

Cause Number: \_\_\_\_\_

(The Clerk's office will fill in the Cause Number and Court Number when you file this form.)

**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

# Original Petition for Divorce

*Print your answers.*

My name is: \_\_\_\_\_  
*First Middle Last*

I am the **Petitioner**, the person asking for a divorce.

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 **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 *(Check one box.)*

I think my spouse will sign a *Waiver of Service (or Answer)*. Do not send a sheriff, constable, or process server to serve my spouse with a copy of this *Petition for Divorce* at this time.

I will have a sheriff, constable, process server or clerk serve my spouse with this *Petition for Divorce* here:

\_\_\_\_\_ *Street Address City State Zip*

If this is a work address, name of business: \_\_\_\_\_

I ask the clerk to issue a *Citation of Service* (the form necessary to provide legal notice to my spouse by "Official Service of Process"). I understand that I will need to **pay the fee** (or file a *Statement of Inability to Afford Payment of Court* if I am unable to pay the fee) and **arrange for service**.

I cannot find my spouse. I ask that my spouse be served by posting or publication. I understand I must file an *Affidavit for Citation by Posting or Affidavit for Citation by Publication* depending on my case. If my spouse and I have property, I understand I must also hire a lawyer to serve as attorney ad litem for my spouse.

### 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.

**Note:** You cannot file for divorce in Texas until you or your spouse has lived in the county where you are asking for a divorce for at least the last 90 days and in Texas for at least the last six months.

There are special rules for military families and others who are absent from the state due to government service.

### 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.

### 3C. Personal Jurisdiction over Spouse

(Check one box.)

- My spouse lives in Texas.
- My spouse does not live in Texas.

(If your spouse does not live in Texas, check any boxes that apply below.)

- My spouse agrees that a Texas court can make orders in this divorce, including orders dividing our property and debts. My spouse will file a *Waiver of Service* (or *Answer*).
- Texas is the last state where we lived together as a married couple. This *Petition for Divorce* is filed less than two years after we separated.

## 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. No Minor Children

My spouse and I **do not** have any biological children together who are under 18 or still in high school.

My spouse and I **did not** jointly adopt any children who are under 18 or still in high school.

## 7. Is either spouse pregnant or expecting a child?

(Check one box.)

No. Neither spouse is pregnant and no children are expected.

Yes. I am pregnant or expecting a child.

(If you are pregnant or expecting a child, check one box below.)

The other spouse **is** the legal parent 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 other spouse **is not** the legal parent of this child, nor do I wish them to be.

Yes. My spouse is pregnant or expecting a child.

(If your spouse is pregnant or expecting a child, check one box below.)

I **am** or want to be the legal parent 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*.

I am **not** the legal parent of this child, nor do I wish to be.

**Note:** Talk to a LGBT family law lawyer if you or your spouse is pregnant or expecting a child.

## 8. Has either spouse given birth during this marriage to a child who is now under 18 or still in high school?

(Check one box.)

No. Neither spouse has given birth during this marriage to a child who is now under 18 or still in high school.

Yes. **Petitioner** gave birth to the following child/ren during this marriage but **Respondent** is not the legal parent of the child/ren:

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

Yes. **Respondent** gave birth to the following child/ren during this marriage but **Petitioner** is not the legal parent of the child/ren:

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

**Note:** Parentage of a child born during the marriage may need to be established before you can finish your divorce. Talk to a LGBT family law lawyer if either spouse gave birth to a child during the marriage.

**9. Protective Order Statement** (Check the appropriate boxes. Fill in the requested information.)

**Note:** You **must** provide information about any protective order or pending application for protective order involving you and your spouse or a child of either you or your spouse. This includes information about any: (1) family violence protective order, (2) sexual assault, sexual abuse, trafficking or stalking protective order and/or (3) emergency protective order issued after an arrest.

You **must also** attach to this petition a copy of any protective order (even if it's expired) in which one spouse or child of either spouse was the applicant or victim and the other spouse was the respondent or defendant.

**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 at the courthouse 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 County, \_\_\_\_\_ on \_\_\_\_\_.  
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 County, \_\_\_\_\_ on \_\_\_\_\_.  
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 important to talk with 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 to an LGBT family 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

Cars, trucks, motorcycles or other vehicles

Year	Make	Model	Vehicle Identification No. [VIN]
_____	_____	_____	_____
_____	_____	_____	_____

Other money or personal property I owned before I was married, received as a gift or inheritance during my marriage or property I purchased during my marriage with separate property funds: \_\_\_\_\_

Money I received as recovery for personal injuries that occurred during the marriage that was not for lost wages or medical expenses: \_\_\_\_\_

## 12. Name Change

(Check one box.)

- I am NOT asking the Court to change my name.
- I ask the Court to change my name back to a name I used before. I am not asking the court to change my name to avoid criminal prosecution or creditors. I ask that my name be changed to:

\_\_\_\_\_

First

Middle

Last

**Note:** You cannot use this form to change your name to anything other than a name that you previously used.

## 13. Request for Judgment

I ask the Court to grant my divorce. I also ask the Court to make the other orders I have asked for in this Petition and any other orders to which I am entitled.

\_\_\_\_\_  
Petitioner's Name

\_\_\_\_\_  
Date

→

\_\_\_\_\_  
Petitioner's Signature

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

Email Address: \_\_\_\_\_ Fax # (if available) \_\_\_\_\_

**Warning:** Your spouse will get a copy of this form. If you are concerned about your spouse learning your address, call the Hope Line at 1-800-374-4673(HOPE) for free advice before filing this form with the court.

**I understand that I must notify the Court and my spouse's attorney (or my spouse if my spouse does not have an attorney) in writing if my mailing address or email address changes during these divorce proceedings. If I don't, any notices about this case including the dates and times of hearings will be sent to me at the mailing address or email address above.**

**Note:** For information about the civil rights of lesbians, gay men, bisexuals and transgender people go to [www.lambdalegal.org](http://www.lambdalegal.org) or call the Lambda Legal Help Desk at 1-866-542-8336.

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 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 Advocacy Project Hope Line** at 1-800-374-HOPE (4673) or

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