

## **10 Things you Should Know About Divorce in Texas**

Every state has unique laws. Although many laws are the same or very similar from state to state, there are often small nuances that can make fairly significant differences in residents' lives. If you are a Texas resident considering filing for divorce, familiarize yourself with the divorce and [family law](#) statutes in place in the Lone Star State. For substantial answers to your questions and personalized legal guidance, speak with an experienced [divorce lawyer](#).

### **Texas is a Community Property State**

In Texas, all property acquired during a marriage [legally belongs to both partners](#). When a couple divorces, this property must be divided in a manner that is “just and right,” meaning that each partner receives half of the marital pool of assets. It does not mean that a couple's property will be divided exactly down the middle, simply that it must be divided equitably and split into approximate halves.

### **Texas Allows Both Fault and No-Fault Divorces**

Some states have eliminated fault-based divorces. Texas is not one of those states. In Texas, an individual can file for divorce on the grounds of [adultery](#), living apart for at least three years, cruelty, abandonment, or because his or her spouse was committed to a mental hospital. Citing a fault is not necessary, though, and many couples do seek no-fault divorces by citing that their marriages are irreparably broken.

### **An Individual Seeking Alimony Must Meet Specific Requirements**

In Texas, an individual is only allowed to collect alimony for up to three years in most cases. In order to even qualify for alimony, an individual must meet one of the following requirements:

- He or she was married for 10 years or longer and lacks sufficient assets and earning capability to live independently after the divorce;
- He or she was married for 10 years or longer, lacks a sufficient amount of assets to cover his or her basic needs following the divorce and cannot return to work because he or she needs to provide full-time care for a child with special needs;
- He or she was married for 10 years or longer and does not have a sufficient level of assets to provide for his or her needs post-divorce and also cannot get a job because of his or her physical or mental disability; and
- The other spouse was convicted of family violence within two years of the date that the couple's divorce petition was filed.

Only under the third circumstance can alimony last indefinitely.

### **There are No Legal Separations in Texas**

Texas does not recognize legal separations. If a couple decides that their marriage is no longer viable but they do not want to get divorced, they may choose to move into separate residences on

their own and file a partition and exchange agreement, which divides their marital property and reassigns it as separate property.

Couples can create their own parenting plans or, if this is not feasible, they can work with the court to have Suits Affecting the Parent-Child Relationship (SAPCR) orders created and enforced.

### **At Least One Spouse Must be a Texas Resident for Six Months or Longer before Filing for Divorce**

In order to file for divorce in Texas, you or your spouse must have been a resident of the state for at least six months.

### **A Texas Divorce Can Take a Long Time to Complete**

In addition to the requirement that at least one spouse reside in Texas for six months or longer to file for divorce, one spouse must also have been a resident of the county where the divorce was filed for at least 90 days. Couples are not required to live apart for a specific amount of time before they may file for divorce.

Generally, the divorce process takes six months to one year to complete. At the very minimum, 60 days must elapse between the date the divorce petition is filed and the date the divorce is declared to be finalized.

### **In Texas, Custody is Known as Conservatorship**

Many states have unique terminology in place for legal topics. In Texas, having [custody of a child](#) is known as having a conservatorship for him or her. The court uses the child's best interests to determine his or her conservatorship plan and generally tries to create plans that allow children to spend consistent quality time with each parent.

In order to establish a conservatorship for a child, the child must have resided in Texas for at least six months prior to filing the conservatorship court order.

### **A Child's Opinion Carries a Lot of Weight in a Texas Conservatorship Case**

Any child over the age of 12 may be interviewed in court to determine his or her personal opinions and needs when determining a conservatorship. Unless the child was very clearly manipulated or coerced into giving specific answers, his or her personal responses are often considered heavily when determining his or her conservatorship.

### **Grandparents have Visitation Rights in Texas**

In Texas, [grandparents have the right to seek visitation](#) with their grandchildren. They are not guaranteed to have visitation agreements created, but the court can authorize visits between a grandparent and a grandchild if it determines them to be in the child's best interest.

### **Texas Family Law Statutes are Revised Every Two Years**

Because [the laws](#) can change so frequently, it is important that you work with a lawyer who is up to date on the latest changes. This is especially important for individuals who have been divorced in the past because chances are, there are new laws in place that did not exist during your previous divorce.

### **Work with an Experienced Houston Divorce Lawyer**

If you are considering filing for divorce in Texas, speak with an experienced [divorce lawyer](#) about your options and what you can expect from the process based on your unique circumstances. To get this conversation started, contact The Law Offices of Tad Nelson & Associates to schedule your initial consultation with our firm.