

## **Uncontested Divorces in Bexar County**

### **INTRODUCTION & BACKGROUND**

Welcome. This information is for people who plan to represent themselves in court on their uncontested divorce without the help of a lawyer. They are called self-represented litigants. This information will cover: (1) what you should know before choosing to represent yourself; (2) the difference between a contested and uncontested divorce; and (3) the 3 basic phases of an uncontested divorce.

### **CHOOSING TO REPRESENT YOURSELF—WHAT YOU SHOULD KNOW**

We want to welcome you and hope your experience with our legal system will be positive. However, to be clear, the Bexar County Civil District Courts do not encourage anyone to pursue or defend a divorce, paternity, custody or any other civil suit without the assistance of a lawyer.

Representing yourself in a legal matter is difficult. Most non-lawyers find it frustrating and time-consuming. A divorce suit has long term consequences and affects important legal rights. That is why we strongly recommend you consult with a lawyer. If you cannot afford a lawyer, we'll give you information in this guide and on our webpage about free or lower-cost legal resources.

Keep in mind that the information in this guide is not legal advice, it is **legal information**. It is made to help you to access the court system if you choose to go it alone.

You must understand that the Bexar County Civil Courts cannot represent you. This means none of the judges, court attorneys, clerks, or any other court employee can give you legal advice or anything but basic legal information.

If you need anything other than information, if you choose to act as your own lawyer, *you* are responsible for knowing or learning on your own how to do everything a lawyer does to move a case forward.

So, don't expect that the courts will contact you to let you know what should be done in your case or when it should be done. If you are self-represented you must do all the work yourself.

Finally, please understand that this guide is only designed to cover the basics and is not meant to discuss every situation that can arise in a divorce suit.

### **UNCONTESTED VS. CONTESTED DIVORCES:**

It's important for you to know the difference between an uncontested divorce and a contested divorce.

**Contested** means that the spouses do not agree on one or more parts of the case, such as dividing money, cars, or other property. Or, they don't agree about child custody, visitation or child support.

Contested cases will require much more work than an agreed case.

If your case is contested, you will have to learn the skills of a lawyer—including, the law, court rules, and trial strategy. Also, you will have to respond to the legal points your spouse or their lawyer makes.

If your *case is contested* you should not try to represent yourself unless you have absolutely no other choice. We strongly recommend you talk to a private attorney or the legal aid resources we will provide in this guide and on our webpage.

**Uncontested** means that both sides agree on everything—such as money, property and children related to the divorce, and have no disagreements—either in the beginning or as the case develops. Even if your case is uncontested, we strongly urge you to talk to an attorney to make sure your legal rights—and those of your children—are protected.

## **UNCONTESTED DIVORCES**

This information is for uncontested cases – that is, for couples who agree about every single point about the divorce. It means you and your spouse agree about all issues (including custody and child support) and will both sign any necessary court forms.

If you have a protective order based on family violence, are in the process of getting one, or need one, you should not proceed on your own. For assistance call the Bexar County Family Justice Center at (210) 631-0100, Family Violence Prevention Services at 210-733-8810, or Texas Rio Grande Legal Aid at 888-988-9996. You can also find this information on our webpage.

### ***THREE BASIC PHASES OF AN AGREED DIVORCE***

An agreed divorce has 3 basic phases: Step 1 is preparing a petition and filing it; Step 2 is notice to your spouse, and Step 3 is the waiting period, preparing an agreed decree, and finalizing the divorce.

#### ***1. WHERE AND HOW TO FILE A PETITION***

##### ***Residency Requirements***

Before you file a divorce in Bexar County, you have to make sure that your case meets legal residency rules. It's important to file for divorce in the correct county. If your case doesn't belong in Bexar County, the law says Bexar County civil courts doesn't have authority to hear it, and it will be dismissed.

At least one of the spouses must have lived in Bexar County for the last 90 days before the date the suit is filed **and** lived in Texas for the last six months. If neither spouse meets the residency requirements, you either need to file your suit in the correct county, or talk to an attorney.

Pleadings is the legal word for papers filed in a lawsuit. You can get the forms you will need to fill out or draft your own divorce pleadings on our webpage or [TexasLawHelp.org](http://TexasLawHelp.org). You can find links to these websites on our webpage.

*Petition* is what lawyers call the document that starts a divorce suit. Filing (that is, turning in) the Petition at the courthouse and paying the filing fee opens a case. The Petition tells the court and

your spouse that you want a divorce. It also gives the court information about you, your spouse, and any children and assets you may have. It also tells the court what you are asking it to order in the final divorce decree. That is why it's important that the information you write in a Petition is complete and truthful. Intentionally turning in a pleading with false information is against the law.

When you fill out the Petition, type or print your answers as neatly as you can. Do your very best not to leave blanks. If something does not apply to you, write "not applicable" or "n/a" in the blank. Talk to a lawyer if you have questions or need help.

You should know that the Petition asks for your address and your spouse will get a copy. If you are worried about your spouse knowing your address because of domestic violence, call Family Justice Center at (210) 631-0100, Family Violence Prevention Services at 210-733-8810, or Texas Rio Grande Legal Aid at 888-988-9996 for free advice.

### *Child Support Orders*

If you already have child support and custody orders established by the Attorney General's Office or through a private action in any court, you must, at a minimum, include the case number and information about the order in the Petition. Eventually, when you prepare a divorce decree, you must include a certified copy with the divorce decree.

### *Filing and Fees*

Once you have completely filled out your Petition, you can file it in one of two ways:

You can file the Petition online. To file online, go to e-File Texas.gov and follow the instructions. A link to e-File Texas.gov is on our webpage.

Or, you can file the Petition in person at the Courthouse. You should know that parking in the downtown area is very limited and if you don't use public transportation, you will probably have to pay for parking. Before you make the trip to the Courthouse, you should visit the Bexar County Civil District Clerk's website at <https://www.bexar.org/2968/District-Clerk> for information and any updates to this information.

If you haven't checked the Clerk's website, you can call District Clerk's Civil Filing Department at (210) 335-2621 to find out the amount of the fee and what kind of payments are accepted.

If you file in person, you will need to make 3 copies of the Petition. Take the Petition and the copies to the District Clerk's Civil Filing Department. The Civil Filing Department is in the Paul Elizondo Tower at 101 W Nueva, Suite 216. The phone number is 210-335-2621. Turn in your Petition and copies. At this time, you will need to pay a filing fee. The clerk will file stamp the Petition and assign your case with a cause number and a court number. It is your responsibility to always have the cause number whenever you come to court or talk to the courthouse staff by e-mail or phone. You should know your case number and make sure it's on every document you prepare in your case.

If you cannot afford the filing fee, you can fill out a Statement of Inability to Afford Payment of Court Costs. It's important to fill out the form as completely as possible so that the court has all the information needed to decide if you qualify to continue your divorce without paying the required filing fees. Once the Statement of Inability is filed, a Judge will decide whether to approve or deny your application.

#### *WAITING PERIOD, NOTICE AND RESPONSE*

If your spouse agrees to the terms of the divorce you've presented in your Petition, they may agree to sign a Waiver of Service. A Waiver of Service cannot be signed or filed the same day as your Petition, so be sure you wait at least 24 hours after you file your petition before you have your spouse sign the Waiver of Service. The waiver must be signed before a Notary Public. After 24 hours, the waiver of service can be filed in your case. The clerk will not charge any fee to file the Waiver.

Do not hand-deliver any papers to your spouse if there has been violence during your relationship, especially if a judge has signed a Protective Order ordering you or your spouse to stay away from the other. You can have your spouse served instead.

If your spouse can't or won't sign a waiver of service, you will have to arrange for a constable, sheriff or private process server to personally serve your spouse. You will have to file a Request for Process with the District Clerk's Office and pay a fee for your spouse to be served in person. You can also request that the clerk of the court to mail the Petition to the Respondent by certified mail. There will also be a fee for this service. However, if someone else signs for the letter or your spouse does not sign their name exactly as it is written on your Petition, you will have to have your spouse served another way.

There may be other methods of service that apply to other situations, but they are beyond the scope of this guide. Getting the respondent served can be complicated. If you have questions, talk to a lawyer.

#### *WAITING PERIOD, PREPARING THE DECREE AND FINALIZING THE DIVORCE*

The Decree is the document that ends the divorce suit and makes the divorce final.

When it's time to finish your divorce, you'll be presenting a proposed Decree to the court and requesting that the court sign it. When signed by a judge, a Final Decree of Divorce ends your marriage and makes orders about your children, property and debt.

Under Texas law, there is a waiting period of at least 60 days—counted beginning the day after the Petition is filed—before a divorce can be finalized. A divorce can take longer than 60 days, but it cannot be finalized in fewer than 60 days unless one of two exceptions involving family violence applies.

If your spouse has been convicted of or received deferred adjudication for a crime involving family violence against you or a member of your household, the 60-day waiting period is waived. Or, if you have an active protective order or an active magistrate's order for emergency

protection against your spouse because of family violence during your marriage, the 60-day waiting period is waived. If this applies to you, you should attach a copy of the order regarding your spouse's conviction or deferred adjudication or a copy of the protective/magistrate's order to your petition for divorce.

If neither of these exceptions applies, you must wait 60 days, counted from the day after the Petition is filed.

You will need to prepare or fill out a Final Decree of Divorce, such as the form available at <https://www.bexar.org/1995/Staff-Attorney> or [TexasLawHelp.org](https://www.texaslawhelp.org).

The Final Decree of Divorce form must be completely filled out (except for the judge's signature) **before** you go to court. You and your spouse may want to fill out the Final Decree of Divorce form together.

When you fill out the Final Decree of Divorce:

- Print your answers neatly in blue or black ink. Do not leave blanks. If something doesn't apply to you, write "not applicable" or "n/a".
- You are the "petitioner" and your spouse is the "respondent."

Talk to a lawyer if you have questions or need help.

If you and your spouse have minor children, your Decree must include provisions for child custody, support and visitation. Without these provisions, the court cannot finalize your divorce. If you already have an order for Child Custody, Visitation, and Support a copy must be attached to the Decree. You can buy a certified copy of orders from Bexar County courts in the basement of the Paul Elizondo Tower from the Records Department. If you have questions about certified copies of orders you can call (210) 335-2661. Be sure to have a case number ready when you call.

Make sure your spouse reads and signs the completed Agreed Final Decree of Divorce. Make sure the Agreed Final Decree and any attachments are completely filled out **before** your spouse signs. Keep the signed Final Decree of Divorce form until it is time to finish your case.

Once the Agreed Final Decree is completely filled out, it must be reviewed by the court's staff attorney's office to check that it is complete and that the case is ready to be presented to the court. You must scan a complete copy of the Decree (including any child support orders or exhibits) and e-mail it to [SRLHelp@bexar.org](mailto:SRLHelp@bexar.org). Make sure to include your cause number in the subject line of the e-mail. If e-mailing your decree is not an option, you may mail the decree with any attached documents to the following address:

Staff Attorney's Office  
100 Dolorosa, Room 2.16  
San Antonio Texas 78205

It may take some time for you to receive a response about your decree from the office. Please do not send multiple e-mails, as this only slows the process. After your Decree is reviewed, you will receive an e-mail or a telephone call letting you know your case is ready to be presented to the court, or letting you know what is missing or needs to be corrected.

Once your case is ready to be presented to the Court, you will need to complete and sign the Interrogatories in Support of Final Decree and e-mail a complete copy to [SRLHelp@bexar.org](mailto:SRLHelp@bexar.org) or mail the Interrogatories to the address given above. Make sure to include your cause number in the subject line of the e-mail. The Interrogatories can be found on the Civil District Courts home page under “Interrogatories in Support of Final Decree of Divorce” at <https://www.bexar.org/1703/Civil-District-Courts> . Once the Decree and Interrogatories are presented to the Judge, you will receive an e-mail or a letter letting you know how you can obtain regular or certified copies of the Decree signed by a judge.

### *CONCLUSION*

To find out about free, reduced cost, and private attorneys, you can contact TRLA at 888-988-9996 or the San Antonio Bar Association Lawyer Referral Line at 210-227-185. A link to additional legal resources can be found on our webpage. We hope this information has been helpful, and we wish you the best.