

YOUR NEXT CHAPTER

A Guide To And Through Divorce

VARGHESE | SUMMERSETT

A LETTER FROM PARTNER

J. TURNER THORNTON

Divorce is never an easy decision, and the process can feel overwhelming, no matter where you are in life. Whether you're contemplating divorce, in the midst of the proceedings, or just beginning to explore your options, understanding the legal aspects of getting a divorce in Texas is crucial to securing the best possible outcome for yourself and your family.

At Varghese Summersett, our attorneys have collectively spent decades guiding clients through this challenging and often emotional journey. Our team of experienced family lawyers understands that divorce is about much more than just the legalities; it's about your future, your well-being, and

the well-being of your loved ones. We know that each situation is unique, and we approach every case with a personalized strategy tailored to your individual needs and goals.

This guide has been designed to empower you with the knowledge you need to navigate the divorce process in Texas. From property division to child custody, spousal support, and beyond, we break down complex legal principles into clear, actionable steps. Our goal is to provide you with the tools and insights to make informed decisions and feel confident as you move forward.

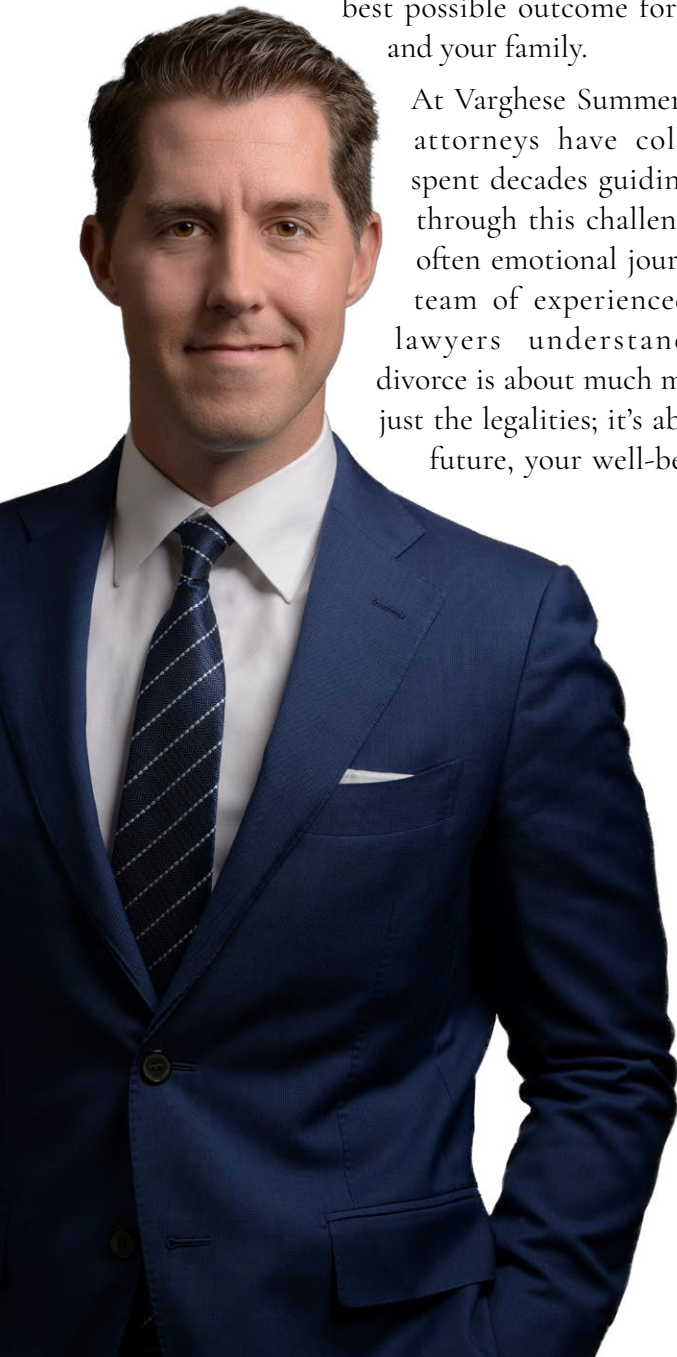
Divorce is undoubtedly a significant life event, but with the right information, the right support, and the right legal guidance, it is entirely possible to emerge from this chapter stronger, more focused, and better prepared for the next phase of your life.

We hope this guide serves as a valuable resource during this time. If you ever have questions or need further assistance, know that our dedicated team is here for you every step of the way.

Warm regards,



PARTNER J. TURNER THORNTON
Varghese Summersett Family Law Division



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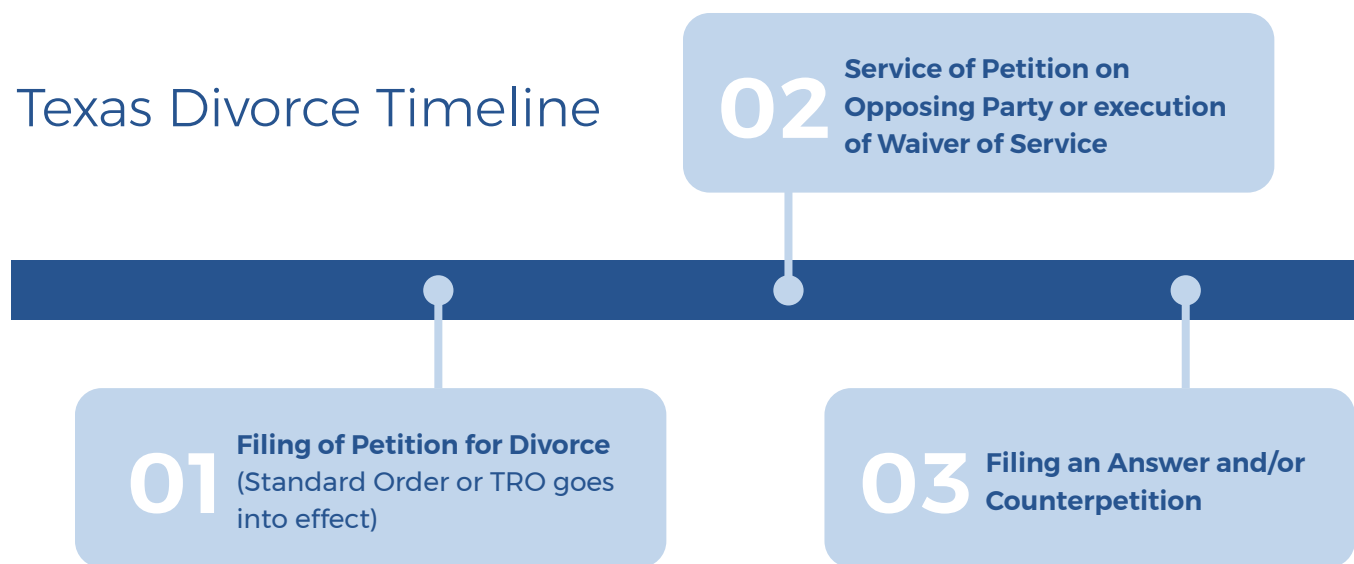
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Texas Divorce Timeline



THINGS TO KEEP IN MIND

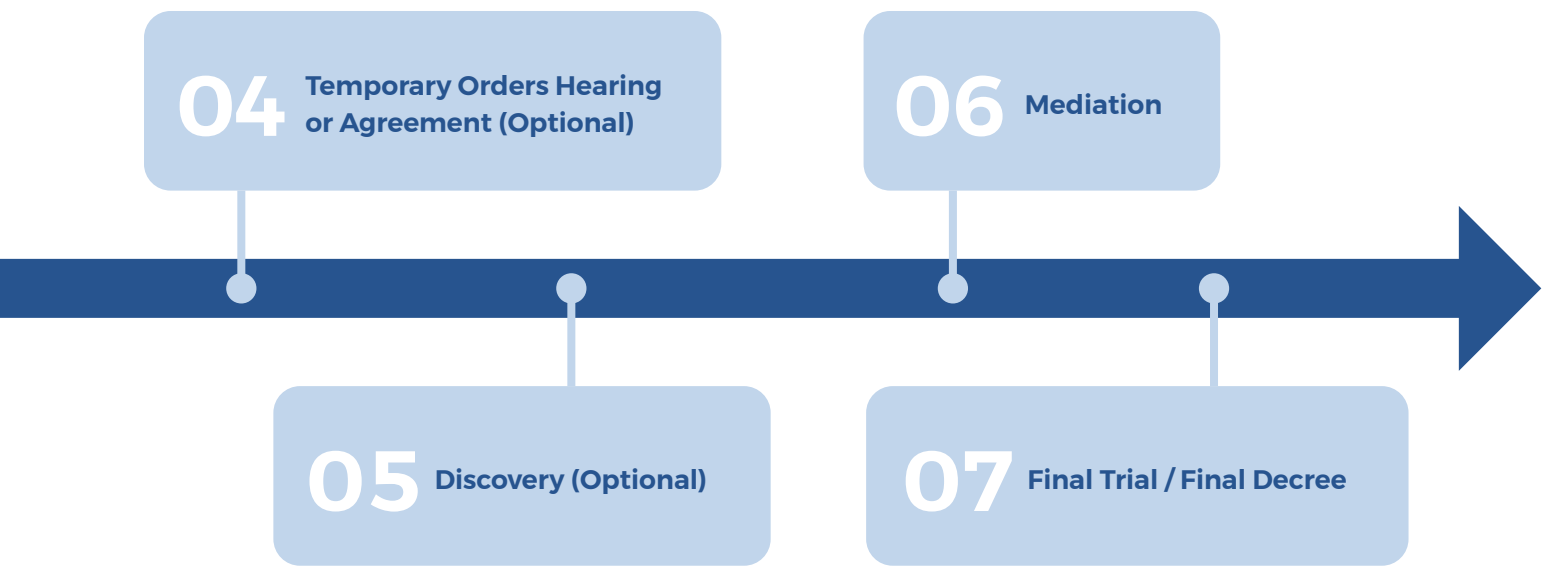
A few principles to help navigate the divorce highway.

01 Every Divorce is Different.

You'll get tired of reading this, but there is no truer statement applicable to family law. Some spouses fight over money, some fight over tangible assets, and some fight over kids. And this may come as a surprise to some of you, but some spouses don't fight at all. What your ultimate outcome will look like depends entirely on your familial and financial circumstances, your priorities, and the process you take to get to the finish line.

02 Most Divorces Settle at Mediation.

Except in the rarest of cases, your Varghese Summersett family law attorney will tell you that settlement outside of court is often the best thing for everyone. Judges can be rigid and highly reliant on the standards set forth in the Texas Family Code, whereas mediation allows parties to craft agreements that are truly customized to their needs, even if those needs don't match what the Code dictates. Many judges also mandate mediation prior to a final trial. You will never be pushed to settle at mediation, but you will be informed that trials can be unpredictable and that judges don't always "get it right." We will always advocate for you to have as much control over your divorce as you possibly can.



03 There is No Such Thing as a “Normal” Outcome.

Please do not compare your divorce to your cousin’s or your neighbor’s. Your outcome will be as unique as you are.

04 Focusing on the Small Stuff Can Drive You Crazy.

Is it highly obnoxious that your co-parent spouse doesn’t respond to your texts about the kids for hours? Yes! Is it frustrating that when your spouse moved out (s)he took all of the can openers? Yes! Is it worth your sanity to stress over trifles? Unless the trifle has turned into an emergency, we’re going to advise you to save your give-a-dangs for the big stuff.

05 Honesty is the Best Policy.

In order to achieve the best outcome possible, it is imperative that you are completely candid with your attorney from the first meeting. No one likes to be surprised in court with news that their client has been gambling the parties’ money away or had an extramarital affair that resulted in a child out of wedlock. Tell your attorney everything - the good, the bad, and the ugly. It may not be pleasant, but it will avoid more problems down the line.

PHASE ONE EVALUATION

Assessing Your Options and Goals

From the moment you decide to pursue a divorce, it is important to understand your options and define your ultimate goals so that you don't lose sight of what's important. Having a blueprint and a sense of your priorities will help you make informed decisions along the

way. This section of our Divorce Planner will guide you through different variables that may factor into your divorce and ultimately help you identify which choices may be best for you.

DIVORCE

To Fault or Not to Fault?

From the jump, you have an important decision to make - how do you want to characterize your divorce? In Texas, divorces are categorized as either no-fault or fault. The goal of this section of our guide is to help you understand these grounds for divorce, explain the consequences of electing a no-fault or fault divorce, and manage expectations regarding the process and potential outcomes.



No-Fault Divorce

“No-Fault” divorce is the most common route for divorce in Texas. A no-fault divorce does not require proof of wrongdoing, which removes a level of complexity from the process. Under Texas law, no-fault divorces are typically permitted on the basis of “insupportability” or “irreconcilable differences.” Simply, this means that the marriage is no longer viable and there is no reasonable expectation of reconciliation.

Couples may opt for a no-fault divorce for several reasons, including:

- **PRIVACY**

No-fault divorce helps keep personal and private matters out of public court records by limiting the need to “air out dirty laundry.”

- **REDUCED CONFLICT**

No-fault divorce can help maintain an amicable relationship, which may be ideal for divorces with minor children.

Fault Divorces

While no-fault divorces may be more popular, a fault-based divorce may be more appropriate in your case. A spouse who can prove that the other spouse is “at fault” for the marriage ending may be awarded a higher proportion of the community property. Moreover, a judge

may consider fault when deciding on issues of child custody or spousal support. In cases of domestic violence, proving fault in the form of physical abuse may also help you obtain a protective order against your spouse.

What are the different grounds for fault divorces?

In Texas, fault for divorce may be found under the following grounds:

- **CRUELTY**

When one spouse has participated in cruel treatment towards the other spouse.

- **ADULTERY**

When one spouse has been unfaithful to the other spouse.

- **FELONY CONVICTION**

When a spouse has been convicted of a felony and imprisoned for at least one year.

- **ABANDONMENT**

When one spouse has left the other without any intention of returning.

- **LIVING APART**

When the couple has lived apart without cohabitation for at least three years.

- **CONFINEMENT IN MENTAL HOSPITAL**

When one spouse has been confined in a mental hospital for at least three years with little chance of recovery.

Ultimately, no one but you can decide whether proving fault is important or necessary in your case. When considering whether a fault or no-fault divorce is the right avenue for you, consider and reflect on the following questions or discuss them with your attorney:

- Is it important to me to have a sense of justice or accountability? Why or why not?
- What evidence do I have to prove a fault-based divorce (i.e., photos, timelines, messages, criminal records)?
- What are the worst things my spouse may say about me in court? Will they try to say I am also at fault?
- How will proving fault positively or negatively affect our child(ren)?
- How might pursuing a fault-based divorce affect my future co-parenting relationship with my spouse?
- Are there financial or practical benefits to proving my spouse is at fault?

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PROPERTY

Texas is a community property state.

This means that any property acquired during the marriage is equally owned by both spouses, with limited exceptions. Because there is a presumption that community property is owned equally by the spouses, there is also a presumption that community property will be divided equally upon dissolution. Separate property of one spouse, however, may not be considered community property.

Separate property includes anything acquired by one spouse prior to marriage and anything acquired during the marriage by gift or inheritance. Separate property that has appreciated during the marriage may also be subject to division, so plan on discussing that possibility with your attorney. If you are getting divorced and own separate property, it is important to identify and define what property is not of the community and therefore should not be divided upon divorce.



Identify Your Separate Property

PROPERTY	HOW ACQUIRED	DATE ACQUIRED
Ex. House at 123 Blackacre Ave., Dallas, Texas	Inherited by my Dad's Will	11/08/2024

It is also important to decide if there is any property acquired during the marriage that you want to keep after divorce. A word of advice: Don't sweat the small stuff. Everything in your home can be used as a bargaining chip

at the negotiation table, but don't get caught up on a dollar-for-dollar exchange. Furniture is replaceable and itemizing and valuing each trinket in your home may make you lose focus on the bigger picture.

Your Must-Have Vs. Nice-to-Have Items

Identify three items in your home
that you **CANNOT** live without:

Identify three items in your home that you **CAN** live without but would prefer not to:

What about the marital home itself?

Just like all other community property, if the house was bought during the marriage, it is subject to division. However, for obvious reasons, it is difficult to “split the baby” when it comes to an indivisible asset like a house.

While the ultimate disposition of a home is determined on a case-by-case basis and involves a number of factors, it is important to consider the following questions if you want to fight your spouse for the marital home:

- What emotional significance does the marital home hold for me? Is it important to me that the children have some connection with the marital home after divorce?
- Would I be able to afford keeping the home on my own long term, both in terms of mortgage payments and ongoing maintenance costs? What about my spouse?
- Am I financially prepared to “buy out” my spouse for the home? What options do I have for refinancing?
- If I were to keep the marital home, am I planning to live in the home long- or short-term?
- Where will I live if I am not awarded the marital home?

If there is no equitable way to award the home to one spouse, the judge may order its sale. The proceeds will then be divided according to the judge’s orders, taking into account how other marital property was allocated.

Alternatively, you and your spouse may agree to sell the home outside of court or in mediation, in which case you will have near total control over the process, from the listing agent to the disposition of the proceeds.

CHILD CUSTODY

The umbrella of child custody, which encompasses both conservatorship (decision-making) and possession and access (time-sharing), can often be a big issue in divorces with minor children.

Conservatorship

In Texas, the term “conservatorship” refers to the right to make decisions about your child’s life, including where your child lives and goes to school and what happens if your child needs an invasive medical procedure, among others. Therefore, when evaluating your goals in a divorce proceeding, it is important to consider who you think should make those decisions and how they should be made.



Rights and Duties

The type of conservator you are designated will determine what rights and duties you have as a parent. In cases where both the parents are appointed as “Joint Managing Conservators” (which is the most common arrangement), one parent will typically be named the parent with the exclusive right to designate residence (sometimes referred to as the “custodial parent”), while the “nonprimary parent” (or “noncustodial parent”) will have possession of the child subject to a set possession schedule.

It is possible, although not quite as common, for parents to have equal possession time (sometimes referred to as a “50/50” schedule). In these cases, we often (but not always) see the child’s residence restricted to a specific geographic area without a primary parent designation.

Aside from the right to designate the child’s primary residence, there are a number of other rights and duties that are allocated between the parties, such as:

- THE RIGHT TO MAKE INVASIVE MEDICAL DECISIONS
- THE RIGHT TO MAKE DECISIONS REGARDING PSYCHIATRIC AND PSYCHOLOGICAL TREATMENT
- THE RIGHT TO MAKE EDUCATIONAL DECISIONS
- THE RIGHT TO CONSENT TO MARRIAGE AND/OR ENLISTMENT IN THE MILITARY

TERMINOLOGY	DEFINITION	RIGHTS & RESPONSIBILITIES
Parent with Exclusive Right to Designate Residence	This term indicates the parent with whom the child primarily lives. Parents with this right may also be referred to as the “custodial parent.”	Has the right to designate the child’s residence, often subject to a court-ordered geographic restriction. This parent may share the right to make other decisions alongside the Nonprimary Parent.
Nonprimary Parent	This term refers to the parent who has visitation rights.	Has the right to spend time with the child according to a visitation schedule, and rights to make certain decisions affecting the child.

These rights can be shared among the parents (“by joint agreement”), exclusively given to one parent “after consultation” with the other parent, or exclusively given to one parent with no obligation to consult with the other parent. As with many aspects of family law, there is no singular or typical way that these rights and duties are assigned. Each case is different and involves its own complexities, so there is

no “one size fits all” approach. Oftentimes, in cases where certain decisions are meant to be agreed upon by the parties, a “tiebreaker” provision will be included, whereby the parties will refer to a neutral third party (like a physician or educator) to make a decision when the parties cannot agree.

It bears mentioning that there are many rights and responsibilities inherent in parenthood that cannot be taken away from a parent absent extremely compelling reasons to do so. These rights and duties include:

THE RIGHT TO ACCESS HEALTH AND EDUCATIONAL RECORDS OF THE CHILD

THE RIGHT TO CONSULT WITH THE CHILD’S DOCTORS AND SCHOOL OFFICIALS

THE RIGHT TO ATTEND SCHOOL ACTIVITIES

THE RIGHT TO CONSENT TO EMERGENCY MEDICAL TREATMENT

THE RIGHT TO BE DESIGNATED AN EMERGENCY CONTACT FOR THE CHILD, AMONG OTHERS

In some cases, a court may find it is in a child’s best interest to name one parent the “Sole Managing Conservator” instead of both parents being “Joint Managing Conservators.” Sole managing conservatorship is most common when one parent has been found to have abused or neglected the child in some way, but can also be awarded if a parent is incarcerated or otherwise absent from the child’s life, has committed domestic violence, or has a significant history of substance abuse. A Sole Managing Conservator typically has

the exclusive authority to make all of the important decisions about their child’s life. However, unless the court decides that it is unsafe for the child, this doesn’t necessarily mean the other parent will be completely excluded from the child’s life. Texas courts weigh several factors when deciding whether to grant sole managing conservatorship, but the court’s emphasis is always on what arrangement will best serve the child’s emotional and physical health.

Possession

The parent who does not have primary possession of the child will typically get to see the child pursuant to a set possession schedule. The Texas Family Code currently outlines what is known as a “Standard Possession Order,” but courts may award deviations if it is in the child’s best interest to do so. Depending on the case, the court may also order certain additional conditions on possession, such as supervision.

Standard Possession Order

The Standard Possession Order contained in the Texas Family Code sets forth specific possession schedules for parents depending on the distance between their residences. Possession schedules are different for parties that live within 50 miles of each other, between 50 and 100 miles, and over 100 miles.



POSSESSION UNDER 50 MILES

("Expanded Standard Possession")

For parents who live within 50 miles of each other, the nonprimary parent will have possession of the child as follows:

- The first, third, and fifth weekend of each month from Friday after school until Monday when school resumes
- Thursday overnight (every week during school year, excluding major holidays)
- Alternating holidays, including spring break
- 30 days during the summer

POSSESSION BETWEEN 50 & 100 MILES

For parents living within 100 miles of each other, the nonprimary parent will have possession of the child as follows:

- The first, third, and fifth weekend of each month, from Friday evening to Sunday evening
- Thursday evenings for two hours (every week)
- Alternating holidays, including spring break
- 30 days during the summer

POSSESSION OVER 100 MILES

For parents living over 100 miles apart, the nonprimary parent will have possession of the child as follows:

- The first, third, and fifth weekend of each month, from Friday evening to Sunday evening OR one weekend per month
- No mid-week possession
- Alternating holidays
- Every spring break
- 42 days during the summer

Modified Possession

In some cases, a court may deviate from the Standard Possession Order if it's in the child's best interest or if the parties have been following a workable alternative schedule. It is also possible to agree on a deviation from the Standard Possession Order during mediation. If the parties agree on alternative possession at mediation, the court typically cannot modify the agreement, as Mediated Settlement Agreements are binding and irrevocable.

The most common deviation from a Standard Possession Schedule tends to give the parents equal possession time. Some examples of 50/50 possession are:

WEEK ON | WEEK OFF

The child spends one week with Parent A and then the next week with Parent B.

3-4-4-3

The child spends three days with Parent A, four days with Parent B, four days with Parent A, and then three days with Parent B.

2-2-3

The child spends two days with Parent A, two days with Parent B, and then three days with Parent A. The following week, the child spends two days with Parent B, two days with Parent A, and three days with Parent B.

Possession & Child Support

It should be noted that having a 50/50 possession does not necessarily mean there will not be any child support. In many cases, the court will offset child support obligations such that the higher income parent will still pay the lower income parent, but the amount will be reduced by an appropriate amount to reflect the equal parenting time.

Children Under the Age of Three

While a Standard Possession schedule or 50/50 may work for parents of very young children, the parties' circumstances may necessitate what is called a "step-up possession schedule," where the nonprimary parent starts with less than standard possession (e.g. no overnight possession) and then builds up to standard. Some factors a judge may consider in determining whether a step-up possession schedule is appropriate include:

- Age of the child
- Whether the child is breastfeeding
- Whether the child is in daycare/school
- Whether one parent is able to stay home with the child (if the child is very young)
- Ability of the parents to coordinate care and feeding

QUIZ

CO-PARENTING STYLE

Take this quiz to reflect on your co-parenting preferences and determine which style of custody may best align with your views.

- 01 **When it comes to decisions about your child's education or medical care, how do you think you and your co-parent should handle it?**
- ☐ a. We should make joint decisions for major matters like school and healthcare.
 - ☐ b. I'd like to share in decision-making, but I want the final say on important matters.
 - ☐ c. I prefer to make all decisions on my own without involving my co-parent.
- 02 **How important is it for you to have a consistent, predictable schedule with your child?**
- ☐ a. Not very important. I prefer a flexible, changing schedule based on my or the other parent's availability.
 - ☐ b. Somewhat important. Flexibility is also necessary, but consistency is good.
 - ☐ c. Very important. I believe a predictable schedule helps my child feel secure and stable.
- 03 **When it comes to your child's time with your co-parent, what do you think is the best approach?**
- ☐ a. My child should spend equal time with both parents, as long as it's in their best interest.
 - ☐ b. My child should primarily live with me, but I am open to the other parent having regular visits.
 - ☐ c. I believe the other parent should have limited time, and I should be the primary caregiver.
- 04 **How do you feel about the other parent being involved in your child's extracurricular activities, like sports, music lessons, or family events?**
- ☐ a. I want both parents to be actively involved in these events whenever possible.
 - ☐ b. I'm okay with them being involved as long as it doesn't interfere with my time or schedule.
 - ☐ c. I prefer to handle these activities without much involvement from my co-parent.
- 05 **When there is a disagreement between you and your co-parent about how to raise your child, what's your approach?**
- ☐ a. I believe in communicating openly and finding a solution that works for both parents and the child.
 - ☐ b. I want to come to a resolution, but I don't mind making unilateral decisions if necessary.
 - ☐ c. I prefer to make the final decision myself, even if it means disagreeing with my co-parent.

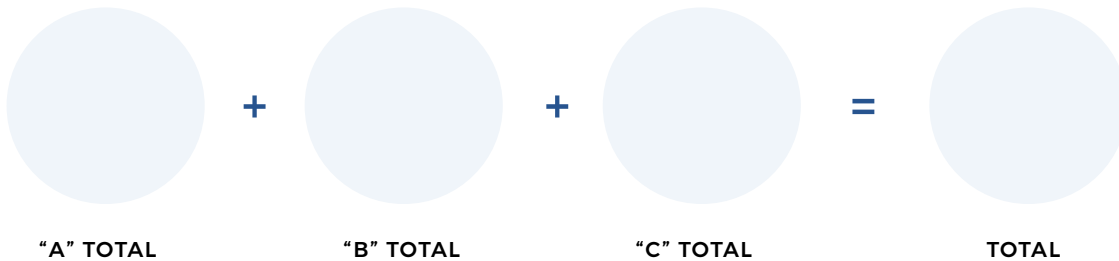
ANSWER SHEET

Give yourself **two points** for every “a” answer, **one point** for every “b” answer, and **zero points** for every “c” answer.

“A” = 2 POINTS

“B” = 1 POINT

“C” = 0 POINTS



8-10 Points: The Cooperative Co-Parent

You likely believe in shared responsibility and communication. You’re open to a 50/50 custody arrangement and prefer a high level of cooperation with your co-parent. You believe both parents should be equally involved in major decisions for your child.

4-7 Points: The Independent Co-Parent

You prefer a more independent approach to co-parenting, with less involvement from the other parent. While you may still believe in sharing custody, you’re more likely to prefer to make decisions with minimal consultation. You likely prefer a standard possession schedule.

0-3 Points: The Sole Custody Advocate

You likely prefer a restrictive joint managing conservatorship or a sole managing conservatorship. You may want to limit your involvement from your co-parent and prefer to make decisions independently. You could feel that more time spent with you is in the best interest of the child and may struggle with getting on board with the idea of balancing flexibility and cooperation in shared custody.

CHILD SUPPORT

Generally, child support is money paid by a parent for the care of the child, often as a result of a court order, until the child is 18 or graduates high school (whichever event occurs later). Even if parents share equal possession of the child, a court may order a parent to pay child support.

Child support is calculated using the noncustodial parent's "net resources," which consists of:

- Employment income, such as wages, salary, tips, and bonuses
- Retirement benefits
- Income from investments
- Most Social Security benefits
- Unemployment benefits
- Workers' compensation benefits
- Medical support

After determining net resources, here is what you can generally expect to pay/receive:

- 1 child: 20% of net resources
- 2 children: 25%
- 3 children: 30%
- 4 children: 35%
- 5 or more children: 40%

These guidelines apply to all net resources up to \$11,700 per month. If a parent makes more than that, they may be "maxed out" on child support.

The amount of child support owed may be increased or decreased depending on certain circumstances. Most common is a reduction for cases when the parent paying child support has a child or multiple children in other households.

However, child support may be increased if the child has extraordinary expenses due to the child's extracurricular activities or medical conditions.

If you owe child support, it can be paid in different ways. One way is having your employer take the child support directly

out of your paycheck and sending it to the Office of the Attorney General's State Disbursement Unit.

While this is the quickest way, you can also pay via check or money order by sending the funds to the State Disbursement Unit. If you are sending a check, make sure you know your case number so your records are kept readily available.

You can also register with the online portal through the Office of the Attorney General to make payments and keep track of the payments you've made.



SPOUSAL MAINTENANCE

Spousal maintenance, commonly referred to as alimony, is not automatically awarded in Texas. Texas caps the amount of spousal maintenance per month to the lesser of \$5,000 or 20% of the paying spouse's gross income. Temporary spousal support may be awarded to help cover household and living expenses during the divorce process.

While spousal maintenance is decided on a case-by-case basis, there are a few ways you may be qualified to receive spousal support. For example, you may be entitled to receive spousal maintenance if your spouse has been convicted of or received deferred adjudication for a family violence offense against you or your child within the last two years.

You may also be able to receive spousal maintenance if you and your spouse were married for at least ten years and you lack sufficient income to provide for your minimum reasonable needs and are either disabled, the primary caretaker of a disabled child, or lack earning ability.

In some cases, you may also be able to come to an agreement with your spouse to receive spousal maintenance upon divorce.

Generally, spousal maintenance is only awarded for a limited time. Texas law provides the following maximum durations:

- 5 years if there was a conviction or deferred adjudication for family violence
- 5 years if the parties were married at least 10 years
- 7 years if the parties were married at least 20 years
- 10 years if the parties were married at least 30 years
- Indefinitely if the spouse is severely disabled



PHASE TWO **PREPARATION**

Working with Your Attorney

Your attorney is here to be your advocate through the divorce process. Building a strong, communicative relationship with your attorney is key to ensuring that your needs are met and your goals are clearly understood. In this section, we will outline how to effectively collaborate with your attorney as you move through the steps of your divorce.

TELLING YOUR STORY

It is important that your attorney understands the full context of your marriage. This section is designed to help you reflect on the important moments of your relationship and provide detailed information that will guide your case. The more thorough and honest you can be, the better your attorney will understand your situation.

Use the following sections to guide you through the process of telling your story before and during marriage. Use the timeline and notes section to help explain the trajectory of your relationship.



Before Marriage

What does your Attorney need to know?

02. When and how did you meet your spouse?

Est. Date

04. What were the highlights and challenges?

Est. Date

06. What was your financial situation like?

Est. Date

08. What were your expectations going into marriage?

Est. Date

10. When and where did you get engaged?

Est. Date

12. When and where did you get married?

Est. Date

01. What was your life like before you met your spouse?

Est. Date

03. How long did you date?

Est. Date

05. Did either of you have prior marriages or children?

Est. Date

07. Did you live together before marriage?

Est. Date

09. Were your families supportive of the relationship?

Est. Date

11. Did you sign a prenuptial agreement?

Est. Date

During Marriage

What else does your Attorney need to know?

02. Did you have children together?

Est. Date

04. How did you divide responsibilities—parenting, finances, household?

Est. Date

06. Were there incidents of substance abuse, infidelity, or domestic violence?

Est. Date

08. Did you ever physically separate?

Est. Date

10. Was there a specific event when you realized the marriage is over?

Est. Date

12. What is the primary reason you're seeking divorce?

Est. Date

01. What was life like after marriage?

Est. Date

03. Did you make major purchases together?

Est. Date

05. What changed over time?

Est. Date

07. Did you attend marriage counseling / therapy?

Est. Date

09. How did you resolve conflict?

Est. Date

11. Were there any significant financial change or health issues that affected the marriage?

Est. Date

After Separation

What does your Attorney need to know?

02. How has the separation impacted your daily life?

Est. Date

04. Who has the kids? How are you co-parenting?

Est. Date

06. Have you discussed or agreed on temporary arrangements?

Est. Date

08. Has either of you been dating or entered into a new relationship?

Est. Date

10. Do your children understand the separation?

Est. Date

12. Is there a chance of reconciliation? Is divorce the final outcome?

Est. Date

01. When did you and your spouse separate?

Est. Date

03. Where do you live? Where does your spouse live?

Est. Date

05. Was the separation mutually agreed upon?

Est. Date

07. How are financial responsibilities being handled?

Est. Date

09. Has there been conflicts or police involvement since separation?

Est. Date

11. Are you receiving emotional support?

Est. Date

Keeping a Journal

One of the most valuable tools during the divorce process is keeping a journal. You can use a journal to record events, conversations, and interactions which may provide crucial evidence and insight into your case, particularly when it comes to issues like child custody. By staying organized and consistent in your journal, you ensure that you have a record that can support you during your divorce.

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IDENTIFYING “BAD” FACTS

Divorce can often bring out difficult and sensitive issues. While it may be uncomfortable, it is essential that you disclose ALL relevant facts—especially those that might be perceived as unfavorable or “bad” for your case. It is never good for your attorney to hear “bad” facts about you for the first time at trial. Thus, being candid is critical.

Defining “Bad” Facts

So, what are “bad” facts? “Bad” facts are typically elements of your personal life or your marriage that could be used against you by your spouse. These can include, but are not limited to:

- Incidents of Infidelity
- Criminal History
- Financial Mismanagement
- Parenting Concerns
- Emotional or Physical Abuse
- Substance Abuse
- Innapropriate Social Media Posts (speaking ill of spouse, family, kids, etc.)

Your attorney is your advocate, not your judge. The more openly you communicate, the more efficiently your attorney can help represent your case. Take a moment and reflect on any “bad” facts that your spouse may use against you and talk to your attorney about those ASAP.

What “Bad Facts” could your spouse try and use against you?

[illegible]

QUESTIONS FOR YOUR ATTORNEY

When you are navigating the complexities of divorce, it is essential to communicate your questions with your attorney. As you move through the divorce process, here are some questions you can consider when communicating with your attorney:

01 What are the steps of the divorce process in Texas?

Ask your attorney to explain what steps may be involved, including filing, temporary injunctions, temporary orders, and finalizing the divorce.

03 How will property and debts be divided?

Ask how Texas's community property laws may affect the assets or debts in your case.

05 How long will my divorce take?

Get a sense of the typical timeline and whether there are any factors that could speed up or delay the process.

02 What are my options for resolving the divorce?

Inquire about the different paths for divorce, such as contested, uncontested, or mediation, and what's best for your situation.

04 What will my divorce cost?

Request an estimate of legal fees, court costs, and any additional expenses associated with your case.

06 What happens if my spouse isn't cooperating?

Ask what options you have if your spouse is unresponsive or uncooperative during the divorce.

Take a moment and think of what questions you have for your attorney regarding your case.

MANAGING EXPECTATIONS

Divorce can be a very challenging experience, and having realistic expectations can make a significant difference in how you navigate your case. By understanding the timeline, costs, potential outcomes, and your attorney's role, you'll be better prepared to make informed decisions and move through the divorce process.

Be Patient with the Divorce Process.

Many people may hope for a quick resolution in their cases; however, more often than not, a divorce may take several months or even longer to finalize. It is important to have realistic expectations about timelines and understand that the divorce process

takes time. While your attorney can give you an estimated timeline, be prepared for delays, especially for contested divorce or cases involving complex issues such as child custody or property division.

Be Realistic About the Outcome.

While your attorney can provide an informed estimate of what may happen based on the facts, the law, and their experience, the outcome is ultimately determined by the court (if the case goes to trial). It is important to understand that sometimes compromise may be necessary. Be prepared for give-and-take, particularly when it comes

to property division and custody arrangements. Your attorney will work to achieve the best possible outcome; however, you should be prepared for the possibility that not every aspect of your divorce will go exactly as you plan.

Know the Costs Involved.

Divorce can be expensive and your legal fees may vary depending on the complexity of your case. Be aware that, while you can control some costs, others may be outside your control. If you have

concerns about costs, it is important to be upfront and transparent with your attorney.

Understand the Role of Your Attorney.

While your attorney's job is to represent your interests and guide you through the process, major decisions ultimately belong to you. Be clear about your priorities and goals. Open communication about your priorities and any willingness to be flexible on certain issues will help your attorney

best give you advice. Additionally, your attorney may need your involvement in providing documents and answering questions. Be prepared to be responsive to your attorney's request as your cooperation will allow your attorney to work efficiently.

“Expectations were like fine pottery. The harder you held them, the more likely they were to crack.”

Brandon Sanderson, *The Way of Kings*

Creating a Temporary Game Plan

During separation and before finalizing your divorce, it may be beneficial for you to create a personal interim plan with your spouse. Your temporary plan is just that - temporary. The goal of this plan is to create some stability within your family until your divorce is finalized.

Living Arrangements

Living arrangements when a divorce suit is pending can be a difficult subject to talk about. While some couples may be able to cohabitate during a divorce, others may find that it is better to live apart. Consider the following when you are determining what living arrangements may be best for you and your spouse.

LIVING TOGETHER

Schedule “You” Time.

Even though you are still living together, it is important to have some privacy and alone time during this emotional time in your life. Work with your spouse to find times when each of you can have the house to yourself or find a specific room where you have some time alone.

Don’t Play “House.”

While you may still be living together, it is important to remember that you are in the process of a divorce. Thus, try to avoid doing things that make you feel like you are still in a relationship, as it may make things more complicated for you.

Separate Bedrooms.

If possible, have separate bedrooms so you can have your own space and privacy.

LIVING APART

Determine Independent Living Arrangements.

Decide where each person will live in separation, whether a spouse remains at the marital residence, moves to a separate apartment, or moves in with family. When determining living arrangements, it is important to consider the financial situation of you and your spouse.

Child Custody Arrangements & Co-parenting

The temporary plan that you have for child custody and co-parenting will help your family transition into you and your spouse's new roles with co-parenting. Consider the following when creating your plan.

Sharing Time with Kids.

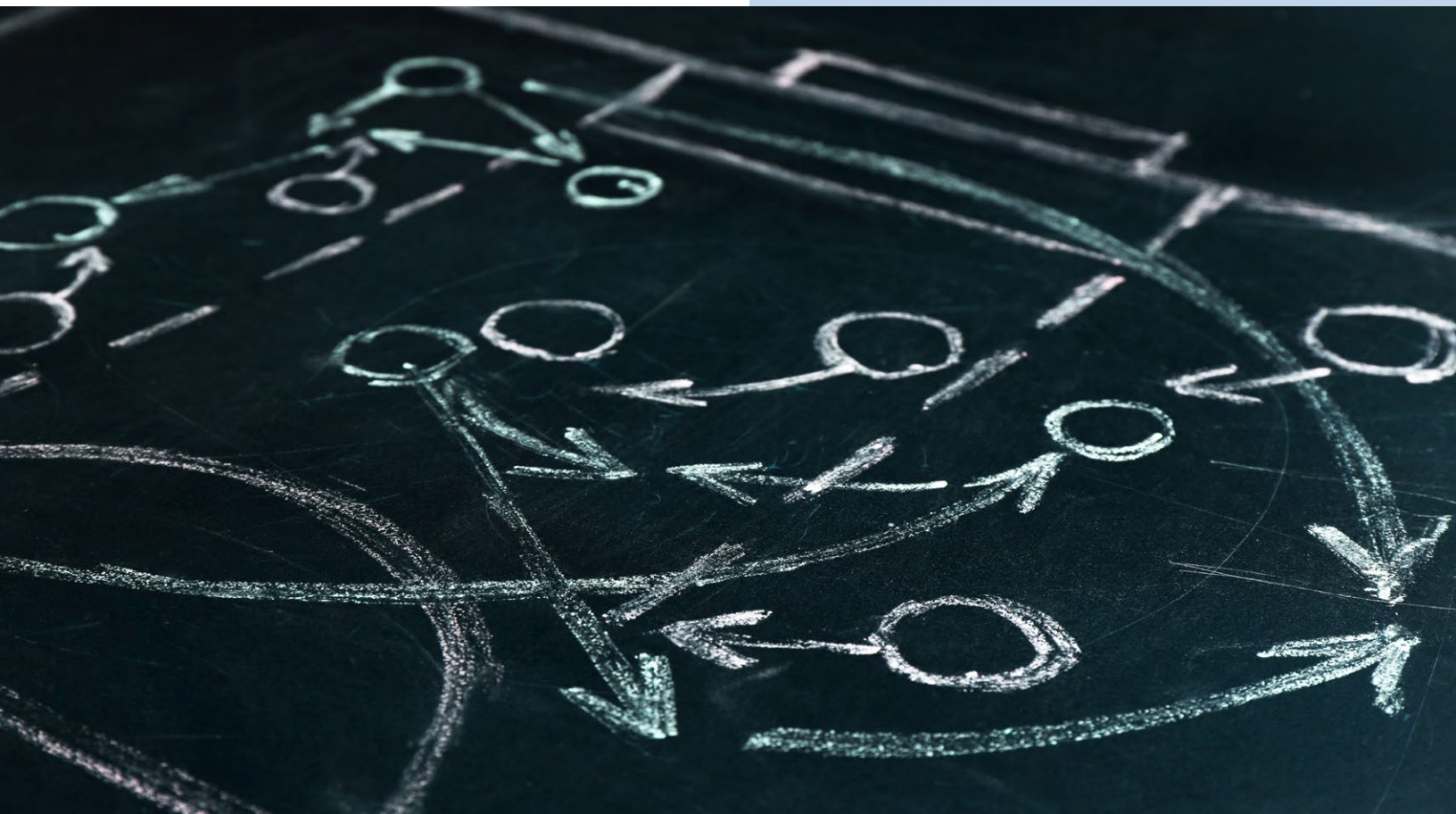
To help maintain a routine with your child, schedule time for each parent to share one-on-one time with them.

Alternative Major Child-Centered Routines.

If you have specific routines with your child, consider alternating between parents. This will help both you and your child maintain a sense of consistency.

Be Consistent.

Consistency and stability are crucial for children. Try to maintain a consistent routine as much as possible to help everyone adjust to your new arrangements.



Drafting a Plan for Consideration

When working with your spouse on an interim custody or parenting plan, it may be helpful to draft your desired plan before communicating with your spouse.

Make sure to consider the following:

- **The Possession Schedule** (Who will have possession and when?)
- **Decision Making Rights** (Which parent (if not both) can make major medical, dental, health, or education decisions for the child?)
- **Special Requests** (How far in advance should a parent request a change to be made to the schedule and what is the required response time from the other parent?)
- **Child-Parent Communication** (When and how can a parent communicate with a child when they are not in possession of the child?)

[illegible]

Finances

When going through the divorce process, one of the more immediate concerns is how to manage finances. When dealing with this issue, it is important to have a clear and communicated plan with your spouse (if you can). This discussion may be especially important if one spouse works outside the home while the other is a stay-at-home parent. Below are some key elements to consider when developing your interim financing plan.

Child Support

If you are going through a divorce with children under the age of 18, it may be important consider the manner, if any, that child support is to be paid while awaiting a court order. Please refer to the previous section that discusses how child support is calculated in Texas.

Living Expenses and Household Support

While the divorce is pending, unfortunately, the costs for maintenance and living expenses will not go away. In the meantime, you and your spouse will need to discuss a plan for payment of housing, utilities, or transportation. If you are securing housing options outside the marital home, it may also be necessary to discuss financial arrangements considering separate living expenses. It may be ideal for you and your spouse to draft a budget breakdown that outlines how much money is needed to cover monthly expenses.

Consider this list of expenses that may be unavoidable and thus, are important to discuss with your spouse while awaiting a Final Decree of Divorce:

- Mortgage
- Utilities
- Health Insurance
- Groceries
- Property Taxes
- Childcare Expenses
- Medical Expenses
- Extracurricular Activities for Children

Debts Due

While you are still going through the divorce process, payments for debts may become due. This includes debts associated with credit cards, mortgages, auto loans, student loans, etc. It may be beneficial to create a detailed list of all the debts that you and your spouse have accumulated together, including any balances or scheduled payments. This may assist you later in determining what needs to be paid off when dividing property.

DOCUMENT CHECKLIST

INCOME

- ☐ Pay Stubs
- ☐ Tax Returns
- ☐ Any other sources of income (i.e., gambling)

DEBT

- ☐ Account Numbers
- ☐ Account Statements

BUSINESS OWNERSHIP

- ☐ Formation Documents
- ☐ Bank Account Numbers
- ☐ Bank Account Statements
- ☐ Tax Returns

REAL ESTATE PROPERTY

- ☐ Home Appraisal
- ☐ Deeds
- ☐ Mortgage Information
- ☐ Rental Agreements

BANK ACCOUNTS

- ☐ Account Numbers (Checking Accounts, Savings Accounts)
- ☐ Account Statements
- ☐ Statements for 3rd Party Transactions (i.e., Venmo, Zelle, PayPal)
- ☐ Accounts held in the interest of another (i.e., accounts for your kids)

INVESTMENT & RETIREMENT ACCOUNTS

- ☐ Account Numbers
- ☐ Account Statements

INSURANCE POLICIES

- ☐ Health
 - ☐ Employee Cost
 - ☐ Employee & Children Cost
 - ☐ Employee & Family Cost
- ☐ Life
- ☐ Property

EXECUTED MARITAL AGREEMENTS

- ☐ Formal (or informal) Pre-Nuptial Agreement
- ☐ Formal (or informal) Post-Nuptial Agreement

PHASE THREE

ACTION

By this point in your divorce process, the ball may already be rolling. However, if not, this section will walk you through the legal process of divorce.

FILING & SERVICE

Original Petition for Divorce

In Texas, a divorce case begins with a document called an “Original Petition for Divorce.” This is the document that gets the divorce process started. It is filed with the court and the person that files the petition is known as the “petitioner” through the remainder of the case.

One of the parties must have resided in Texas for at least six months preceding the filing and the petition must be filed in the county where either the petitioner or respondent (person responding to the petition) has lived for at least 90 days.

Under Texas Law, the original petition for divorce must include the following information:

- The full names of the petitioner and respondent
- County of residence
- Grounds for divorce
- A generic request for division of marital property and debts
- Whether a name change is requested
- The date of marriage and separation
- The names and ages of any children under the age of 18
- Whether a protective order is in place or pending
- A statement that the petitioner is seeking a divorce from the respondent

Additionally, there are other optional things that a petitioner may request in an original petition:

- Temporary Orders
- Spousal maintenance
- Conservatorship, possession and child support
- Division of property

The original petition for divorce must be signed by the petitioner. Once it is filed with the clerk's office, the court will issue a case number and assign a judge to the case. The date on which it is filed is considered the start of the divorce process. A 60-day waiting period will then begin on that date before the divorce can be finalized, as required by Texas law.

After the original petition for divorce is filed, the petitioner must then "serve" it on the respondent. This simply means that the respondent must be given a copy of the document, usually via the sheriff's office or a private process server. If a spouse is unable to be located, there are ways to accomplish "alternative service."

In addition, a respondent can elect to waive formal service by signing a "Waiver of Service." Once the respondent has been served, they have 20 days to file an answer or counter-petition with the court. If the respondent does not file a response, the petitioner can then ask the court for a "default judgment." This means that the court may grant the divorce without the respondent's presence or consent.

DISCOVERY

What is Discovery?

“Discovery” is a legal term that refers to the formal process by which parties in a lawsuit exchange information and evidence relevant to the case. In family law cases, discovery is used to gather information about a wide variety of issues, such as income, property, children, debts, and any other issues relevant to the case.



Discovery Methods

Interrogatories

These are written questions posed by one party to another, requiring the receiving party to provide written answers under oath. The responding party generally has 30 days to answer these questions from the date of service. Interrogatories often cover various topics. Common questions may include:

- Information about income and employment
- Details about property and debts
- Questions about child custody and visitation
- Information about marital misconduct or fault grounds

Requests for Production

These are formal requests for the other party to produce physical documents or tangible items related to the case. Examples include bank statements, tax returns, real estate documents, emails, text messages, photographs, and other relevant evidence. Responding parties have 30 days to respond to these requests from the date of service.

Requests for Admissions

These are a set of written statements served to the other party asking the party to admit or deny the truth of each statement. This tool can be used to establish undisputed facts and narrow the issues for trial. Responding parties have 30 days to respond to these requests from the date of service.

Requests for Disclosure:

These requests require the other party to disclose basic information about their case within 30 days of receiving the request, such as legal theories, potential witnesses, expert witnesses, and any existing insurance policies.

Inventories and Appraisements

In divorce cases, both parties are often required to submit a detailed list of all their assets and liabilities, along with their respective values. These later help in itemizing and dividing the marital estate.

MEDIATION

Mediation is a tool that offers a more amicable and cost-effective way of concluding your divorce instead of going in front of a judge. It should be noted that while parties may be able to request to mediate, it is mandatory in some courts before trial. During mediation, a neutral third-party mediator facilitates communication between you and your spouse to help you reach a voluntary agreement.

Issues commonly addressed in mediation include:

- Division of property
- Conservatorship and possession and access
- Child support
- Spousal support

Once both parties reach an agreement, the mediator will draft a Mediated Settlement Agreement (MSA) to outline the terms. Both spouses and their respective attorneys will receive the MSA, and if all parties agree, they will sign it. Under Texas law, MSAs are binding and enforceable. The MSA will then be used to draft a Final Decree of Divorce, which will be presented to the judge for signature after it is approved and signed by the parties and their attorneys.

Tips to Make the Most of Your Mediation

Gather relevant documents:

Compile financial records, property deeds, and other essential documents to support your position during negotiations.

Develop clear objectives:

Identify your priorities and goals for the mediation process, such as custody arrangements or property division.

Seek legal advice:

Consult with your attorney to understand your rights and develop a negotiation strategy.

Impasse

In the event that you and your spouse do not come to an agreement during mediation, the mediation will be considered to be an “impasse.” This means that your case will proceed to a final trial unless you elect to attempt mediation a second time.

[illegible]

PHASE FOUR FINALIZATION

Final Decree of Divorce

In Texas, the divorce process is officially over when a judge signs the Final Decree of Divorce. This document is binding and legally ends your marriage. After the judge signs the Decree, it is filed with the court clerk and becomes public record. Once the Decree is signed, you and your spouse are legally obligated to follow its terms. If either of you fails to do so, the other party can file an enforcement action with the court.

Additional Notes or Reflections

[illegible]

Final Decree Checklist

If, in the Final Decree, it is ordered that your name be changed, it is important to make sure you notify any necessary third parties. Here is a checklist you can reference to make sure you cover your bases:

☐ **DRIVER'S LICENSE & SOCIAL SECURITY CARD**

Make sure to update your name with the Department of Motor Vehicles and the Social Security Administration.

☐ **BANK ACCOUNTS & CREDIT CARDS**

Any accounts awarded to you in the Final Decree will need to have your name updated.

☐ **EMPLOYER**

Make sure to inform your employer of your name change.

☐ **WILL AND ESTATE PLANNING DOCUMENTS**

Update your will and any other estate planning documents with your name change.

☐ **PASSPORT**

Make sure to update your name with the Department of State if you have a passport.

☐ **INSURANCE COMPANIES**

For any property you have been awarded, notify the respective insurance company of your change in name.

☐ **VOTER REGISTRATION**

Update your voter registration with your name change.

☐ **EMERGENCY CONTACTS**

Update your emergency contacts.

☐ **PAYABLE ON DEATH ACCOUNTS**

Make sure to update your name change and beneficiary information if needed.

FINAL WORD FROM US TO YOU

Divorce can be a long, exhausting, and complex journey. At Varghese Summersett, we are committed to supporting you every step of the way. If you have any questions about what your divorce may entail or what options may be available to you, do not hesitate to reach out. We are here to help you navigate this challenging time with care and expertise.

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