



# **GUIDANCE FOR “DO IT YOURSELF” DIVORCE IN TEXAS**

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Current as of October 2024

The information displayed in this handout is meant for the sole use of Active duty service members, retirees, their families and other personnel eligible for legal assistance from the Goodfellow AFB Legal Office. The information is general in nature and presented to assist those eligible persons prepare for a legal assistance appointment with a professional in the legal office. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

## **HOW TO “DO IT YOURSELF”**

Many individuals find themselves unable or unwilling to pay for legal assistance when seeking a divorce. With mutual cooperation, you and your spouse may be able to handle your own divorce for about \$500.00, with a final decree just as effective and binding as one drawn up by a lawyer. Bear in mind that either you or your spouse must appear in court and inform the judge that you have irreconcilable differences and the marriage cannot be saved. Although it is important to note that this is not necessarily the recommended method of acquiring a final divorce decree. There are many factors that must be considered, including but not limited to, children, support, visitation, insurance coverage, educational expenditures, and retirement benefits. An attorney can help ensure the divorce action you are undertaking becomes final and that problems do not arise in the future. This information sheet points out a few of the issues which you should resolve with your spouse before attempting a DITY divorce.

### **Texas Divorce Residency Requirements**

One spouse must have lived in Texas for at least six months prior to initiating a divorce action. Additionally, the filing party must have been a resident of his or her county for at least ninety days prior to filing.

### **Communication**

The most important condition for a DITY divorce is communication and agreement between you and your spouse on the terms of the divorce. Otherwise, you are requiring (and paying for) lawyers and the judge to do it for you. Even if you choose to hire a lawyer, agreeing with your spouse will save you money in legal fees. The following is a summary of the items you and your spouse should agree on before you begin:

### **Property**

One key rule to remember is that any property you owned separately before you married is still yours and is not subject to negotiation unless you want it to be. Likewise, any inheritance or gifts you received in your name alone during your marriage are your separate property and not subject to division by the court. Texas is a community property state. As such, all other property belongs to both of you. You may divide up everything as you wish, as long as you both agree and the division is equitable (fair). Include debts and liabilities in your agreements because these are also subject to division by the court.

### **Custody, Visitation, and Child Support Terms**

Texas law sets out guidelines for the custody, visitation, and support of minor children. The Standard Possession Order (SPO) is a schedule for visitation that is presumed to be in the best interest of the child. Texas law includes a Standard Possession Order that sets out the minimum visitation for the non-custodial parent. You can review the Standard Possession Order in the Texas Family Code, Chapter 153, Subchapter F. Please note that parents have the flexibility to modify the SPO to better suit their unique circumstances and needs.

### **Maintenance ("Alimony")**

You and your spouse may agree on terms of temporary spousal support while the divorce is pending if you wish. Texas courts will order spousal maintenance (alimony) after the divorce only in very limited circumstances.

## **Retirement Pay**

Retirement pay is a divisible asset. Generally, the courts use a formula based on the years of marriage while in the service compared to the total years of service. Refer to the Former Spouses Protection Act handout to determine eligibility and the amount of retirement pay your spouse should receive.

## **Military Member Financial Obligations**

If you or your spouse is a military member, it is important to understand the financial obligations that the military imposes until the divorce is finalized. The military requires service members to provide adequate financial support to their dependents. Each branch of the military has its own regulations regarding support:

- Army: AR 608-99
- Air Force: AFI 36-2906
- Navy: MILPERSMAN 1754-030
- Marine Corps: MCO 5800.16A
- Coast Guard: COMDTINST M1000.6A

Once you and your spouse have determined that you can agree on the terms of a divorce, you will need to obtain forms for filing your divorce. DITY divorce in Texas is not simple because no official "forms" for divorce in Texas exist, even though general guides are out there. An excellent resource is the Texas Young Lawyers Association's website. This organization has produced a "Pro Se Divorce Handbook" which provides information and forms for those representing themselves in a simple (uncontested) divorce, along with discussions about the division of marital property and issues concerning children, as well as tips on court etiquette and deadlines. You may also obtain forms and definitions of legal terms from your local public library, a paralegal, or certified legal assistant (there may be a charge for this assistance, but it will still cost you less than hiring an attorney). You will need to prepare a petition for divorce as well as a final decree. These forms require special language to be legally valid. You will use these documents to deal with creditors, to change your name, to determine the amount of visitation and child support applicable in your life. If you have children, these documents will be in effect until your youngest child reaches 18 or graduates from high school, whichever is later. For this reason, you may decide the expense of a lawyer is worthwhile in exchange for the ease of having forms prepared for you and the security of knowing the documents are legally sufficient.

## **Fees**

Filing fee schedules are available from the District Court Clerk in your local courthouse. For a general overview of divorce in Texas, read the handbook for Divorce in Texas. Many courts charge to make copies, so make certain that you have multiple copies of each document made elsewhere, before you file the original documents with the court.

*NOTE: This guide is intended for general informational purposes only and does not constitute legal advice. It is advisable to periodically verify this information and consult with a legal professional for the most current and applicable advice. Due to the limited capacity of JAG attorneys, we can only provide basic guidance on divorce matters. We strongly recommend seeking out an attorney who specializes in family law for more comprehensive assistance. If you have any questions or need to schedule an appointment with a legal assistance attorney, please call the Legal Office at 325-654-3203.*