

PEARSALL LAW FIRM, INC.

A PLAIN ENGLISH INTRODUCTION
TO MARRIAGE, DIVORCE, CHILD SUPPORT,
CUSTODY, ADOPTION, NAME CHANGES,
AND OTHER FAMILY LAW ISSUES

Your Complimentary Copy



PREFACE



Thank you for downloading our family law guidebook. In the following pages, we offer a wealth of legal information to deepen your background knowledge of this topic.

Please note that what we discuss below is legal information, not legal advice – meaning, it is offered to educate you, but not to advise you or offer any specific guidance. An attorney must meet with you and understand your circumstances before he or she can offer any meaningful, helpful legal advice and help you avoid possible landmines.

As such, you should **not** take any legal action based on what we will discuss below. Instead, you should consult with a family law attorney, or else you may do something incorrectly and make your family law issue much worse.

***Note:** No attorney-client relationship is established until you have signed our retainer.*





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INTRODUCTION

TO

FAMILY LAW



Nothing is more important to us than our families.

“Family Law” is an umbrella term that covers any legal issue about your family relationships, whether you are beginning or ending a marriage, adopting someone into your family, changing someone’s name, needing help with child support or custody, or some other issue related to your family relationships.

We will explore each major area of family law below.

DIVORCE



LEGAL OVERVIEW

A divorce is the process of ending your marriage. The divorce order is only one last step in what is often a long and complicated process. Before a Texas court will issue a divorce order, you must meet two requirements:

Status: To be eligible for divorce, you must be validly married. While this is rarely an issue, it is worthwhile to let a family law attorney investigate whether your marriage is valid, as that would avoid any need for divorce.

Residency: To file for divorce, a person must have been a Texas resident for at least 6 months, and a resident of the divorce court's county for at least 90 days. Being stationed at a military base counts to residency.

Non-Requirements: Please note that you do not have to be married for any amount of time, or get marital counseling, or have your spouse's consent for divorce to be eligible for divorce.



TYPES OF DIVORCE

There are two types of divorce: contested and uncontested. A contested divorce occurs if the spouses disagree about something. Spouses often fight over property and/or custody. An uncontested divorce occurs if the spouses can provide the court with an agreed-upon order.

Uncontested divorces take about two months to complete, as courts cannot grant a divorce order until 60 days after the divorce paperwork is filed. At the hearing, the court will simply review the proposed divorce order and decide whether to accept it.

Contested divorces can take over a year to resolve, and often cost several thousand or tens of thousands of dollars in fees. In the end, the court will divide property and custody rights in whatever manner it sees fit. These divorces can be very stressful and bring out the worst side of you.



PROCESS OF DIVORCE

First: You can surprise your spouse with a divorce, but it is best to discuss the matter with them at a convenient time, in a calm and collected way, without pointing fingers or being accusative – even if the divorce is completely your spouse’s fault. A discussion can help ensure that your divorce is stress-free, quick, and affordable because it is uncontested.

Second: The legal case begins when either spouse files the divorce. The paperwork involves a petition, a civil case information sheet, and potentially more, depending on your case. The person who files the petition is the petitioner. The other spouse responds, as a respondent.

Third: Filing the paperwork begins a 60-day countdown. This gives the petitioner time to serve the respondent or receive a waiver of service. This is **not** a technicality; service of process is a basic constitutional right.



Fourth: In an uncontested divorce, this fourth phase is just a matter of waiting for your court hearing. Only one spouse must appear in court, and that spouse explains who the spouses are and what they are asking the court to do. At that point, the judge usually stamps the paperwork and moves on to the next case without further ado.

In a contested divorce, this phase is the litigation phase. The spouses will usually exchange discovery, meaning they will turn over financial information and other information, or else go to court to argue about whether certain discovery requests are proper. The spouses will usually snoop on each other's social media accounts to prove that the other spouse is a bad parent or a bad person. The spouses will bring their friends and family into the divorce, to act as witnesses. This looks and feels like a full-blown lawsuit, and it will go on for several months, or even for over a year, until a divorce hearing occurs and a judge makes the final decision.



THE DIVORCE ORDER

A divorce order is the court document that determines the nature of your divorce. While you and your spouse can personally agree to ignore the order, the police and other institutions will only look to the divorce order for guidance. If your ex refuses to comply with the order, you can enforce it with a **motion to enforce**. It is best to hire a family attorney for that.

Division of Debt and Property: Texas is a community property state, meaning that a great deal of property that you think is yours will belong to the marriage instead. Even much of the property that you owned before the marriage may end up belonging to the marriage. Texas courts are free to divide marital property however they think is “just and right,” which is often not a 50/50 split. You can avoid this uncertainty with an uncontested divorce, and/or with a marital (prenuptial or postnuptial) agreement.



Spousal Support: Court-ordered spousal support can last until the divorce ends or once the divorce is granted. Texas courts often do not grant alimony, unless a marital agreement creates spousal support obligations. Courts have more leeway to order support if there has been recent domestic violence, and/or the marriage has lasted over 10 years.

Restoration of Maiden Name: When people file for their own divorce, they often forget to ask the court to restore their maiden name. This is an expensive mistake, because failing to do so often means that the spouse with a maiden name must file a new case, for \$300 or more in filing fees.

Child Support and Custody: For any minor children that belong to the marriage, a great deal of thought must go into how they will be supported and supervised until they become adults. This is often the most difficult and complex area of family law, because it involves a great deal of mathwork and financial analysis.

ADOPTION



LEGAL OVERVIEW

An adoption occurs when a non-biological parent becomes the legal parent of a person. Adults and minor alike can be adopted.

Minor Adoption: A minor is a person who is under the age of 18. Minor adoptions typically involve a great deal of paperwork and government bureaucracy, because the State of Texas is responsible for the welfare of its minor residents. You typically need to pass a criminal background history and home study, in which a caseworker inspects your home and determines that it would be an appropriate place for the minor.

Adult Adoption: Adult adoptions are typically simple cases for family attorneys to take, with relatively little paperwork involved. The person being adopted needs to consent and should be at the court hearing.

NAME CHANGE



LEGAL OVERVIEW

Name changes are often sought by a stepchild wishing to adopt a step-parent's last name, newly married or divorced persons, and persons who want a fresh start. Adults and minors alike can change their names. Texas law imposes very few restrictions on what is an appropriate name.

Adult Name Change: Adult name changes are perhaps the simplest cases that can be brought to a family court, though you must still comply with the rules of civil procedure and fill in all of the paperwork correctly.

Minor Name Change: Minor name changes can be very difficult, since a minor cannot offer consent. Parties often wait until the minor turns 18, to proceed with a simpler name change. Still, the name of a minor can be changed, with the help of an experienced family assistance attorney.

MARITAL AGREEMENTS



OVERVIEW

A marital agreement is a type of contract. You can create this contract before your marriage (prenuptial agreement) and/or during your marriage (postnuptial agreement). These contracts often encourage the spouses to bring out the best in themselves and simplify the separation of property.

Marital Vows: By putting your marital vows in writing, you ensure that your commitments mean something. We encourage both spouses to come up with specific commitments to incorporate into our marital agreement.

Property: As a community property state, Texas's property laws are quite harsh, and will put a great deal of property into the "marital estate." Courts can split this property however it decides is "just and proper." To keep your separate property separate, you will need a marital agreement. This will simplify your finances, your relationship, and a potential divorce.

CLOSING REMARKS



We hope that the above information has helped you better understand what is family law, and how an experienced family law attorney can help you resolve a family law issue.

We do **not** hope that you use this information as a substitute to consulting with an attorney, or as a step-by-step guide for resolving your family issue on your own. This has only been a brief, cursory look at a complex and growing area of law. If you take matters in your own hands, without good legal guidance, this can make your family issue much worse.

If you are interested in a quality, affordable family law assistance, please contact us at your convenience. You can find more information about our family law services at www.PearsallLawFirm.com/Family-Law.



PEARSALL LAW FIRM

ATTORNEY OVERVIEW



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