

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

AND IN THE INTEREST OF: *(List all children you and your spouse have together who are under 18 or still in high school.)*

- 1. _____ 2. _____ 3. _____
- 4. _____ 5. _____ 6. _____

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 deliver a copy of this document to my spouse as required by Texas Rules of Civil Procedure Rule 21a.

If my spouse has a lawyer, I will deliver it to my spouse's lawyer instead of directly to 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 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.

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

6A. Children Husband and Wife have Together

My spouse and I are the parents of the following children who are under 18 years old or over 18 years old and still in high school.

(You MUST list all children you and your spouse have together (adopted or biological) who are under 18 or over 18 and still in high school.)

	Child's name	Date of Birth	Place of Birth	State where child lives now
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

6B. Jurisdiction over Children

(Check one box.)

- The children live in Texas now and have lived in Texas for at least the past 6 months or since birth.
- The children do not live in Texas now but they have been gone from Texas less than 6 months. The children lived in Texas the 6 months before they moved. A parent or person acting as a parent continues to live in Texas.
- None of the above apply. (**Note:** Talk with a lawyer if none of the above apply.)

(Check box below only if true.)

- There are **no court orders** about any of the children listed above. No other Court has continuing jurisdiction over this case or the children.

Note: Do not use this form if there is already a court order in place for any of the children (such as a child support order through the Attorney General's Office.)
 Use [Respondent's Original Counter-Petition for Divorce—Set C](http://www.TexasLawHelp.org) at www.TexasLawHelp.org for filing a Counter-Petition for Divorce when there is already a court order in place.

6C. Children's Property

(Check one box.)

- The children do not own any property of significant value in their own name.
- The children own the following property of significant value in their own name:

6D. Children's Health Insurance

The children: (Check all that apply.)

- have **private health insurance**.
 Name of insurance company: _____
 Policy number: _____ Cost of premium: \$ _____
 Name of person who pays for insurance: _____
 The insurance policy is is not available through the parent's work.
- have health insurance through **Medicaid**.
- have health insurance through **C.H.I.P.** Cost of premium (if any): \$ _____
- do not have health insurance.

If the children **do not** have private health insurance also complete the following:

Private health insurance is is not available to Father at a reasonable cost.

Private health insurance is is not available to Mother at a reasonable cost.

6E. Children's Dental Insurance

The children: (Check all that apply.)

have **private dental insurance**.

Name of insurance company: _____

Policy number: _____ Cost of premium: \$ _____

Name of person who pays for insurance: _____

The insurance policy is is not available through the parent's work.

have dental insurance through **Medicaid**.

have dental insurance through **C.H.I.P.** Cost of premium (if any): \$ _____

do not have dental insurance.

If the children **do not** have private dental insurance also complete the following:

Private dental insurance is is not available to Father at a reasonable cost.

Private dental insurance is is not available to Mother at a reasonable cost.

6F. Conservatorship (Custody) of the Child/ren

I ask the court to make conservatorship (custody) orders as follows: (Check **a, b, or c.**)

a. Mother and Father should be **Joint Managing Conservators** of the child/ren and:

(If you checked **a**, check **a-1, a-2, or a-3.**)

a-1. Father should have the exclusive right to designate the primary residence of the child/ren within the following geographic area: (Check one box below.)

anywhere. this county. this county or county adjacent to this county.

Texas. other: _____.

a-2. Mother should have the exclusive right to designate the primary residence of the child/ren within the following geographic area: (Check one box below.)

anywhere. this county. this county or county adjacent to this county.

Texas. other: _____.

a-3. Neither parent should have the exclusive right to designate the primary residence of the child/ren but both parents should be ordered not to move the child/ren out of the following geographic area: (Check one box below.)

this school district: _____ this county.

this county or county adjacent to this county. other: _____.

b. Mother should be the **Sole Managing Conservator** of the child/ren.

c. Father should be the **Sole Managing Conservator** of the child/ren.

6G. Possession of and Access to the Child/ren (Visitation)

I ask the court to make possession and access (visitation) orders as follows: (Check a, b, c, or d.)

a. Father should have "standard visitation." (See Texas Family Code Chapter 153, Subchapter F.)

b. Mother should have "standard visitation." (See Texas Family Code Chapter 153, Subchapter F.)

c. "Standard visitation" would be unworkable or inappropriate. Possession and access to the child/ren should be as follows:

d. I am concerned about the safety of the children with the other parent: I ask that:
(If you checked d, check all that apply below.)

d-1. exchanges of the child/ren be supervised, or in the alternative, be in a public place.

d-2. the other parent's possession of the child/ren be limited to day visits.

d-3. the other parent's possession of the child/ren be supervised.

d-4. the other parent have no right to possession or access to the child/ren.

d-5. the other parent be ordered not to use alcohol or illegal drugs 24 hours prior to or during possession of the child/ren.

d-6. the other parent's possession and access to the children be restricted as follows:

(Check only if you asking that a different possession order be in place while a child is under 3 years old.)

One or more of the children is under 3. Until the child turns 3, possession should be as follows:

After the child turns 3, possession should be as checked above.

(Check only if applicable.)

I am concerned that the other parent may take the child/ren to another country and refuse to return them. I ask the Court to determine if there is a risk of international kidnapping by the other parent and to take such measures as are necessary to protect the child/ren.

6H. Child Support, Medical Support, and Dental Support for the Child/ren

I ask the court to make appropriate orders for the financial support of the child/ren, including regular child support and medical and dental support and, if supported by the evidence, retroactive child support.

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.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

(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 _____ in _____ County, _____.
Date filed *County* *State*
The cause number is _____.
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 _____ in _____ County, _____.
Date filed *County* *State*
The cause number is _____.
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, _____ on _____.
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, _____ on _____.
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. Family Information

(Check only if applicable.)

I believe my children or I will be harassed, abused, seriously harmed or injured or otherwise subjected to family violence if I must give my spouse the information checked below for myself and the child/ren:

home address mailing address employer work address,
 home phone # work phone # social security # driver's license #.

I ask the Court to Order that I not have to give this information or notice of changes in this information to my spouse. I also ask the Court to keep this information confidential.

12. 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.

12A. 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.

12B. 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 at: _____
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: _____

13. 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.

14. 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 *Counter-Petition for Divorce* and any other orders to which I am entitled.



Respondent/Counter-Petitioner's Signature

Date

Respondent/Counter-Petitioner's Printed Name

Phone Number

Mailing Address

City State Zip

Email Address

Fax # (if available)

I understand that I must notify the Court and my spouse's lawyer (or my spouse if my spouse does not have a lawyer) 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.

15. Certificate of Service

- (Check this box and follow the instructions *only* if the child/ren get Medicaid or TANF now or got it in the past.) I will deliver a copy of this *Petition for Divorce* to the Office of the Attorney General Child Support Division* as follows:

If I file this document electronically, I will deliver it through the electronic file manager if possible. If not possible, I will deliver it in person, by mail, by commercial delivery service, by fax, or by email.

If I file a paper copy of this document, I will deliver it in person, by mail, by commercial delivery service, by fax, or by email.

- I gave a copy of this document to my spouse's lawyer or my spouse (if my spouse does not have a lawyer) on the same day this document is filed with (turned in to) the Court as follows:

If I filed this document electronically, I sent a copy of it to my spouse or my spouse's lawyer through the electronic file manager if possible. If not possible, I gave a copy to my spouse or my spouse's lawyer in person, by mail, by commercial delivery service, by fax, or by email.

If I filed a paper copy of this document, I gave a copy of it to my spouse or my spouse's lawyer in person, by mail, by commercial delivery service, by fax, or by email.

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.