

**IN THE 394TH DISTRICT COURT
BREWSTER, CULBERSON, JEFF DAVIS,
HUDSPETH AND PRESIDIO COUNTIES**

**PROCEDURE AND CHECKLIST FOR AGREED
DIVORCES (NO CHILDREN) WITHOUT LAWYERS**

Under Texas law, you are permitted to get a divorce without hiring a lawyer. However, you must still comply with the law and follow all the rules. You must follow this procedure if (1) neither spouse gave birth to a child during the marriage, or all of the children born during the marriage are over 18 and out of high school, (2) you are getting divorced *without hiring lawyers*, and (3) you agree on everything (or almost everything). Doing so will help you finalize your case quickly and correctly. (You can obtain most of the forms you need by clicking the button, below.

You will appear in court twice in this process. The first time will be soon after filing, to meet with the Judge and go over your paperwork. The second time will be the final hearing which cannot take place until at least 60 days after the day you file your divorce petition. Right now, those hearings are taking place exclusively by Zoom. All referenced forms are found at the link below.

Step 1. Filing the Divorce. You start the divorce process by filing a Petition for Divorce (Form A). One of you must have lived in Texas for the last six months, and in this county for the last 90 days. There are filing fees, but if you cannot afford to pay them, you can fill-out and sign an “Affidavit of Inability to Pay Costs”, and file it along with your Petition. You **MUST** provide an e-mail address with your filing for yourself and if you know it, for your spouse.

- **Service of Process.** The responding spouse must either be personally served by the Sheriff, sign and file a notarized Waiver of Citation, or file a responsive pleading (the “Original Answer”). ONLY ONE of the following three options must be completed:
 1. Personal Service:
 - Ask the District Clerk to prepare a Citation, and pay the appropriate fees or file an *Affidavit of Inability to Pay Costs*.
 - The Citation must be either delivered to your spouse by the Sheriff, or sent by certified mail by the District Clerk. *You* cannot send it – it has to come from the clerk. The signature on the green card must match the responding spouse’s name and signature on the decree.
 2. Sworn Waiver of Citation:
 - Give the responding spouse the Waiver on the attached form.
 - Waivers must be signed and notarized *after* the Petition was filed. If the Waiver was signed before the Petition was filed, you will have to execute another Waiver.
 - You or your spouse must file the executed Waiver with the District Clerk at least 10 days before the final hearing.
 3. Responsive Pleading:
 - If the responding spouse signs and files an “Original Answer,” then you don’t need to sign a waiver or complete personal service.

Remember, mailing or e-mailing a copy of the Petition to your spouse *is not sufficient!*

Step 2. Inventories. You must complete and bring to the final hearing a signed Inventory of the marital estate and debts, including values for the entire community estate and of each respective share. (For more explanation, visit <https://texaslawhelp.org/article/inventory-and-appraisement-property-divorce>.) The Inventory will be signed under oath, so be sure it is complete and correct. If you and your spouse cannot agree on what is owned and owed, and how much everything is worth, you should each create and sign your own Inventory and bring them both to court for your final hearing.

Step 3. Agreed Decree of Divorce. You must print and fill out an “Agreed Final Decree of Divorce,” outlining the division of your assets and debts. The Judge won’t create it or complete it for you. You must fill it out as best you can, and then both spouses must sign it. You also can’t bring a signed, blank decree that you fill out when you get to court – the document must be completely filled out *before* the parties sign it. Here are some common mistakes to avoid:

- The agreed decree must be signed by *both* spouses.
- Remember, if either spouse is pregnant or gave birth to a child during the marriage (even if the other spouse is not the biological parent), and that child is still either under 18 years old or in high school, *you cannot use this procedure*. You must follow the “Procedure and Checklist for Divorces with Children.” (Get it from the District Clerk and use it, instead.)
- “Separate property” means property owned by a spouse prior to marriage, or received by a spouse during the marriage by gift or inheritance. Things purchased during the marriage are generally “community property,” no matter who paid for it, who uses it, who has it, or whose name it is in. If you and your spouse cannot agree that something is separate property, the spouse claiming the thing is not community property must *prove* that it is separate property at the final hearing, by clear and convincing evidence.
- Motor vehicles and real estate that are not titled in the name of a spouse, or not otherwise owned by a spouse, need not be included on the Inventory or in the Decree. But, *all* vehicles titled in the name of a spouse must be included, even if someone else (like an adult child or family friend) drives it.
- If there is anything you can’t agree on, fill in the rest of the blanks and be prepared to present evidence on the remaining contested issues at the final hearing, so the Judge can decide.

Step 4. The Final Hearing. The Judge will tell you the date of your final hearing during your first appearance in court. You and your spouse must both come to court for a final hearing and present the “Agreed Decree of Divorce” to the Judge. You will both testify under oath. If you forget anything or need to fix anything, the Judge will reset your case and give you another month to get everything ready.

- Both spouses are required to attend the final hearing unless the Judge says in advance that one of you doesn’t have to come. If one spouse is incarcerated or lives out of state, the Court will allow him or her to appear by telephone or on Zoom. Remember, once you are under oath, any false statement could constitute perjury, or land you in jail for contempt, so you must tell the truth. A basic outline of the evidence to be presented is available through the bottom below.
- You must submit a signed “Agreed Decree of Divorce.” The Judge will review the Decree and decide whether or not the division of assets and debts is “just and right.” If the Judge finds that the agreement is *not* a just and right division of the assets and debts, he will reject the agreement and either ask you to try again or simply disregard the agreement and hold a contested hearing.