

No Nonsense[®] Divorce

**No Nonsense
Divorce
Workbook**

Table of Contents

Introduction	5
Please Write Clearly and Legibly.....	5
How to Get Started	5
Terms Used in This Workbook	5
Protecting Your Family's Privacy	6
Important Notice About This Workbook.....	6
General Information	7
Information About You (Our Client)	7
Information About Your Spouse	8
Marriage Information	9
Separation	9
Attorney Information	9
Filing the Divorce Petition.....	9
Grounds for Divorce	9
Name Change	10
Agreements	11
Child(ren) of this Marriage.....	12
First Child	12
Second Child	12
Third Child	12
Fourth Child.....	13
Fifth Child	13
Current Health Insurance for the Child(ren)	13
Dividing Your Property.....	14
Retirement Accounts	15
Sworn Statement on Property	15
Allocating Your Property and Debts	16
Assets That Will Go To Husband	17
Assets That Will Go To Wife.....	19
Debts That Will Go To Husband.....	21
Debts That Will Go To Wife	22

Real Estate 23

Spousal Support or Alimony 25

Income Taxes 26

 Tax Deduction for the Children 26

Children of this Marriage 27

How the State of Texas Views Children in Divorces 28

Conservatorship – Parental Rights and Duties..... 29

 Parental Rights and Duties – Both Parents At All Times 29

 Parental Rights and Duties – During Times of Possession 30

 Parental Rights and Duties – Exclusively, Independently or Jointly 30

 Geographic Restriction for Residence of the Child..... 33

Child Possession and Visitation 35

 Standard Possession..... 35

 Option 1: Choosing the Standard Possession Schedule 36

 Extended Standard Possession 36

 Option 2: Choosing the Extended Standard Possession Schedule..... 37

 Wrap Possession Schedule..... 37

 Option 3: Choosing the Wrap Possession Schedule 38

 Week On/Week Off Possession Schedule 38

 Option 4: Choosing the Week On/Week Off Possession Schedule 39

 Holidays, Birthdays and Summer Schedule 39

 Remaining Possession Schedule Details 41

Child Support..... 43

 What We Need to Calculate Child Support for You..... 44

 Child Support Withholding Order..... 44

 Setting Up Your Child Support Account 44

 Life Insurance 45

 Health Insurance for the Children..... 45

 Military Health Care Benefits 46

Final Steps..... 47

 Workbook Acknowledgement 47

What's Next? 47

Introduction

Video Instructions -> <https://www.betterdivorceaustin.com/workbook>

We've found that many people that are going through a divorce want to work through many of the issues themselves, but they run into a couple of stumbling blocks:

1. You may not be aware of all of the specific issues that you and your spouse will have to make decisions on.
2. Once you know all the issues, you may not understand what the different choices or options are for each of them.

We created the Austin Divorce Workbook to help divorcing couples like you with both of those two issues. We've also taken it a step further by trying to guide you through each of the issues and helping you to determine which option is chosen by most people, which option is wise, and what the alternatives are.

Just to be clear, this workbook does not present you with every conceivable possibility for a divorce. It's designed to guide you through most of the common choices for couples that want to try to work through the issues in their divorce without going to war at the courthouse or engaging in a more formal process for resolving their case (like collaborative law or mediation.)

Please Write Clearly and Legibly

We need to be able to read what you write. Please try to write as clearly and legibly as possible.

How to Get Started

We're assuming that you and your spouse are interested in trying to reach decisions on the issues without going to court. So, the first step for you is to complete this workbook. It's helpful if you and your spouse can complete this workbook together, but if you are having communication issues, then one spouse can work through it first and then give it to the other spouse for input. If you are unable to communicate with your spouse at all, you can complete the workbook on your own and we will use it to make a proposed Final Decree of Divorce.

Once the workbook has been completed, we'll use your input from it to start working on a draft Final Decree of Divorce. Once we've completed a draft of the Final Decree of Divorce, you and your spouse or your spouse's attorney can review it to see if any corrections need to be made or if you have a problem with any of the provisions in it. Once any corrections are made, you and your spouse can sign the Final Decree of Divorce and return it to our office.

Terms Used in This Workbook

There are several terms that we use to identify individuals and items in this workbook. Most of these terms come from the Texas Family Code, so we're using the same language that you'll be seeing in the Final Decree of Divorce. We won't list everything here, but these are terms you are going to see frequently.

Primary Parent – This is the parent that the children will live with most of the time. The primary parent determines the primary residence of the child or children and is the parent that receives child support.

Possessory Parent – This is the parent that the children do not live with most of the time. Typically, the possessory parent is the parent who “exercises possession or visitation” on a designated schedule and who pays child support.

The "titles" for the parents can be a very sensitive subject for some people. Please understand that these are simply legal terms. Being designated as the possessory parent doesn't mean that you are an inferior parent or that you are less important. On the same token, being designated as the primary parent does not necessarily mean that you are the "better" parent. **The Texas Family Code requires that a Final Decree of Divorce designate one parent as the primary and one as the possessory.** In order to keep things simple, we'll keep using those terms throughout the workbook.

As we just discussed, the Texas Family Code currently requires that one parent be named the primary parent. This label often causes issues between parents during a divorce. In some situations, the Courts will sign orders without designating one parent as the primary parent as long as a primary residence of the child or children is specified. If you and your spouse feel strongly about not calling one of you the primary parent and you are in agreement, you should discuss this option with one of our attorneys.

Father / Husband – I don't think we really need to define these terms, but will probably see both of them.

Mother / Wife – Again, you'll be seeing both of them.

We realize that there are a lot of different types of families and we work with just about all of them. Please don't be offended if the terms we're using don't apply to your situation. We also don't make assumptions about which spouse is working. In today's world, there are a lot of stay-at-home dads with the mother being the breadwinner.

We also understand that there are a wide variety of religious and spiritual beliefs. You will see Christmas mentioned several times in this workbook because that is how it appears in the Texas Family Code.

Protecting Your Family's Privacy

We want to let you know that we will take all measures to respect you and your family's privacy. We will not include anyone in your family's Social Security number or drivers license number on a document filed with the court, unless absolutely necessary.

We are equally vigilant about any of your financial accounts or financial information. We will include only enough information in the court filings to identify the accounts, but not enough for someone to use the information to steal from you or compromise your identity.

Important Notice About This Workbook

This workbook is intended for educational purposes only. Unless you are a client of this firm, it is not to be considered legal advice.

Where to Begin

If you've already completed the online Client Questionnaire/Getting Started Guide, you can skip pages 1-13 and begin on page 14.

General Information

Information About You (Our Client)

Full Legal Name: _____
Maiden Name (if applicable): _____
Social Security #: _____ Drivers License #: _____ DL State: _____
Race: _____ (The court requires this info for a vital statistics form.)
Home Address: _____
Home City: _____ Home State: _____ Home Zip: _____
Home County: _____
Mailing Address (if different): _____
Mailing City: _____ Mailing State: _____ Mailing Zip: _____
Email address: _____
Home Phone: _____ Work Phone: _____ Cell Phone: _____
Employer: _____
Employer Payroll Address: _____
Employer Physical Address: _____
Employer Mailing Address (if different): _____
Employer City: _____ Employer State: _____ Employer Zip: _____
Date of Birth: _____ City of Birth: _____ State of Birth: _____
County of Birth: _____ Country of Birth (US or other): _____

Are you now or have you been in the military?

Yes No

If No, you can move on to the **Information About Your Spouse** section. If Yes, you should discuss this with one of our attorneys.

Are you currently active? Yes No What date did you enlist? _____

If no, what date did you separate from the military? _____

Are you in the reserves? Yes No

Are you currently deployed or scheduled for deployment? Yes No

How many years of credible service do you have? _____ Are you on disability? Yes No

Are you receiving military retirement? Yes No

What is your current or last rank? _____

Information About Your Spouse

Full Legal Name: _____
Maiden Name (if applicable): _____
Social Security #: _____ Drivers License #: _____ DL State: _____
Race: _____ (The court requires this info for a vital statistics form.)
Home Address: _____
Home City: _____ Home State: _____ Home Zip: _____
Home County: _____
Mailing Address (if different): _____
Mailing City: _____ Mailing State: _____ Mailing Zip: _____
Email address: _____
Home Phone: _____ Work Phone: _____ Cell Phone: _____
Employer: _____
Employer Payroll Address: _____
Employer Physical Address: _____
Employer Mailing Address (if different): _____
Employer City: _____ Employer State: _____ Employer Zip: _____
Date of Birth: _____ City of Birth: _____ State of Birth: _____
County of Birth: _____ Country of Birth (US or other): _____

Are you now or have you been in the military?

Yes No

If No, you can move on to the **Information About Your Spouse** section. If Yes, you should discuss this with one of our attorneys.

Are you currently active? Yes No What date did you enlist? _____

If no, what date did you separate from the military? _____

Are you in the reserves? Yes No

Are you currently deployed or scheduled for deployment? Yes No

How many years of credible service do you have? _____ Are you on disability? Yes No

Are you receiving military retirement? Yes No

What is your current or last rank? _____

Marriage Information

Date of Marriage: _____ City of Marriage: _____

County of Marriage: _____ State of Marriage: _____

Country of Marriage (US or other): _____

Separation

Are you and your spouse still physically living together?

Yes No If no, on what date did you separate? _____

Attorney Information

We need to know if there will be an attorney representing the spouse that isn't our client. It's not unusual for us to be the only attorney involved in a case. However, in this situation, we cannot give legal advice to the other party. That doesn't mean that we'll try to take advantage of the other party, but the State Bar prohibits attorneys from representing both parties.

Is there an attorney representing your spouse in this case?

Yes No Not yet, but one will be hired

If so, please complete the information below:

Attorney's Name: _____ Attorney's Phone: _____

Filing the Divorce Petition

The person that files for divorce is called the Petitioner. The other party will be called the Respondent. In most agreed cases, there isn't an advantage for one person to file versus the other.

Has the Original Petition for Divorce already been filed?

Yes No

If not, who will be filing the Original Petition for Divorce?

You Your Spouse

Grounds for Divorce

Your Petition for divorce must state why (the grounds) that you are asking for a divorce. In Texas, we have both fault and no fault grounds.

The fault grounds include:

- adultery,
- abandonment,
- cruelty, and
- conviction of a felony.

No fault grounds include:

- insupportability
- living apart for at least 3 years

Insupportability is the most common ground. It simply means that you and your spouse no longer get along and you have decided to divorce - but you are not alleging that it is anyone's "fault". You just do not want to be married to each other anymore. If you want to try and reach an agreement, your divorce petition should probably be filed based on insupportability.

If you answer NO to the following question, please contact us directly to discuss the particular issues with us, because it will most likely complicate the settlement of your case.

We will file for a “no-fault” divorce based on insupportability.

Yes No

Name Change

Video Help -> https://www.betterdivorceaustin.com/workbook/#name_change

Although name changes are more common for the wife, either spouse may change their name back to a name he or she has used before. For example, a wife may go back to her maiden name or to a name from a previous marriage. You must go back to a name that you have used in the past. You can't make up a brand new name.

If you're considering a name change, it's easier to do it at the same time you finalize your divorce than at some time later. There's no extra charge for this.

Will there be a name change?

Yes No If No, skip to the next section.

What is the current full name of the person changing names?

What is the full name that this person is changing back to?

Agreements

Video Help -> https://www.betterdivorceaustin.com/workbook/#marital_property_agreements

Did you enter into any agreements related to this marriage? (These documents are also called Prenuptial Agreement, Postnuptial Agreement, Marital Property Agreement, Partition and Exchange Agreement or Partition/Separation Agreement.)

Yes No

If you answered Yes, then we will need to see a copy of the related document and you will need to discuss it with one of our attorneys before you complete the property section of the workbook.

Have you entered into any written or unwritten agreement related to this divorce?

Yes No

If you answered Yes, then we will need to see a copy of the related document and/or you will need to fully describe the details of the agreement and discuss it with one of our attorneys after you complete the property section of the workbook.

Child(ren) of this Marriage

Video Help -> <https://www.betterdivorceaustin.com/workbook/#children>

These questions apply to children of this marriage, either born or adopted. It does not apply to any child(ren) of prior marriages and/or any not adopted step-child(ren). You don't have to include any child that is age 18 or older, unless they are still in high school, or unless any child has special needs (meaning they are disabled and require care beyond age 18 or high school because of their disability).

Do you have child(ren) of this marriage, either born or adopted?

Yes No (if you answered No, skip to the **Attorney Information** section below.)

If all of your children are older than age 18, you can skip to the **Attorney Information** section.

First Child

Full Legal Name: _____ Sex: (M/F) _____

Social Security #: _____ Drivers License #: _____ DL State: _____

Date of Birth: _____ City of Birth: _____ State of Birth: _____

County of Birth: _____ Country of Birth (US or other): _____

Will the child graduate from high school after his or her 18th birthday? Yes No

If so, when will they graduate? Month: _____ Year: _____

Note about HS graduation question: Child support payments typically continue until a child graduates from high school or reaches his or her 18th birthday – whichever is later. We need this information to draft the Final Decree.

Second Child

Full Legal Name: _____ Sex: (M/F) _____

Social Security #: _____ Drivers License #: _____ DL State: _____

Date of Birth: _____ City of Birth: _____ State of Birth: _____

County of Birth: _____ Country of Birth (US or other): _____

Will the child graduate from high school after his or her 18th birthday? Yes No

If so, when will they graduate? Month: _____ Year: _____

Third Child

Full Legal Name: _____ Sex: (M/F) _____

Social Security #: _____ Drivers License #: _____ DL State: _____

Date of Birth: _____ City of Birth: _____ State of Birth: _____

County of Birth: _____ Country of Birth (US or other): _____

Will the child graduate from high school after his or her 18th birthday? Yes No

If so, when will they graduate? Month: _____ Year: _____

Fourth Child

Full Legal Name: _____ Sex: (M/F) _____

Social Security #: _____ Drivers License #: _____ DL State: _____

Date of Birth: _____ City of Birth: _____ State of Birth: _____

County of Birth: _____ Country of Birth (US or other): _____

Will the child graduate from high school after his or her 18th birthday? Yes No

If so, when will they graduate? Month: _____ Year: _____

Fifth Child

Full Legal Name: _____ Sex: (M/F) _____

Social Security #: _____ Drivers License #: _____ DL State: _____

Date of Birth: _____ City of Birth: _____ State of Birth: _____

County of Birth: _____ Country of Birth (US or other): _____

Will the child graduate from high school after his or her 18th birthday? Yes No

If so, when will they graduate? Month: _____ Year: _____

*** If you have more than 5 children, please complete the same information for each child on the back of this page and note that this information is attached.

Current Health Insurance for the Child(ren)

The court requires that we include current health insurance information for child(ren) of the marriage.

If you have child(ren), are they currently covered by health insurance?

Yes No Not applicable

If so, please complete the information below:

Insurance Company: _____ Policy Number: _____

Who currently pays for the health insurance for the child(ren)?

You Your Spouse

Dividing Your Property

Video Help -> <https://www.betterdivorceaustin.com/workbook/#property>

The first thing you need to understand about dividing your property is that *anything that you and your spouse agree on is typically fine with the courts*. However, you may want to know how the courts would divide your property or what the options would be if you had to go to trial. One important point to remember is that the Texas Family Code gives a court the power to make a "just and right" division of your community property – this does not necessarily mean 50/50.

Texas is a community property state, which means that you and your spouse have a 50/50 interest in all community property before the divorce is granted. Before we go any further, let's discuss the difference between community and separate property.

What is community property? To put it simply, it's everything that you and/or your spouse acquired during the marriage, with the following exceptions:

- Property given to one of you as a gift;
- Property acquired by one of you as an inheritance;
- Property acquired by one of you as a personal injury award (provided that it was not compensation for lost wages.)

What is separate property? It's everything that each of you had prior to marriage. It also includes the following items:

- Property given to one of you as a gift;
- Property acquired by one of you as an inheritance;
- Property acquired by one of you as a personal injury award (provided that it was not compensation for lost wages.)

If one of you has separate property that has increased in value during the marriage, you should discuss the specifics with one of our attorneys.

Also, Texas does not allow gifts to be given to the community. So, for instance, if you received a wedding gift to both spouses, that gift is technically ½ separate property of each spouse.

Where should you begin your discussions? For purposes of the discussion with your spouse, a 50/50 split of community property is probably a good place to start. As I mentioned earlier, a court will try to make a just and "just and right" division of the community property but it's not always 50/50. There are a number of factors that a court will consider when dividing community property (it is not necessarily limited to these factors):

- Whether or not one spouse was more at fault for the breakup of the marriage;
- If one spouse has been cruel or abusive to the other;
- If one spouse has fewer job skills or lower earning capacity that they can use to support themselves;
- If one spouse will be responsible for raising a special needs child or is responsible for more of the child related duties;

- If one party has significantly more separate property than the other.

If one or more of these factors are present in your situation, then it is conceivable that a court might make a 60/40 split of the community property. However, typically there needs to be some circumstances such as domestic violence, child abuse, fraud, or criminal activity to get more than a 60/40 split.

What do we need to know for purposes of drafting the Final Decree of Divorce? Unless you tell us differently, the following provisions will be included in the Final Decree:

- Each of you keeps the bank accounts in your name;
- Each of you keeps the retirement accounts in your name;
- Each of you is responsible for the credit cards in your name;
- Each of you keeps the personal possessions that are in your house or apartment.

If you are living separately, then we need to know if there are exceptions to these provisions. For instance, let's assume that the husband has moved into an apartment, but he hasn't been able to move the flat screen TV yet. If this were the case, then you should indicate that *the husband gets all the property in his possession plus the flat screen TV* and that *the wife gets all the property in her possession except the flat screen TV*.

Retirement Accounts

Retirement accounts are usually more complicated to divide because it is more difficult to compare the value of before-tax money with the after-tax value of everything else. If it's necessary to transfer money from one spouse's retirement account to another, it will often require a Qualified Domestic Relations Order (QDRO – pronounced "kwadro"). These are very specialized documents that we have prepared by a tax attorney that does nothing but QDRO's. The cost is typically \$600 per QDRO.

Dividing military retirement accounts is a little more expensive. The cost is usually between \$600 and \$3,500. If we need to have a military specialist divide it, the cost will be on the higher end of that range.

Sworn Statement on Property

This workbook assumes that you and your spouse intend to be honest and fair about your assets and that neither of you have hidden anything. However, if you are concerned that one of you may have hidden assets or may be less than truthful about disclosing everything, you may need a more comprehensive process to list all the significant property and debts. We can have you complete a sworn Inventory and Appraisal of all of your property and debts. If you use a document such as a sworn Inventory and Appraisal and find out later that it was a lie, you can ask a court to award you any of the hidden assets and penalize your ex-spouse for fraud or perjury.

Again, since we're assuming that you don't believe that your spouse has hidden assets and you do not want to complete a sworn Inventory and Appraisal, please read and sign the statement below. If you are concerned that your spouse may have hidden assets, you should discuss it with one of the attorneys.

I understand that the attorneys at Trusler Legal PLLC cannot advise me on what a fair division of property is unless they know what the total property owned by either or both parties is with a fair degree of certainty. However, I do not want to go to the effort or expense of exchanging sworn Inventory and Appraisements. If I decide that I do want to take this precaution, I will notify the attorneys at Trusler Legal PLLC in writing. I understand that this will mean more work for me, it may mean additional legal fees and it may delay my divorce.

Client Signature: _____

Allocating Your Property and Debts

Use the forms on the next pages to allocate your property and debts. Please use enough information in the description fields to avoid confusion.

Assets

Video Help -> <https://www.betterdivorceaustin.com/workbook/#assets>

Assets That Will Go To Husband

House Address: _____
Full Legal Description of Property: _____

Important: We will need a copy of the Deed of Trust for this property.

Car 1 Make: _____ Model: _____ Year: _____
VIN Number: _____

Car 2 Make: _____ Model: _____ Year: _____
VIN Number: _____

Use the next few fields for any other titled vehicles, such as boats, jet ski's, motorcycles, etc.

Other 1 Make: _____ Model: _____ Year: _____
VIN Number: _____

Other 2 Make: _____ Model: _____ Year: _____
VIN Number: _____

Other 3 Make: _____ Model: _____ Year: _____
VIN Number: _____

401(k)(s) in Husband's name
Actual Full Account Name: _____ Number: _____
Actual Full Account Name: _____ Number: _____

IRA(s) in Husband's name
Financial Institution: _____ Account Number: _____
Financial Institution: _____ Account Number: _____

Bank Account(s), in Husband's name
Financial Institution: _____ Account Number: _____
Financial Institution: _____ Account Number: _____

Joint Bank Account(s) that will go to Husband
Financial Institution: _____ Account Number: _____
Financial Institution: _____ Account Number: _____

Pension(s) in Husband's name
Account Name: _____ Number: _____

No Nonsense[®] Divorce Workbook

Account Name: _____ Number: _____

Will Husband get a portion of Wife's retirement?

Yes No

If Yes, list the specific retirement account and what percentage should go to Husband:

Retirement Account: _____

Percent to Husband: _____% (use percentages, not dollar amounts)

Note: Dividing retirement accounts will probably require a QDRO. (see section above)

The Final Decree of Divorce will indicate that the Husband will keep the personal property that is in his possession at the time of divorce *except for the following items:*

List any other assets that should go to the Husband:

Assets That Will Go To Wife

House Address: _____
Full Legal Description of Property: _____

Important: We will need a copy of the Deed of Trust for this property.

Car 1 Make: _____ Model: _____ Year: _____
VIN Number: _____

Car 2 Make: _____ Model: _____ Year: _____
VIN Number: _____

Use the next few fields for any other titled vehicles, such as boats, jet ski's, motorcycles, etc.

Other 1 Make: _____ Model: _____ Year: _____
VIN Number: _____

Other 2 Make: _____ Model: _____ Year: _____
VIN Number: _____

Other 3 Make: _____ Model: _____ Year: _____
VIN Number: _____

401(k)(s) in Wife's name
Account Name: _____ Number: _____
Account Name: _____ Number: _____

IRA(s) in Wife's name
Account Name: _____ Number: _____
Account Name: _____ Number: _____

Bank Account(s) in Wife's name
Financial Institution: _____ Account Number: _____
Financial Institution: _____ Account Number: _____

Joint Bank Account(s) that will go to Wife
Financial Institution: _____ Account Number: _____
Financial Institution: _____ Account Number: _____

Pension(s) in Wife's name
Account Name: _____ Number: _____
Account Name: _____ Number: _____

Will Wife get a portion of Husband's retirement?

Yes No

If Yes, list the specific retirement account and what percentage should go to Wife:

Retirement Account: _____

Percent to Wife: _____% (use percentages, not dollar amounts)

Note: Dividing retirement accounts will probably require a QDRO. (see section above)

The Final Decree of Divorce will indicate that the Wife will keep the personal property that is in her possession at the time of divorce *except for the following items:*

List any other assets that should go to the Wife:

Debts

Video Help -> <https://www.betterdivorceaustin.com/workbook/#debts>

Debts That Will Go To Husband

For a home, make sure you list all mortgages, refi's, home equity loans, etc..

- Mortgage
Name of Lender _____ Loan Number: _____
Original Loan Amount _____
- Other Home Loan – Description: _____
Name of Lender _____ Loan Number: _____
Original Loan Amount _____
- Other Home Loan – Description: _____
Name of Lender _____ Loan Number: _____
Original Loan Amount _____
- Car Loan 1 – Car Description: _____
Name of Lender _____ Loan Number: _____
- Car Loan 2 – Car Description: _____
Name of Lender _____ Loan Number: _____
- Credit Cards listed below:
Card Name: _____ Number: _____
Card Name: _____ Number: _____
Card Name: _____ Number: _____
Card Name: _____ Number: _____

Debts incurred exclusively by Husband since date of separation

List any other debts that should go to the Husband:

Debts That Will Go To Wife

For a home, make sure you list all mortgages, refi's, home equity loans, etc..

Mortgage

Name of Lender _____ Loan Number: _____

Original Loan Amount _____

Other Home Loan – Description: _____

Name of Lender _____ Loan Number: _____

Original Loan Amount _____

Other Home Loan – Description: _____

Name of Lender _____ Loan Number: _____

Original Loan Amount _____

Car Loan 1 – Car Description: _____

Name of Lender _____ Loan Number: _____

Car Loan 2 – Car Description: _____

Name of Lender _____ Loan Number: _____

Credit Cards listed below:

Card Name: _____ Number: _____

Card Name: _____ Number: _____

Card Name: _____ Number: _____

Card Name: _____ Number: _____

Debts incurred exclusively by Wife since date of separation

List any other debts that should go to the Wife:

Real Estate

Video Help -> https://www.betterdivorceaustin.com/workbook/#real_estate

We don't own any real estate (if so, skip to the next section)

We're going to sell the home

If you're going to sell the home, we'll need the legal description of the property. You can find it on any mortgage papers that you have. It's critical that we get this information correct, so please make a clear copy of the page with the legal description and return it to us with your completed workbook.

We don't have to order that the house be sold immediately. For instance, you can allow one spouse to live in the home until the youngest child graduates from high school. Once they've graduated, the house gets sold and the proceeds are split.

However, we do need to specify a date that the person living in the house will sell it by. If it's not done by that date, the spouse not living in the house can take them to court over the issue.

What date will the house be listed by? _____

Who will live in the house until it is sold?

Wife Husband Both Vacant Other _____

What are the options for listing the house for sale?

Must use a Realtor

Can list house "for sale by owner" (FSBO)

When the sale is complete and all closing costs and mortgages are paid, where will the net proceeds go?

All to husband

All to wife

Split 50/50 between husband and wife

Other: _____ to husband

_____ to wife

Who will be paying the mortgage on the home until it is sold?

Wife Husband

If property taxes aren't included in the mortgage, who will be paying them until the home it is sold?

Wife Husband

Who will be paying for maintenance and upkeep on the home until it is sold?

Wife Husband

One of us will be keeping the home

Who will be keeping the home?

Wife Husband

If the home is in Texas, there will be another document required so that one of you can have full ownership of the home. The document we use is called a Special Warranty Deed. We're going to need some information to prepare the Special Warranty Deed.

- If you have NOT refinanced, then we will need a clear copy of the Deed of Trust from the mortgage closing paperwork.
- If you have refinanced since you purchased the home, then we'll need a clear copy of the Deed of Trust from refinance closing paperwork. If there is a Deed of Trust (there may not be) we need a clear copy of it.
- If you have a home equity loan, we need the Deed of Trust from the home equity loan AND the Deed of Trust from either your last refi or your original mortgage.

Important: If you deed your ownership of the house to your spouse, it does not eliminate your responsibility for the mortgage. If the mortgage does not get paid, they can come after you even if you no longer live in the house. Furthermore, since you are still on the hook for the mortgage, this can make it more difficult for you to qualify for another mortgage if you decide to purchase a home of your own. There are only 2 ways you can eliminate your obligation to the mortgage company:

1. Sell the house and pay off the mortgage.
2. The spouse in the home refinances the house in his or her name alone. This new mortgage will pay off the old one with the other spouse's name on it.
3. The spouse in the home assumes the mortgage and removes the name of the other spouse from the mortgage.

Will the spouse in the home be required to refinance the house in their own name?

Yes No

If Yes, how long will they have to refinance the home? _____

(usually 6 months to 2 years, depending on how long it has been since the last refinance.)

Will the spouse in the home be required to assume the mortgage?

Yes No

The person assuming the mortgage would become personally liable for the mortgage.

If Yes, how long will they have to assume the mortgage? _____

(usually 6 months to 2 years)

Spousal Support or Alimony

Video Help -> <https://www.betterdivorceaustin.com/workbook/#alimony>

Texas has options for spousal support (alimony) but it's intended to be rehabilitative in nature. What does that mean? Let's assume that one spouse has put their career on hold to raise children while the other spouse continued working. After the divorce, the spouse that had been out of the workforce might need to get a job. Unfortunately, they might need additional education or job training. The spousal maintenance is intended to help support the person long enough for them to develop marketable job skills.

There are limits to the amount of spousal maintenance that can be awarded based on the length of your marriage:

0 to 10 years – spousal support is generally not awarded

10 years to less than 20 years - up to \$5,000 per month or 20 % of gross income, whichever is less, for a period of up to 5 years

20 years to less than 30 years - up to \$7,500 per month or 20% of gross income, whichever is less, for a period of up to 7 years

30 or more years - up to \$10,000 per month or 20% of gross income for up to 10 years.

The other way that spousal support can be awarded is by agreement. In this case, it's called contractual alimony or spousal support. Contractual alimony isn't generally limited in terms of how much the payments are or how long the payments will be made.

Additionally, spousal support (whether court ordered or contractual) is generally taxable to the person that receives it and it is generally a tax deduction for the person that pays it. However, we are not accountants and you should consult your own accountant to confirm how paying or receiving spousal support payments would affect you.

Spousal support is complex. If you do not have an agreement with your spouse as to payment, you should speak with one of the attorneys.

Will spousal support (alimony) be paid in this case?

Yes No If No, skip to the next section.

How much will each spousal support payment be? \$ _____

How frequently will the spousal support payments be made?

- Monthly, due on _____ day of the month
- Semimonthly, due on _____ day and _____ day of the month
- Weekly on _____ (day of the week)
- Biweekly on _____ (day of the week)

When will the first payment be due? Date: _____

How many months will spousal support payments continue?

_____ months

Income Taxes

Video Help -> https://www.betterdivorceaustin.com/workbook/#income_taxes

How will federal income taxes be handled for *the year before the divorce is granted*?

- They've already been paid.
- Husband is responsible.
- Wife is responsible.
- Both spouses are jointly responsible.

If you receive a tax refund for a year in which you filed jointly, how will the refund be divided?

- We're not getting a refund, or we've already received it.
- Split the refund: _____ % to Husband and _____ % to Wife

How will federal income taxes be handled for *the year that the divorce is granted*?

- We'll file separately, based on how much each of us made during the year.
- We will have lived apart the entire year of the divorce and we have not transferred any income between us for the year of divorce.

Tax Deduction for the Children

Most of the time, the person that has the children living with them generally gets the tax deduction. However, in some cases, the tax deduction is more valuable to one spouse vs. the other if he or she has higher income.

How will the tax deduction for the children be handled?

- The person receiving child support gets the tax deduction.
- The person paying child support gets the tax deduction.
- The tax deduction goes to one parent one year and the other parent the other year:
If so, when does the Father get the deduction? Even years Odd years
- The tax deduction will be split.

If so, how many children does the Mother get the deduction for? _____

How many children does the Father get the deduction for? _____

Important Notes Regarding Taxes: We cannot give you tax advice. If you need tax advice, you should speak to an accountant. Also, taxes are a federal issue. Any agreement that you and your spouse come to regarding taxes ultimately cannot be ordered by a state court.

Children of this Marriage

Are either of you pregnant now?

Yes No Not sure

If you answered “yes” or “not sure” to the question above, please discuss this with one of our attorneys.

Do any children of this marriage have special needs or a disability that might require a legal guardianship or care after the age of 18 or graduation from high school”?

Yes No Not sure

If you answered “yes” or “not sure” to the question above, please discuss this with one of our attorneys.

Do either of you have children from outside this marriage for whom you are legally responsible or for whom either of you are currently obligated to pay child support? (either born to you or adopted, not step-children)

Yes No Not sure

If you answered “yes” or “not sure” to the question above, please discuss this with one of our attorneys.

How the State of Texas Views Children in Divorces

I think it's important to mention how the State of Texas and our courts generally look at issues surrounding children in family law matters. First and foremost, the court's primary consideration is **what is in the best interest of the children**. The court will make all decisions about custody, access and support based on those criteria. Here are some of the court's other positions:

- Children should have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child;
- Children should live in a safe, stable, and nonviolent environment;
- Parents are encouraged to share in the rights, duties and responsibilities of raising their child or children after the divorce.
- Siblings should be kept together.

Most parents wholeheartedly agree with all of the above, and if you keep those points in mind, you'll have a better understanding of why you're making the following decisions and what you're options are.

One other factor that impacts the rulings of our courts is maintaining the status quo. The courts don't typically like to make drastic changes to the arrangements concerning children. So, if the mother is the main caregiver of the children and has been for some time, the courts will be predisposed make the mother the primary conservator unless there is a good reason to do otherwise. This works the same if the father is the main caregiver.

Conservatorship – Parental Rights and Duties

Conservatorship is what most people call “child custody” or “visitation”. In Texas, it’s actually called “possession and access.” Texas courts presume that there will be Joint Managing Conservatorship - meaning joint custody. Again, the State believes that it is in the best interest of the child to have as much contact as possible with both parents (if both of the parents are fit.) This means that even after divorce, the parents are expected and encouraged to make decisions together about their children’s health, education, and welfare. Both parents will also be sharing certain rights and responsibilities.

We are assuming that you will be asking for a Joint Managing Conservatorship. If you think a Sole Managing Conservatorship is appropriate in your situation, you should discuss it with one of our attorneys.

Typically, the Court will name the parents as joint managing conservators with one parent as the “primary” parent. As we mentioned earlier, the primary parent is the parent who determines the primary residence of the child and may receive child support. Typically, the other joint managing conservator (non-primary parent) is the parent who “exercises possession” on a designated schedule and who may pay child support.

We have many people come into our office who are under the impression that children can choose who they will live with at a certain age. This is simply incorrect. Children in Texas can say who they prefer to live with at age 12 and older and the court *will consider this information*. That does not mean that the Court is bound by a child’s request. Remember, the Court will always use the best interest of the child as the standard for making such a decision.

Parental Rights and Duties – Both Parents At All Times

This section lists the 10 rights and duties that both parents ordinarily retain at all times after the divorce. Both parents retain these rights at all times regardless of whether the child is in their care at that time.

1. Right to receive information from the other parent concerning the health, education and welfare of the child;
2. Right to confer with the other parent to the extent possible before making a decision concerning the health, education, and welfare of the child;
3. Right of access to medical, dental, psychological, and educational records of the child;
4. Right to consult with a physician, dentist, or psychologist of the child;
5. Right to consult with school officials concerning the child's welfare and educational status, including school activities;
6. Right to attend school activities;
7. Right to be designated on the child's records as a person to be notified in case of an emergency;
8. Right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child;

9. Right to manage the child's estate to the extent the estate has been created by the parent or the parent's family;
10. The duty to inform the other conservator of the child in a timely manner of significant information concerning the health, education, and welfare of the child; and
11. The duty to inform the other conservator of the child if the conservator resides with for at least thirty days, marries, or intends to marry a person who the conservator knows is registered as a sex offender under chapter 62 of the Code of Criminal Procedure or is currently charged with an offense for which on conviction the person would be required to register under that chapter. This information shall be tendered in the form of a notice made as soon as practicable, but not later than the fortieth day after the date the conservator of the child begins to reside with the person or on the tenth day after the date the marriage occurs, as appropriate. The notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged. **WARNING: A CONSERVATOR COMMITS AN OFFENSE PUNISHABLE AS A CLASS C MISDEMEANOR IF THE CONSERVATOR FAILS TO PROVIDE THIS NOTICE.**

Should both parents retain all of the 10 rights and duties above at all times?

Yes No

If No, please list the number of the specific item above that is a problem: _____

If you cannot agree on the above items, please contact one of our attorneys directly.

Parental Rights and Duties – During Times of Possession

This section lists the 4 rights and duties that a parent in a divorce ordinarily retains during the times that the child is in the parent's care:

1. Duty of care, control, protection, and reasonable discipline of the child;
2. Duty to support the child, including providing the child with clothing, food, shelter, and medical and dental care not involving an invasive procedure;
3. Right to consent for the child to medical and dental care not involving an invasive procedure; and
4. Right to direct the moral and religious training of the child.

Should both parents retain all of the 4 rights and duties when they are in possession of the child or children?

Yes No

If No, please list the number of the specific item above that is a problem: _____

If you cannot agree on the above items, please contact one of our attorneys directly.

Parental Rights and Duties – Exclusively, Independently or Jointly

The following are additional rights and duties that a parent in a divorce retains either exclusively, independently, or jointly with the other parent.

- An “exclusive” right or duty is one that a parent has the sole right to exercise or duty to perform. It may require notice to or consultation with the other parent.
- An “independent” right is one that both parents have and can exercise independently of each other at any time. It may also require notice to the other parent or consultation with the other parent.
- A “joint” right can be exercised only with the consent or agreement of the other parent. “Joint” means that either parent can veto the other’s decision to exercise the right by saying “no.”

If a right requires **notice**, it means that the parent making the decision should have direct communication with the other parent at some reasonable time in advance of the event or decision. If a right requires **consultation**, it means that the parent making the decision should have a discussion with the other parent before making a decision.

The chart below allows you to assign each of the following rights and duties in one of several ways. Here are the different options you can choose from:

- **Mother Exclusively** – The mother is the only person with this right and/or duty.
- **Father Exclusively** – The father is the only person with this right and/or duty.
- **Either Independently** – Both the mother and the father have this right and/or duty independently of each other.
- **Both Together** – Both the mother and the father have this right and/or duty together. They do not have this right and/or duty without the consent and agreement of the other parent. Either parent can veto the other’s decision to exercise the right by saying “no.”

You can also choose to require notice or consent for each of the rights and duties using the following optional choices:

- **Requires Notice to the Other Parent** - The parent making the decision should have direct communication with the other parent at some reasonable time in advance of the event or decision.
- **Requires Consultation with the Other Parent** - The parent making the decision should have a discussion with the other parent before making a decision.

	Choose One				Optional	
	Mother Exclusively	Father Exclusively	Either Independently	Both Together	Requires Notice to Other Parent	Requires Consultation with Other Parent
1. Duty to make periodic child support payments (parents may agree that no child support will be paid)						
2. Right to receive and give receipt for periodic payments for the support of the child and hold or disburse these funds for the benefit of the child (this is the parent receiving support payments)						
3. Right to consent to medical, dental, and surgical treatment involving invasive procedures						
4. Right to consent to psychiatric and psychological treatment of the child						
5. Right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child						
6. Right to consent to marriage and to enlistment in the armed forces of the United States						
7. Right to make decisions concerning the child's education. List any special provisions below: _____						
8. Except as provided by section 264.0111 of the Texas Family Code, the right to the services and earnings of the child						
9. Except when a guardian of the child's estate or a guardian or attorney ad litem has been appointed for the child, the right, subject to the agreement of the other parent conservator, to act as an agent of the child in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government						

	Choose One				Optional	
	Mother Exclusively	Father Exclusively	Either Independently	Both Together	Requires Notice to Other Parent	Requires Consultation with Other Parent
10. The duty to manage the estate of the child to the extent the estate has been created by community property or the joint property of the parents						

Which parent will have the exclusive right to designate the child's or children's primary residence?

Mother Father Neither

The parent chosen above will be called the primary parent and the other parent will be called the possessory parent. If using the primary/possessory parent titles is going to make it difficult for you and your spouse to reach an agreement, please discuss this with one of our attorneys. In some courts, we have some alternatives that might allow us to avoid these titles.

Geographic Restriction for Residence of the Child

Above you designated who has the right to designate the primary residence of the child. It's fairly common for our local courts to restrict the child's primary residence to a specific geographic area. This prevents one parent from moving the children too far away from the other parent.

There are two very common geographic restrictions that are commonly used. The two most common restrictions are:

1. Restricted to the county of the divorce;
2. Restricted to the county of divorce and any county contiguous to (touching) the county of divorce.

There are a few other options that we see occasionally such as within a specific number of miles of a specific place (county courthouse, child's current residence, other parent's residence), or within a certain school district. We listed the two most common options for you to choose if you want a geographic restriction. If you'd like something other than one of the choices, you should discuss it with one of the attorneys.

Do you want a geographic restriction for the residence of the child or children?

Yes No

If Yes, then the child or children will be restricted to:

No Nonsense[®] Divorce Workbook

- _____ County
- _____ and contiguous counties
- within _____ miles of _____

If you are interested in having a geographic restriction that is different or unique, you should discuss it with one of our attorneys.

Child Possession and Visitation

Video Help -> https://www.betterdivorceaustin.com/workbook/#child_custody

The important thing to remember about a child possession order is that the possessory parent can have whatever possession schedule that both parents agree on. The possession order is only used when the parents can't agree. So, if there's a disagreement over a particular weekend, you can refer to the possession schedule to see who should have possession at the time in question. As long as the parents are in agreement, the possession order doesn't matter.

Remember, the primary parent is the parent that the children will live with most of the time. The primary parent determines the primary residence of the child or children and is the parent that receives child support. The possessory parent is the parent that the children do not live with most of the time. Typically, the possessory parent is the parent who “exercises possession or visitation” on a designated schedule and who pays child support.

There are 3 main possession schedules that our clients frequently use. These schedules are used by at least 95% of all our clients, so one of them will most likely work for your situation as well. These 4 possession schedules are,

1. Standard,
2. Extended Standard,
3. Wrap,
4. Week On/Week Off.

Read through the descriptions in the following section and see which one will work the best for your family. Once you've decided on one of the 3 options below, complete the workbook section related to the schedule you've selected. (Note: The questions related to the standard and extended standard possession schedules are combined.)

After you've completed the section related to your chosen schedule, move on to the Holiday and Summer Schedule sections and the Remaining Possession Schedule Details.

****** Please note that this is an area where people frequently want come up with some type of variation on one of the 4 schedules below instead of simply choosing one of the 4 options. Any changes like this will require custom drafting and there will be additional charges. (If you find yourself writing extra information in the margins or whitespace in addition to simply filling out the form, then your Final Decree will require custom drafting and there will be additional charges.)**

Standard Possession

Texas provides a standard possession order that works very well for most people. Here is a summary of what the standard possession order includes:

- The possessory parent has possession beginning on the 1st, 3rd, and 5th Friday of each month and ending that following Sunday. (There is usually one 5th Friday that occurs approximately every 3 months. Note: Holiday schedules supersede 5th Friday schedules.)

- During the school year, the possessory parent has possession on either Tuesday, Wednesday or Thursday evenings of each week.

If the possessory parent takes all of his or her visitation allowed in the standard visitation (including summers), the total time split works out to approximately 60% with the primary parent and 40% with the possessory parent.

Option 1: Choosing the Standard Possession Schedule

Do you want to use the standard possession schedule?

- Yes No

If yes, answer the following questions to design the specifics of your possession schedule.

When should the weekend possession begin? (choose one)

- Begin at 6 PM on Fridays
 Begin at _____

Where will this exchange occur? _____

When should the weekend possession end? (choose one)

- End at 6 PM on Sundays
 End at _____

Where will this exchange occur? _____

When should the Thursday evening possession begin during the school year? (choose one)

- Begin at 6 PM
 Begin at _____

Where will this exchange occur? _____

When should the Thursday evening possession end during the school year? (choose one)

- End at 8 PM
 End at _____

Where will this exchange occur? _____

Extended Standard Possession

A common variation of the standard possession order is the extended standard possession order. Basically, extended standard possession extends the possessory parent's weekend visitations from the time the child is dismissed from school on Thursday evening and ending when school resumes the following Monday morning. It includes all the times of the standard possession order but adds the following variations:

- Adds overnights every Thursday night during the school year.
- Weekends extend until school begins on Monday morning.

If the possessory parent takes all of his or her visitation allowed in the extended standard visitation (including summers), the total time split works out to approximately 51% with the primary parent and 49% with the possessory parent.

Obviously, the extended standard possession schedule is going to be difficult if the parents do not live geographically close to one another after the divorce.

Option 2: Choosing the Extended Standard Possession Schedule

Do you want to use the extended standard possession schedule?

- Yes No

If yes, answer the following questions to design the specifics of your possession schedule.

When should the weekend possession begin? (choose one)

- Begin when school is dismissed
 Begin at _____

Where will this exchange occur? _____

When should the weekend possession end? (choose one)

- End by taking the child to school on Monday
 End at _____

Where will this exchange occur? _____

When should the Thursday evening possession begin during the school year? (choose one)

- Begin when school is dismissed
 Begin at _____

Where will this exchange occur? _____

When should the Thursday evening possession end during the school year? (choose one)

- End by taking the child to school on the following day
 End at _____

Where will this exchange occur? _____

Wrap Possession Schedule

The wrap schedule is another common visitation schedule. Parent 1 (the primary or possessory) has the children Monday and Tuesday. Parent 2 has the children Wednesday and Thursday. The parents alternate Friday, Saturday and Sunday possession.

The exchanges for the wrap possession schedule occur at school on Monday, Wednesday and Friday. Here's an example of how the exchange would work:

- On Monday morning, Parent 1 drops off the child at school. Parent 2 picks the child up from school Monday afternoon.
- On Wednesday morning, Parent 2 drops of the child at school. Parent 1 picks the child up from school Wednesday afternoon.
- On Friday morning, Parent 1 drops off the child at school. Parent 2 picks the child up from school Friday afternoon.
- The schedule continues with the parents alternating pickup and drop-off.

One key thing to point out with the wrap schedule is that every other week one of the parents will go 5 days without seeing the children. You can also use a modified wrap schedule that splits Saturdays.

Holidays are the same as the standard possession schedule.

Option 3: Choosing the Wrap Possession Schedule

Do you want to use the wrap possession schedule?

Yes No

What date will the Wrap Possession schedule begin? _____

Who will get the Monday-Tuesday possession? Mother Father

Who will get the Wednesday-Thursday possession? Mother Father

Who will get the first Friday-Sunday possession? Mother Father

What time will the exchanges occur when school is not in session?

6 PM

other time _____

Where will the exchanges occur when school is not in session?

the home of the parent who's possession period is ending

the home of the parent who's possession period is beginning

other location _____

Week On/Week Off Possession Schedule

The week on/week off schedule is fairly straightforward, but it's usually recommended for older children only (i.e. teens). The primary parent and the possessory parent alternate weeks with the children. A date, time and location is chosen for the exchange.

Holidays are the same as the standard possession schedule.

Option 4: Choosing the Week On/Week Off Possession Schedule

Do you want to use the week on/week off possession schedule?

- Yes No

If yes, answer the following questions to design the specifics of your possession schedule.

When should the weekly exchange occur? (choose one)

- Sundays at 6 PM
 When school starts on Monday morning
 Other day and time: _____

Where will this exchange occur?

- The home of the parent whose possession period is ending
 The home of the parent whose possession period is beginning
 Other location: _____

What date will the Wrap Possession schedule begin? _____

Who will get the first possession period? Mother Father

What time will the exchanges occur when school is not in session?

- Sundays at 6 PM
 Other day and time: _____

Where will the exchanges occur when school is not in session?

- The home of the parent whose possession period is ending
 The home of the parent whose possession period is beginning
 Other location: _____

Holidays, Birthdays and Summer Schedule

The schedule for major holidays and the summer is the same for all of the different possession schedules (Standard, Extended Standard, Wrap, and Week On/Week Off.) This is the way holidays and summers are handled:

Holidays

Possession alternates over major holidays. For instance, the Father has the children on Thanksgiving one year and the Mother has them the next year.

Here are the holidays that will be included in the list of alternating holidays:

- Thanksgiving
- Christmas/winter break
- Spring break

Would you like to include other holidays in the list of alternating holidays?

Other holidays to include:

- _____
- _____
- _____
- _____

Over the Christmas/winter break, one parent's possession will begin when school is dismissed and end at noon on December 28th. The other parent would get from noon on December 28th until 6 PM the day before school resumes. This alternates every year.

The father always has possession on Father's day weekend and the mother always has possession on Mother's day weekend.

Do you want to include provisions for Jewish holidays?

- Yes No

Birthdays

Does Mother want to have possession of the children on her own birthday?

- Yes No

If yes, what the schedule?

- 2 hour possession from 6pm-8pm
- 3 hour possession from 5pm-8pm
- other _____

Does Father want to have possession of the children on his own birthday?

- Yes No

If yes, what the schedule?

- 2 hour possession from 6pm-8pm
- 3 hour possession from 5pm-8pm
- other _____

Does non-possessory parent want to have possession of the child on the child's birthday?

- Yes No

If yes, does the non-possessory parent want to have possession of all the children when one of the children has a birthday?

- Yes No

If yes, what the schedule?

- 2 hour possession from 6pm-8pm
- 3 hour possession from 5pm-8pm
- other _____

Summer

Choose one of the following options for the summer possession schedule:

Do you want the possessory parent to have possession for one month during the summer? (If the parents live more than 100 miles apart, the summer possession is 42 days.)

Yes No

Do you want each parent to have possession for 2 weeks during the summer?

Yes No

Do you want to continue the normal (school year) possession schedule during the summer?

Yes No

Remaining Possession Schedule Details

There are a number of specific options to choose from when it comes to designing a possession/visitation schedule. Select from any of the options below:

Do you want to include provisions for long distance travel such as rules for airport pick-up and drop-off?

Yes No

How should the cost of travel for a parent to be with a child be handled?

Shared equally

Paid by the person that moved away from the geographically restricted area

Paid by the Mother

Paid by the Father

How will driving to exercise possession/visitation be handled?

The person taking possession of the child shall pick up the child

The parties shall meet at a midway point between their residences to exchange the child

The person relinquishing possession of the child shall deliver the child

Do you want to include provisions for a disabled child over the age of 18?

Yes No

Do you want to allow overnight visits with the Possessory Parent for a child under the age of 3?

Yes No

If you want to specify other provisions related to a child under the age of 3, you need to discuss it with one of our attorneys.

Do both parents agree to NOT ask the court to hold the other parent in contempt if a child of ____ years old or above (usually 15 or older) refuses to spend time with the other parent during the scheduled visitation? (We call this our "teenager clause.")

Yes No

Will the parents live more than 100 miles apart (at least 60 days after the divorce is finalized?)

Yes No

Child Support

Video Help -> https://www.betterdivorceaustin.com/workbook/#child_support

Typically, the primary parent time will receive child support from the other parent. There are guidelines to determine the child support payments, but the parents can agree on any amount. In some cases, both parents agree that neither parent will receive child support.

Will child support be paid?

Yes No If No, skip to the next section.

The child support calculations work best with someone that has a predictable monthly income or salary. If your situation is more complicated, you should discuss it with one of our attorneys.

We can calculate the proper child support amounts based on the guidelines for you, but if you'd like to get a rough idea, there is a child support calculator on the Attorney General's website. You can find the calculator here:

<https://csapps.oag.texas.gov/monthly-child-support-calculator>

To calculate the amount, you'll need to come up with the monthly net income of the possessory parent. To determine your monthly net income, subtract federal income taxes, state income taxes, social security taxes, and union dues from your monthly gross income.

If the monthly net income is more than \$7,500, then reduce it to \$7,500. For the purposes of the child support calculations based on the Texas guidelines, that is the maximum monthly net income.

If the person paying child support only has children *by this marriage*, child support will be calculated as follows:

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

If the parent who will be paying child support has children from other marriages or relationships, the percentages will differ from those stated above. If you're in this situation, you should discuss it with one of our attorneys.

One thing to keep in mind is that Judges have the ability to deviate from these guidelines and they have broad discretion to do so.

Both parents can agree on a child support amount that differs from the guidelines. If this is the case in your situation, write the agreed upon amount below:

Agreed Monthly Child Support Amount: \$ _____

It's important to note that child support is paid every month, regardless of whether or not the child spends summers or other times with the possessory parent. The courts assume that if the primary parent has to have a larger home or apartment to accommodate the child or children,

then the mortgage payments or rent doesn't go down in the summer when the children are away.

What We Need to Calculate Child Support for You

If you are going to pay guideline child support and you want us to calculate it for you we will need the following documentation in order to do so:

- Pay stubs, including bonuses
- Information about any other sources of income (rental, royalties, etc.)
- The last 3 years of tax returns.

Child Support Withholding Order

If child support is going to be paid in your situation, you have the option of having the payments be withheld or deducted from the payor's paycheck. Some payees (the person receiving the payment) find this to be a convenient option. In this situation, we would have the judge sign a child support withholding order and have it delivered to the payor's employer (the person making the payment) so that they can begin deducting payments.

However, some payors are concerned that withholding directly from their paycheck might cause problems with their employer. In this situation, we can have the judge sign a child support withholding order, but not "issue" it (or deliver it to the employer.) We would have the withholding order delivered only if the payor fails to make payments in a timely manner. If you want to do this, both the husband and wife would have to agree not to have the withholding order issued until a payment is delinquent.

The choice to withhold now or not is completely up to the payee. It is not the payor's choice.

How do you want the child support withholding order handled?

- Withhold immediately – have the withholding order signed and issued to the employer
- Don't issue the withholding order until a delinquency occurs

Note: This doesn't affect whether or not child support payments will be made – only whether or not it will be withheld immediately.

Setting Up Your Child Support Account

Texas law says that child support payments have to be made through the State Disbursement Unit in San Antonio. This is good for both the payor and the payee. You can (and should) access your account online to confirm that payments have been made and there is also a record of all payments. In the past, when payments were made informally between the parents, you didn't always have this level of recordkeeping.

Do you want us to help you set up your child support account with the State Disbursement Unit?

- Yes
- No, we'll set it up ourselves.

Life Insurance

If the parent that pays child support (the possessory parent) dies, then the primary parent will no longer receive support payments to cover the mortgage, groceries, or other expenses. If the primary parent dies, then the surviving spouse (the possessory parent) will have to be responsible for those living expenses.

While it's not always ordered by a judge, many parents agree to each buy life insurance policies (usually term life) that are payable to the other parent as trustees for the benefit of the children. You can calculate the amount of necessary to cover the child support payments if you'd like to come up with an exact amount required. However, term life insurance is so affordable that most people just choose an amount like \$250,000 up to \$1,000,000 (both of which are more than enough to cover the child support obligations.)

Which parent should be required to purchase life insurance?

- The person receiving child support
- The person paying child support
- Both Neither (skip to next section)

Choose how long the life insurance should be for:

- Until the children are 18 or out of high school
- Until the children are out of college (ie: age 22 or 23)
- Until the children are out of graduate school (ie: age 26 or 27)
- Until the children reach the age of _____

Do you want to specify how much life insurance should each parent purchase?

- Yes \$ _____
- No, as long as it's enough to cover child support

Health Insurance for the Children

The parent paying child support is also responsible for providing health insurance for the children unless the parents agree otherwise. This is in addition to the other child support obligations. Often the easiest option is for the person paying child support to add the children to their health insurance policy at work. However, this isn't always a practical option. The payer may not have a health insurance policy available through their employer or it may be less expensive through the payee's employer or the coverage may be poor. If this is the case or for any other reason, the payor will have to pay the additional expense to cover health insurance premiums (over and above the regular child support payments.)

I want to mention that the health insurance portion of the final decree is extremely detailed. It covers almost every conceivable option. Most of it is standard language, so we've boiled it down to the following points.

Choose the health insurance option that fits your situation:

- Father will provide health insurance for the children through his employment or purchase it privately and Father pays health insurance premiums
- Father will provide health insurance for the children through his employment or purchase it privately and Mother reimburses Father for the health insurance premiums
- Mother will provide health insurance for the children through her employment or purchase it privately and Mother pays health insurance premiums
- Mother will provide health insurance for the children through her employment or purchase it privately and Father reimburses Mother for the health insurance premiums

Most parents choose to split the uncovered medical expenses unless there is a big difference in income of the parents.

How do you want to handle uninsured medical expenses?

- Split uninsured medical expenses evenly between the parents
- Uninsured medical expenses should be divided in the following manner (most people split this 50/50):
_____ % paid by Father
_____ % paid by Mother

Often, the cost for using a health care provider that is "outside of the plan" is higher than using a provider that is in the plan.

How do you want to handle expenses for using a health care provider outside of the plan in an emergency situation?

- Costs for going outside the plan will be paid for by the person that incurs the costs
- Costs for going outside the plan will be treated the same as other costs (most people choose this option)

How do you want to handle expenses for using a health care provider outside of the plan in a non-emergency situation?

- Costs for going outside the plan will be paid for by the person that incurs the costs (most people choose this option)
- Costs for going outside the plan will be treated the same as other costs

Military Health Care Benefits

If one of the parents is a member of the military, they may have benefits that could be helpful to the children.

Does either parent have military health care benefits that could help the children?

- Mother Father

Final Steps

In order to qualify as a No Nonsense Divorce™, both spouses will need to sign this statement below. It's not a binding agreement and will not have any impact on the outcome of your divorce, but it's our way of confirming that both parties had input regarding the workbook information. Frankly, if you're not both able to sign the following statement, it's unlikely that your divorce is agreed.

Workbook Acknowledgement

By signing below, we acknowledge and confirm that the information contained in this completed workbook reflects both of our wishes regarding the specific details of our divorce. We understand that this information will be used to prepare a Draft Final Decree of Divorce.

Husband's Signature

Wife's Signature

What's Next?

Once you've both signed the statement above, you can return the completed workbook to our office so we can begin drafting the Final Decree of Divorce.