

# **TEXAS DIVORCE**

## **Qualifications for a Texas Divorce:**

**Residency Requirements:** One spouse must live in Texas for at least three months. Additionally, one spouse must live in the county of filing for at least 3 months. If one spouse is a Texas resident, but is overseas pursuant to military orders, the residency requirement is met.

**Grounds for Divorce:** Texas courts grant “no fault” divorces for the following reasons: There are irreconcilable differences from the marriage, the spouses have been living apart for 3 years, or a spouse is confined in a mental hospital. Texas courts grant “fault” divorces on the grounds of cruelty, adultery, felony conviction, or abandonment for more than one year.

**Types of divorces:** There are two types of divorce in Texas. Uncontested divorces occur when both parties CAN agree to the divorce, the property division, separation of debts, child custody and visitation, and other miscellaneous issues. Uncontested divorces are substantially cheaper and quicker than when the parties cannot agree on the terms of the divorce. Contested divorces occur when the parties CANNOT agree to the terms of the divorce. A contested divorce consists of an actual trial with testimony and witnesses and can take months or even years to complete.

**Timing of the Divorce:** There is a minimum waiting period of 60 days before the divorce is final, starting with the date that you file the petition. If the wife is pregnant, a divorce cannot be filed until five days after the child is born. It does not matter whether the husband is the father of the child. Finally, neither party to a divorce may remarry less than 31 days after the divorce is final. This limitation on divorce may or may not apply in other states.

**Legal Separation:** Texas does not recognize legal separations; you are either married or divorced. Accordingly, you do not have to get separated in Texas before you can get divorced.

## **The Legal Assistance Pro Se Divorce Program**

The legal assistance office provides pro se divorce assistance for certain qualified clients. A pro se divorce is a divorce in which the court allows you represent yourself without hiring an attorney.

## **Qualifications for the Pro Se Program:**

- The petitioner/sponsor is E-5 or below.
- There are no children (under 18 or disabled) born or adopted of the marriage.
- The divorce is uncontested, the petitioner knows the location of the spouse, and both parties agree to sign the divorce decree.
- Neither spouse owns real property, unless it was acquired before the marriage.
- Neither spouse is represented by an attorney in the divorce proceeding.
- Neither spouse has filed for bankruptcy during the marriage.
- The wife is not pregnant.
- Division of retirement pay is not required.

- One spouse has lived in El Paso County for more than 3 months.
- One spouse has lived in the State of Texas for more than 6 months.

**Legal Assistance Role:** The legal assistance attorney assists the client with the paperwork necessary for the divorce and provides advice on the specific procedures associated with divorce. You will be advised on the entire procedure, from the filing of the petition, to what to do in court.

**Filing Fees:** The petitioner must pay the court a filing fee when initially filing the petition. The filing fee is currently \$273.00, and must be paid by cash or money order. Alternatively, you may pay by either Visa or MasterCard for a small transaction fee. You will not be required to pay attorney's fees.

### **Qualifications for a Texas Annulment:**

**Grounds for an annulment:** You may seek an annulment on the following grounds:

- The marriage took place while one party was under the age of 14, or between the age of 14 and 18 without the consent of the parent or guardian AND the underage party has not reached the age of 18
- The marriage took place under the influence of narcotics or alcohol AND the spouses have not cohabited after the effects of the narcotics or alcohol have worn off
- One party is permanently impotent AND the other party did not know of the impotence at the time of the marriage AND the spouses ceased cohabiting after learning about the impotence
- One party is mentally incompetent AND the spouses ceased cohabiting after learning about the mental incompetency
- One or both of the parties were married within 30 days of a prior divorce
- The marriage was induced by fraud, duress, or force AND the spouses ceased cohabiting after learning about the fraud, duress, or force

**You may not get an annulment simply because you have been married for a short time.** If you believe that you qualify for an annulment, please make an appointment to meet with a legal assistance attorney.

All of the information provided above is derived from the Texas Family Code, Chapter 6, available at <http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.6.htm>.

Legal assistance attorneys cannot represent you in court for your divorce. However, they can review divorce documents, and advise you on divorce topics. If you have questions, contact the Fort Bliss Legal Assistance Office at (915) 568-7141/7150 for an appointment to speak with an attorney.