



DIVORCE IN TEXAS

Prepared by: 17 TRW/JA

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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.

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Legal Office Legal Assistance

Civilian Attorney Required: Legal assistance attorneys cannot represent you in court or help you file for a divorce. You need a civilian attorney for this. While Texas law doesn't require an attorney, it's strongly recommended to protect your rights and ensure the divorce is done correctly.

Grounds for Divorce

- Fault Grounds: Cruelty, adultery, felony conviction, abandonment (1+ years), living apart (3+ years), confinement in a mental hospital.
- No-Fault Grounds: "Irretrievable breakdown of the marriage" is the most common and requires the least proof. No advantage is given in property division for proving fault.

Residency Requirements

- State Residency: You or your spouse must have lived in Texas for at least 6 months.
- County Residency: You must have lived in the county where you file for at least 90 days.

Legal Separation

- No Legal Separation: Texas does not recognize "legal separation." You are either married or divorced.
- Waiting Period: There is a mandatory 60-day waiting period between filing the divorce petition and the final hearing.

Types of Divorces

- Contested Divorce: One party objects to the terms or the divorce itself. Requires a hearing and possibly a jury trial. This can be costly and time-consuming.
- Uncontested Divorce: Both parties agree on terms. This is quicker and more cost-efficient. The judge might adjust terms related to minor children to comply with Texas law.
- Default Divorce: Granted if one party does not respond to the divorce complaint or appear in court.

Divorce Information Checklist

Gather the following information for your initial consultation with a civilian attorney:

- Husband:
 - Full legal name
 - Social Security Number
 - Driver's license number and issuing state
 - Current address and phone number
 - Length of residence in Texas and county
- Wife:
 - Full legal name
 - Social Security Number
 - Driver's license number and issuing state
 - Current address and phone number

- Length of residence in Texas and county
- Maiden name (if she wants to revert)
- Children (under 18 or still in high school):
 - Full legal name
 - Gender
 - Social Security Number
 - Date and place of birth
 - Current residence (with whom)
- **Property and Debts:**
 - List of property (car, house, etc.) with details (VIN, legal description)
 - Approximate value and current possession
 - Debts owed on property
 - List of disputed property
 - List of all debts (amount, creditor, account number, reason)
- **Agreements:**
 - Any agreements regarding the dissolution of the marriage

Military Benefits and Divorce

- **20/20/20 Rule:** Spouse retains ID card and medical benefits if married for 20 years overlapping 20 years of military service.
- **10/10 Rule:** Spouse may get help collecting support if married for 10 years overlapping 10 years of military service.
- **Other Cases:** Non-military spouse loses all military benefits post-divorce. Continued use of ID card or military facilities is a crime.

*For additional information please refer to our “USFSPA” handout.

Costs and Fees (Tom Green County)

As of October 1, 2024, the basic costs associated with filing for a divorce in Tom Green County are as follows:

- Petition Filing Fee: \$300
- Process Citation and Precept Order: \$80
- Service of Citation Precept: \$75

Additional Fees:

- Restraining Orders or Additional Legal Actions: Additional fees may apply.
- Waiver of Service: If your spouse is willing to waive service of process, you will not have to pay the fees regarding citation.

Do-It-Yourself Divorce Kits

For those contemplating a DIY approach to divorce, TexasLawHelp.org offers a comprehensive checklist and an array of forms to guide you through the process. This invaluable resource provides step-by-step instructions and all the necessary documents to help you file for divorce independently. For further assistance, please refer to our detailed “Guidance for ‘Do It Yourself’ Divorce in Texas” handout.

Overview of Texas Divorce Procedures

- **Initial Consultation:** Visit a civilian attorney (alone). Determine if the divorce will be contested or uncontested. Discuss fees and payment plans.
- **Filing the Petition:** Attorney files the Original Petition for Divorce. Spouse is notified by certified mail or personal service.
- **Waiting Period:** 60 days from filing the Petition. Temporary orders may be issued for protection.
- **Final Hearing:** After 60 days, the court sets a final hearing date. The judge signs the final Decree of Divorce, making it official.
- **Post-Divorce:** You cannot remarry (except to the same spouse) for 30 days without court permission.
- **Reviewing Your Divorce Decree**
- **Importance:** Keep it safe and accessible. Review and understand its contents.
- **Topics:** Spousal maintenance, conservatorship, possession of children, child support, property division, debts, taxes, and other miscellaneous issues.

Please Note: The waiting period and the timeline for your divorce proceedings are highly dependent on the court’s schedule and other factors. It is not always guaranteed that the process will move quickly. Consult with the court or your attorney for more specific information regarding your case.

Custody and the Standard Possession Order in Texas

- **Custody (Conservatorship)**
 - **Joint Managing Conservatorship:** Texas law presumes that joint managing conservatorship (JMC) is in the best interest of the child, meaning both parents share rights and duties.
 - **Sole Managing Conservatorship:** In some cases, one parent may be named the sole managing conservator (SMC) with the exclusive right to make certain decisions.
 - **Possessory Conservator:** The other parent is typically named the possessory conservator (PC) and has visitation rights.
- **Standard Possession Order (SPO):** Texas Family Code, Sections 153.252-153.317
 - **Standard Possession Order:** Texas law provides a Standard Possession Order (SPO) that outlines the minimum visitation rights for the non-custodial parent.
 - **Weekends:** Typically, the non-custodial parent has the right to possession on the first, third, and fifth weekends of each month.
 - **Thursdays:** The non-custodial parent may also have possession on Thursday evenings during the school year.
 - **Holidays:** The SPO also outlines possession during holidays, spring break, and summer vacation.

- Extended Standard Possession Order: For parents who live more than 100 miles apart, a different schedule may apply.

Military Member's Obligation to Provide Financial Support Until Divorce is Finalized

Interim Support: Military members are often required to provide interim financial support to their spouses and children until the divorce is finalized.

Regulations: Each branch of the military has specific regulations regarding interim financial support:

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

Documentation: Keep detailed records of all financial support provided during the separation period.

NOTE: This guide is intended for general informational purposes only. 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 regarding divorce. 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