

Divorce in Texas

Does my spouse have to agree to the divorce? No. Texas has no fault divorce, which means that a divorce can be granted even if your spouse doesn't agree to it. For a "no fault" divorce, your divorce lawsuit must allege that there is a conflict of personalities and that you do not expect to get back together. You do not need to go into any details of the breakup. Texas also has fault grounds for divorce, such as cruelty and adultery that can be important for the purposes of custody or receiving a bigger share of the community property, but proving fault is not a legal requirement for getting a divorce.

Where do I file for divorce? To file for divorce, the husband or wife must have lived in Texas for a minimum of 6 months and for at least 90 days in the county where the divorce is filed.

How long does a divorce take? Except in cases involving domestic violence, you must wait a minimum of 60 days from the date the divorce is filed before the divorce can be granted. Most divorces take much longer than 60 days. While the divorce is pending, the court can enter Temporary Orders for child support, custody, use of property, payment of attorney's fees and other issues. Temporary orders end if the case is dismissed or the court enters a final decree of divorce.

Are children included in the divorce? If children were born during the marriage, they must be included in the divorce. If the parents can't agree on issues of custody, child support and visitation, the court will decide these issues.

Can I get child support without filing for divorce? Yes. If you are separated, you can apply for child support through the Office of Attorney General, Child Support Division before filing for divorce.

How will our property and debts be divided? Texas is a community property state. *Community property* includes almost all property acquired during the marriage: income, wages, savings, bank accounts, retirement, vehicles, land, houses, dishes, furniture, tools, electronics, and some business and partnership assets. It does *not* matter which spouse purchased the property or whose name is on the account or title. In most cases, property purchased or acquired during the marriage is community property. *Separate property* is property owned before the marriage, or acquired by one spouse during the marriage by gift, inheritance, or, sometimes, as part of a personal injury settlement.

The law does NOT require property or debt to be divided equally in a divorce. The court is required to divide the property and debt in a just and right manner. The court can order the sale of property, divide retirement benefits, and decide who gets which vehicle. If you are awarded a car or house, you are usually responsible for making payments after the divorce is final.

Debt includes the balance on car notes, credit cards, personal loans, student loans, hospital bills, regardless of who created the debt. The court can order each party to pay certain debts, but *cannot* order a creditor to remove your name from the debt or loan, even if your spouse was ordered to pay it. A divorce will not fix your credit report.

Does Texas have alimony? In Texas alimony is called spousal maintenance. The court can order temporary spousal support while the divorce is pending. In some cases, a judge can order spousal maintenance after a divorce where there is a family violence conviction, the spouse requesting spousal maintenance or a child of the marriage is disabled, or the marriage lasted at least 10 years and spouse is unable to earn income to support minimum reasonable needs. While there are some exceptions, the court will order spousal support for the shortest amount of time necessary for the spouse receiving support have enough income to provide for their own minimum reasonable needs.

Can I change my name? When the judge grants the divorce you can change your name to your previous name, but you can't change it to a new name. That requires a separate lawsuit.