *Employer's Order to Withhold from Earnings for Child Support (TX-827D)* filed with the Clerk.
- ☐ Certified copies of *Final Decree of Divorce (TX-885D)* and any exhibit attachments, and the *Employer's Order to Withhold from Earnings for Child Support (TX-827D)* 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-006-D.htm>

### **DISCLAIMER**

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