

Cause Number: _____

(Print court information exactly as it appears on the Original Petition for Divorce)

IN THE MATTER OF THE MARRIAGE OF

Petitioner: _____
Print first, middle and last name of the spouse filing for divorce.

And

Respondent: _____
Print first, middle and last name of other spouse.

In the _____
(Court Number)

- District Court
- County Court at Law

_____ County, Texas

Respondent's Original Counter-Petition for Divorce

Print your answers.

My name is: _____
First Middle Last

I am the **Respondent and Counter-Petitioner** in this divorce case.

The last three numbers of my driver's license number are: ____ ____ ____.

My driver's license was issued in (State) _____.

or I do not have a driver's license number.

The last three numbers of my social security number are: ____ ____ ____.

or I do not have a social security number.

My spouse's name is: _____
First Middle Last

My spouse is the **Petitioner and Counter-Respondent**.

1. Discovery Level

The discovery level in this case, if needed, is: *(Check one box.)*

- Level 1. *(Check here if you and your spouse have less than \$50,000 in property.)*
- Level 2. *(All other couples check here.)*

2. Legal Notice

I will serve a copy of this *Respondent's Original Counter-Petition for Divorce* on my spouse.

3. Jurisdiction

3A. County Residence Requirement

(Check all boxes that apply.)

- I have lived in this county for the last 90 days.
- My spouse has lived in this county for the last 90 days.
- I am serving in the armed forces or other government service outside of Texas, but this county has been the home county of either my spouse or me for at least 90 days.
- I have accompanied my spouse who is serving in the armed forces or other government service outside of Texas, but this county has been the home county of either my spouse or me for at least 90 days.

3B. Texas Residence Requirement

(Check all boxes that apply.)

- I have lived in Texas for the last six months.
- My spouse has lived in Texas for the last six months.
- I am serving in the armed forces or other government service outside of Texas, but Texas is the home state of either my spouse or me and has been for at least 6 months.
- I have accompanied my spouse who is serving in the armed forces or other government service outside of Texas, but Texas is the home state of either my spouse or me and has been for at least 6 months.

Note: If you or your spouse lives outside of Texas, you must complete and attach the Exhibit: Out-of-State Party Affidavit. Get it at www.TexasLawHelp.org.

4. Dates of Marriage and Separation

My spouse and I got married on or about: _____
Month Day Year

We stopped living together as spouses on or about: _____
Month Day Year

5. Grounds for Divorce

I ask the Court to grant me a divorce. The marriage has become insupportable due to discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation.

6. Children Together

My spouse and I **do** have children together who are under the age of 18 or still in high school. All of our children who are under the age of 18 or still in high school are listed below. However, there is a final court order for custody (conservatorship), visitation, child support and medical support of all the children listed below and I am not asking to change that order at this time.

The order was made in _____ County and _____ State. The cause number for the order is _____.

I understand I must attach a file-stamped copy of the order to my *Final Decree of Divorce*.

	Child's name	Age	Date of Birth	Sex
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Note: Do not use this form if you have a court order about your children but:

1) the order does not include all the children you and your spouse have together,
or

2) the order is a temporary order, or

3) you are asking the court to make changes to the order.

If one of these situations applies, you must ask a lawyer to draft the appropriate form for your case.

7. Is the Wife Pregnant?

(Check one box.)

- The wife in this marriage **is not** pregnant.
- The wife in this marriage **is** pregnant. I understand that I cannot finish the divorce until after the child is born.

(If the wife is pregnant, also check one box below.)

- The husband **is** the father of this child. I ask the court to include orders for custody, visitation, child support and medical support for the child in the *Final Decree of Divorce*.
- The husband **is not** the father of this child. I understand that paternity of the child must be established before I can finish the divorce. (Read "Texas Paternity Law: Frequently Asked Questions" at www.TexasLawHelp.org for information about establishing paternity.)

8. Did the Wife have a Child with Another Man While Married to the Husband?

(Check one box. Fill in the requested information, if applicable.)

- The wife **did not** have a child with another man while married to the husband.
- The wife **did** have a child with another man while married to the husband. All of the children born during the marriage that are not the Husband's adopted or biological children are named below:

	Child's name	Age	Date of Birth	Sex
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

(If the wife had a child or children with another man during the marriage, check one box below.)

- Paternity of the child/ren named above **has not** been established. I understand that paternity of the child/ren must be established before I can finish my divorce. (Read "Texas Paternity Law: FAQs" at www.TexasLawHelp.org for information about establishing paternity.)
- Paternity of the child/ren named above **has** been established: (Check one box.)
 - A court order has established that another man is the biological father and/or the Husband is not the biological father of the child/ren listed above. I understand I must attach a file-stamped copy of the court order to my *Final Decree of Divorce*.
 - An *Acknowledgement of Paternity* was signed by the biological father and a *Denial of Paternity* was signed by the Husband for the child/ren listed above. I understand I must attach a copy of these documents to my *Final Decree of Divorce*.

9. Protective Order Statement

(Check the appropriate boxes. Fill in the requested information, if applicable.)

9A. No Protective Order

- I **do not** have a Protective Order against my spouse and I have not asked for one.
- My spouse **does not** have a Protective Order against me and has not asked for one.

9B. Pending Protective Order

- I **have** filed paperwork with a court asking for a Protective Order against my spouse, but a judge has not decided if I should get it. I asked for a Protective Order on _____
Date Filed
in _____ County, _____. The cause number is _____.
County State Cause Number
If I get a Protective Order, I will file a copy of it before any hearings in this divorce.
- My spouse **has** filed paperwork asking for a Protective Order against me, but a judge has not decided if my spouse will get it. My spouse asked for a Protective Order on _____
Date Filed
in _____ County, _____. The cause number is _____.
County State Cause Number
If my spouse gets a Protective Order, I will file a copy of it before any hearings in this divorce.

9C. Protective Order in Place

- I **do have** a Protective Order against my spouse. I got the Protective Order in _____
County State Date Ordered
The cause number for the Protective Order is _____.
Cause Number
Either I have attached a copy of the Protective Order to this Petition or I will file a copy of it with the court before any hearings in this divorce.
- My spouse **does have** a Protective Order against me. The Protective Order was made in _____
County State Date Ordered
The cause number for the Protective Order is _____.
Cause Number
Either I have attached a copy of the Protective Order to this Petition or I will file a copy of it with the court before any hearings in this divorce.

10. Waiver of Waiting Period Based on Family Violence

(Check only if applicable.)

- I ask the Court to waive the 60-day waiting period for divorce because: (Check one box.)
- My spouse has been convicted of or received deferred adjudication for a crime involving family violence against me or a member of my household.
- I have an active protective order or an active magistrate's order for emergency protection against my spouse because of family violence during our marriage. The order includes a finding that my spouse committed family violence.

11. Property and Debt

Note: It is very important to talk with a lawyer if you or your spouse has a house, land, business, retirement funds, other valuable property or debt. Getting advice from a lawyer now can save you time and money in the long run.

About community property: Texas is a community property state. This means that any new property that either spouse gets from the minute they are married until the minute the judge grants the divorce is probably community property, even if the property is only in one spouse's name. **About separate property:** Property owned by a spouse before the marriage is that spouse's separate property. In addition, if either spouse receives a gift, an inheritance, or a recovery for personal injuries that occurred during the marriage (not including a recovery for lost wages or medical expenses); it is that spouse's separate property. There are exceptions to these general rules. If you have questions talk with a lawyer.

About retirement: Retirement funds (such as 401k, pension, profit sharing, stock option plans and IRAs) earned by either spouse during the marriage are usually considered to be community property that can be divided by the court. This is true even if you or your spouse has not yet retired.

- If you want the Court to divide retirement funds (other than an IRA), you will need to have the Court sign an additional form, usually called a "Qualified Domestic Relations Order" (QDRO), to make the division effective. You should have the QDRO prepared before you go to court, so the judge can sign it when you finish your divorce. A QDRO form is not included with this divorce set. You may be able to get a sample QDRO form from the employer or retirement fund administrator. If not, you should hire a lawyer to draft the QDRO form.
- If you use the employer or retirement fund administrator's QDRO form, you should still have a lawyer review it to make sure you are not giving up important benefits.

Note: If you and your spouse plan to keep your own retirement funds or do not have retirement funds, you do not need a QDRO.

About debt: A creditor's right to collect a debt is not affected by a divorce decree. So, if the Court orders your spouse to pay a debt (such as a mortgage) that is in both of your names but your spouse doesn't pay it, the creditor can still seek payment from you. Ask a lawyer how to protect yourself in this situation.

11A. Community Property and Debt

If my spouse and I can agree about how to divide the property and debts we got during our marriage, I ask the Court to approve our agreement. If we cannot agree, I ask the Court to divide our community property and debts according to Texas law.

11B. Separate Property

I own the following separate property. I owned this property before I was married or I received this property as a gift or inheritance during my marriage or I received this property as recovery for personal injuries that occurred during the marriage (not including any recovery for lost wages or medical expenses). I ask the Court to confirm this property as my separate property.

(Fill in all lines. If you have no property to list in a particular category, write "none.")

House located _____
Street Address City State Zip

Land located at: _____
Street Address City State Zip

14. Certificate of Service to my Spouse.

Note: You **must** fill out and sign this Certificate of Service. It tells the court that you have given a copy of this completed form to your spouse as required by the law.

I certify that I served a copy of this document on my spouse (or my spouse's lawyer if my spouse has a lawyer in this divorce case) on the same day I filed this case with the court by:

(Check one.)

- Hand delivery to my spouse.
- Hand delivery to my spouse's lawyer: _____
Print the full name of your spouse's lawyer.

Email to this email address: _____

- Certified mail, return receipt requested to this address:

Mailing Address *City* *State* *Zip*

- Commercial delivery service (for example FedEx) to this address:

Mailing Address *City* *State* *Zip*

Fax to fax #: _____

- Electronic service through the electronic filing manager. (**Note:** The method is required if you electronically file (E-File) this document and the email address of your spouse or your spouse's attorney is on file with the electronic file manager.)

▶ _____
Respondent/Counter-Petitioner's Signature

Date

Note: For a referral to a lawyer call your local lawyer referral service or the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.

For information about free and low-cost legal help in your county go to www.texasbar.com/ReferralDirectory or call the Legal Aid office serving your area:

Legal Aid of Northwest Texas 1-888-529-5277 (serves Dallas / Ft. Worth area & Northwest Texas)

Lone Star Legal Aid 1-800-733-8394 (serves Houston area & East Texas)

Texas Rio Grande Legal Aid 1-888-988-9996 (serves Austin / San Antonio area, El Paso area & South Texas)

If you have been the victim of family violence, or if at any time you feel unsafe, get help by calling the:

National Domestic Violence Hotline at 1-800-799-SAFE (7233) or

Texas Family Violence Legal Line at 1-800-374-HOPE (4673) or

Advocates for Victims of Crime (AVOICE): at 1-888-343-4414.