

"The Texas Divorce Process"

By Alicia Williamson on 5/26/2008

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The process for getting a divorce in Texas involves quite a bit of detail, so to be sure it's all covered correctly, it's always best to have a consultation with a qualified, experienced divorce attorney in the Texas area. To prepare for the process, the following will familiarize you with how a divorce works in Texas.

Separating Prior to Divorce in Texas

To begin, the state of Texas does not recognize a legal separation; therefore, because of the fact that Texas does not recognize legal separation, according to law, a couple is married until a court enters a final decree. However, although you cannot file for a legal separation, you can enter into what is known as a "Separation Agreement." The divorce process begins with the filing of a document called the Original Petition for Divorce. For the divorce to be legal, the petition must include specific information before it is filed with the District Clerk and assigned to court. Depending upon the complexity of the divorce, this document can be very brief and or be far more extensive. Given that the Dallas-Ft Worth Texas area continues to grow at a very rapid pace, each of its counties chooses a different way to deal with the ever-increasing number of divorce cases. In Dallas, and Fort Worth Texas, there are seven Family Law District Courts while other Texas counties such as Collin County have eight District Courts that handle family law cases, while Denton County has six district courts.

The Petitioner's Part in a Divorce Case

If you are the "Petitioner," which means you are the one filing for divorce, the Original Petition for divorce is delivered to the "Respondent." Generally speaking the petition is delivered by way of a Sheriff or private process server, who hand delivers the petition to the respondent along with a citation. The citation explains to the respondent that a lawsuit has been filed, at which time he or she has a certain number of days to respond before the case can proceed.

Orders Issued on a Temporary Basis

Once the papers have been filed, there are Temporary Orders issued by the court, which places controls on the financial affairs, as well as immediately placing restrictions on child custody issues during the pending of the divorce. Temporary Orders are legally binding and if there are any violations of the order, a person is subject to contempt, which could result in a fine or possibly even jail. Temporary Orders generally indicate who gets to remain in the marital residence, as well as who can write checks from certain bank accounts, and who has primary custody of the children. Temporary orders issued are legal without the other spouse being present and they are valid for 14 days. After that the spouse must be given legal notice about a trial.

The Discovery Process

Discovery may be accomplished on a voluntary or informal basis. Discovery is the process where one partner learns from the other side what is relevant to the lawsuit. A divorce attorney's use of discovery depends on various factors, but if a person is served with discovery requests, their lawyer will guide them through the process. Some formal discovery will include what is known as Requests for Disclosure, depositions, interrogatories and production of documents. Within these requests are general information about claims being made that address bank account information, tax returns, deeds, loan documents, credit card statements and vehicle titles. (Continued)

Settlement or Trial

Meditation is often very helpful in reaching a settlement, so if there are issues regarding child custody, child support, visitation, it is best to address these prior to the trial. If spouses are unable to resolve their issues, there is another method called Collaborative Law, where the parties and their lawyers agree to resolve their case out of court. If some issues simply cannot be settled, either the respondent or the petitioner can request a court trial where the court hears all the evidence, which allows the court to make a ruling. During the ruling, the court divides the community property and marital liabilities making it a fair and equitable division. Where children are concerned, the standard is always based on the "best interest" of the children.

The Ruling

The ruling in a trial is announced by a Judge and is eventually put into a written order called a Decree of Divorce. Even when there is complete agreement by both parties, at least one of the parties must appear before a Judge and give sworn testimony, which is called a "prove up." If a Judge determines that the testimony meets all the legal requirements, the Judge will grant the divorce at which time he or she signs the Decree of Divorce. Generally speaking, if everything is satisfactory and acceptable, this is where the divorce case ends.

About the Divorce Attorneys at Straight Divorce

A good divorce attorney can help make the transition a little smoother. Straight Divorce is committed to helping people through the divorce process or modifying their divorce decrees that reflect on their current personal and economic situations. Having successfully assisted thousands of individuals with divorce situations for over a decade, Straight Divorce attorneys make the divorce process as simple as possible. The lawyers at Straight Divorce are available for consultation. To speak with an attorney, please visit Straight Divorce at www.straightdivorce.com or if you are ready for the services of a divorce attorney, please call us at 1.800.353.6058 or e-mail us at articles@straightdivorce.com for assistance.