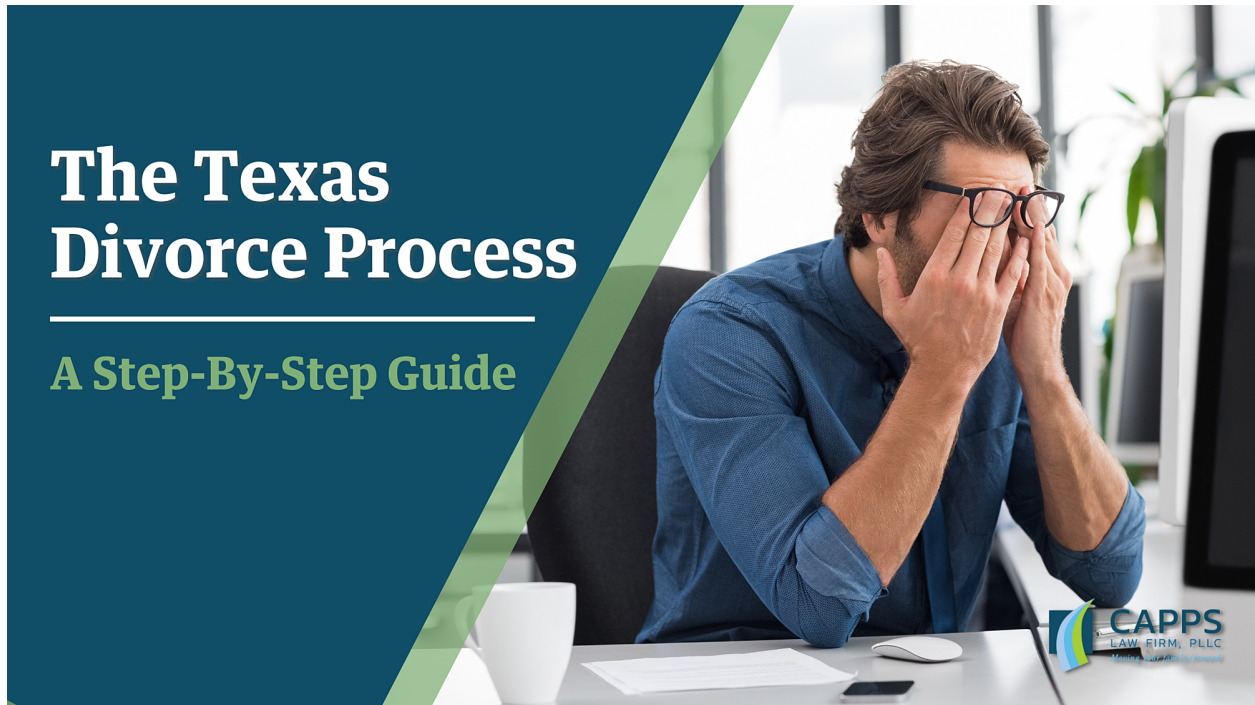


The Texas Divorce Process

A Step-By-Step Guide



Beginning the divorce process can be daunting and inordinately complex at first glance. In fact, for many people starting to consider a divorce, the process itself is their biggest cause of stress.

When beginning the Texas divorce process, there are specific things to file, a specific order in which to file them, potential pitfalls, and nuanced rules; without guidance even a fairly straightforward case is difficult to navigate alone.

Fortunately, we have written up a simple guide to explain the process of divorce in Texas. While it will still be important to seek help, this outline will provide a clear picture for what to expect.

Connect With A Divorce Lawyer

Right from the start, it's important that you connect with a lawyer. Talking to an experienced divorce lawyer right from the start of your divorce process will help you begin with a significant advantage.

Your lawyer will ensure that you have a strategy from the beginning, and will protect you from making costly, or even life-changing mistakes that impact things like [child custody](#) and [division of assets and debts](#). Many people taking their first steps towards divorce make the mistake of abstaining to seek a lawyer at first, only to find that they missed critical details that a lawyer would have caught.

Establishing Grounds for Divorce

Before you can file a petition for divorce with the district court, Texas law requires that you identify grounds for divorce. This essentially means that you must provide a (legally) valid reason for divorcing before you can proceed.

To justify the dissolution of your marriage to the court, [Texas Family Code](#) provides seven grounds that you can claim:

1. Insupportability (a.k.a. no-fault. This essentially refers to irreconcilable differences, or simply a marriage that you wish to end but that does not qualify for one of the other six grounds for divorce)
2. Cruelty
3. Adultery
4. Felony Criminal Conviction
5. Abandonment
6. Separation
7. Confinement in a Mental Hospital

It's important to note that there is a significant difference between fault-based and no-fault divorce. Insupportability is the only no-fault grounds on the list above. This can have a major impact on your ability to gain spousal maintenance (in some states referred to as alimony) if you meet the requirements. While there is no guarantee that spousal maintenance will be granted even when there are grounds (such as adultery), the chances are much higher that courts will grant spousal maintenance in a fault-based divorce.

It's crucial that you consult your divorce lawyer if you have any doubts about which

grounds to claim, or wonder how it will impact property division, child support, etc.

Filing the Divorce Petition



You or your divorce attorney will then submit a divorce petition to the court, unless your spouse is the petitioner. This "original petition" officially begins the divorce process in Texas.

In order to file for a divorce you must:

- Have lived in Texas for at least six months before filing
- File in the county that you and/or your spouse have lived in for a minimum of 90 days

It is important to consult your lawyer throughout the process as fees and other details will vary slightly from county to county.

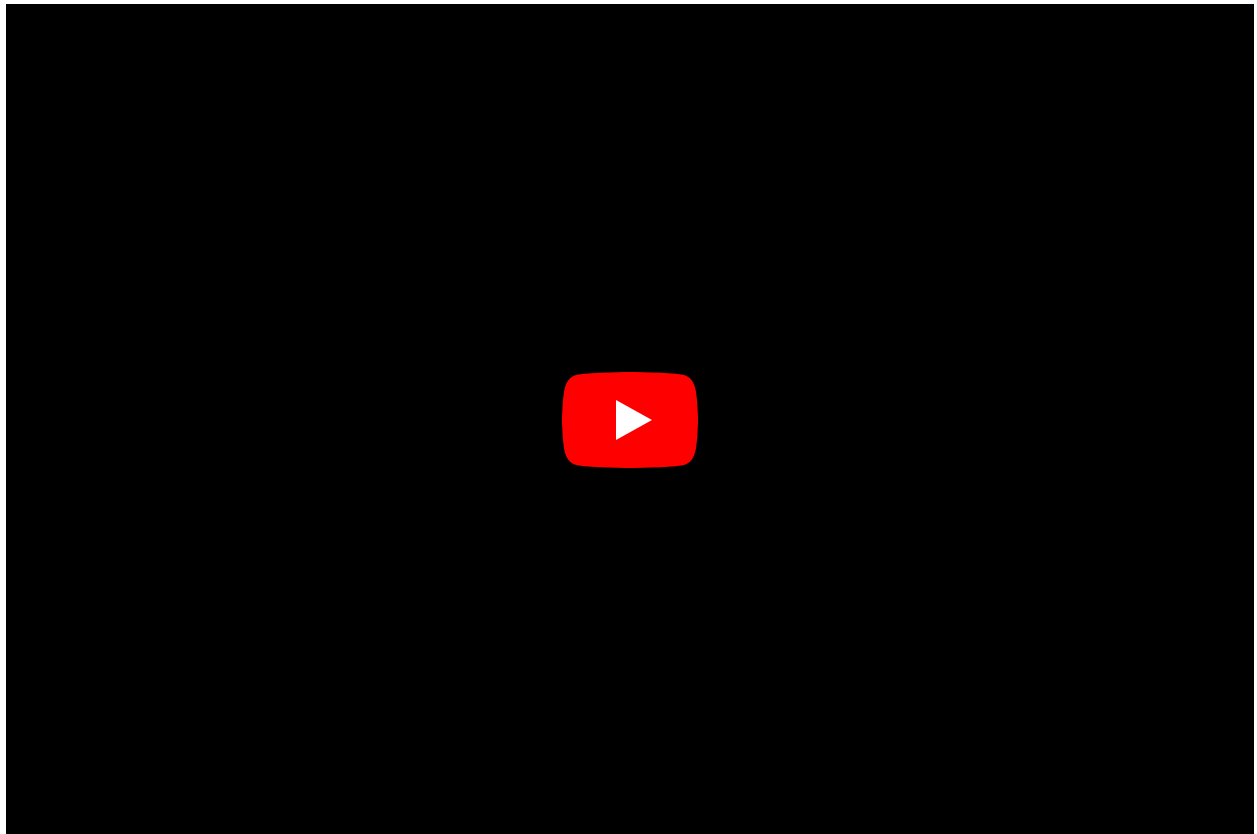
Provide Your Spouse With Official Notice

You will then need to provide your spouse with an official, legal notice that initial divorce papers have been filed. This does not just mean verbally letting them know. You can do this using one of these three methods:

- Your spouse signs a waiver of citation
- Hire a process server
- Submit the notice to a publication or posting

If your spouse is amenable, signing the waiver is the easiest and lowest friction approach. If they are resistant, you will need to pursue one of the other methods.

Here is a simple breakdown of what is required:



Answer and Counterpetition

Once you have filed a petition for divorce and notified your spouse, the next move is in their hands. They will have the Monday following the expiration of 20 days from the time they receive notice to respond to your petition.

Your spouse will need to file an official answer, and may also counterpetition with their own grounds for divorce.

Waiting Period

One aspect of the Texas divorce process that is fairly unique to this state is the mandatory waiting period. In Texas, the original filing of divorce must be pending for 60 days before moving to the next step in the process.

This waiting period gives you and your spouse the breathing room to potentially reconcile, but more commonly it serves as a time for you to reach agreement on the terms of divorce without having to escalate to court. This is an area where a mediator can be beneficial, as [you will save a significant amount of time and money](#) if you can settle an uncontested divorce.

If you do not reach an agreement during this period, you will likely enter a contested divorce, in which the court will ultimately decide the terms of things like child custody, visitation rights, etc.



Court Hearing (if mutual agreement can't be made in other ways)

It's important to understand that a contested divorce does not necessarily rule out mediation. In fact, this form of **alternative dispute resolution** is often encouraged by the court and can be required in certain counties before a final hearing can be scheduled. In this scenario, a professional, neutral third party will mediate discussion between you and your spouse in an attempt to reach an agreement before going to court. While there is no guarantee this will work, you will experience far less strain, and can still achieve satisfactory results, by avoiding court.

If you and your spouse do not settle, it's likely that you will have to escalate the divorce to a court hearing. You can schedule a court date after the 60-day waiting period (though this can be waived in rare cases). If the divorce is uncontested, a court hearing is typically more simple and can be resolved more quickly. In a contested divorce, however, your lawyer will go to bat for you, arguing your case. This may go so far as to include the calling of witnesses, reviewing text messages in court, and so on.

If you have a contested divorce, it is critical that you describe your exact hopes and desires for the divorce outcome. The more complex your division of assets, parenting, or other concerns are, the more crucial it is that your lawyer be informed of every detail well before the trial.

Final Decree

If no other agreement can be made (in writing) for your divorce, the judge will ultimately decide at the final hearing.

The final decree of divorce will typically contain guidance on division of assets/community property, child custody arrangements, and the terms of spousal maintenance. Bear in mind that certain aspects of the divorce arrangements (e.g. visitation rights, child support) can be modified at a later date if circumstances change.

It's also important to note that some circumstances, such as a [military divorce in Texas](#), will often have additional steps.

The Right Representation Makes All The Difference

The good news is that there's no reason to face the process of divorce in Texas without guidance. Having the right lawyer at your side through the journey of your divorce can remove much of the worry, confusion, and doubt that you may otherwise face.

Kelly Capps is one of the most experienced and reputable divorce lawyers in Texas. Her breadth of experience includes high-net worth and financially complex divorces, complicated parenting and custody disputes, military divorce, LGBTQ+ divorce and custody disputes, and many other areas of expertise. Don't begin your divorce process without first reaching out to us and getting a consultation. We'll provide you with a clear sense of direction and next steps. [Follow the link](#) to book a consultation.