

Service by Publication (Divorce with Children)

Use these instructions & forms if:

- you are filing a divorce case involving a child and you cannot find the other parent

This packet includes:

1. Instructions for Service by Publication
2. Affidavit for Citation by Publication
3. Motion for Citation by Publication
4. Order on Motion for Citation by Publication
5. Statement of the Evidence
6. Certificate of Last Known Mailing Address
7. Military Status Affidavit

Note: You may not need all of the forms listed or you may need additional forms. Get more information at www.TexasLawHelp.org. Talk to a lawyer if you have questions.

COURT BASICS

Service by Publication (when you can't find the other parent)

This article tells you how to serve the other parent by publication.

For the instructions and forms combined for service by publication in a divorce with children, [click here](#).

For instructions and forms combined for service by publication in a family matter other than a divorce with children, [click here](#)

Online Guided Forms – Interactive

Step 1: Serve the other party when you cannot find them – GUIDED FORM

<https://selfhelp.efiletexas.gov/SRL/SRL>

Step 2: Serve the other party when you cannot find them – GUIDED FORM

<https://selfhelp.efiletexas.gov/SRL/SRL>

I'm filing a court case involving a child. Do I have to notify the other parent?

Yes. The law says anyone who files a case involving a child (such as a divorce with children, a paternity case, a suit affecting the parent-child relationship (SAPCR), or a name change of a child) must serve each parent.

What if I can't find the other parent?

If you cannot find the other parent, you may be able to serve by having the notice published in a newspaper and the [public information web site](#) required by [Texas Government Code 72.034](#)

To serve by publication, you must take a number of steps. These steps will delay your case—but they are required.

How hard do I have to look for the other parent?

Before serving by publication, the law says you must make a **diligent search** for the other parent. This means you must look really hard for the other parent—even if the other parent has not been involved in your child’s life.

You should also use common sense. A diligent search must include the steps someone who really wants to find the other parent would take.

What are the risks of serving by publication?

When you serve by publication, the other parent may not actually find out about your case. Because of this, the law says the other parent has 2 years to ask for a new trial.

In addition, if the other parent can show that you did not look hard enough before serving by publication, he or she may be able to get a new trial no matter how much time has passed.

If you have questions, it’s important to talk with a lawyer **before** serving by publication.

Do I have to hire an attorney to look for the other parent?

Yes. When serving by publication, the law says you must hire an attorney to look for the other parent. This attorney is called an **attorney ad litem**.

The attorney ad litem makes an independent search for the other parent. This protects the other parent’s right to be notified about the case. You are responsible for locating, hiring, and paying for the attorney ad litem.

To learn more, read **Attorneys Ad Litem and Amicus Attorneys in Family Law Cases**

(<https://texaslawhelp.org/article/attorneys-ad-litem-and-amicus-attorneys-family-law-cases>)

How do I serve by publication?

Below are forms for a divorce with children (**Set A**)

To serve by publication in a divorce with children, fill out the following forms (**Set A**):

- **Affidavit for Citation by Publication (in a Divorce with Children)**

This form tells the judge that even though you made a diligent search, you could not find the other side. Fill it out completely and sign it in front of a notary.

- **Motion for Citation by Publication (in a Divorce with Children)**

This form tells the judge you want to serve by publication. Fill it out completely and sign it.

- **Order on Motion for Citation by Publication (in a Divorce with Children)**

In some counties, you may need a court order before the clerk will issue citation by publication. If needed, use the Order on Citation by Publication (in a Divorce with Children) to ask for a court order. You will ask the judge to sign this form to order you to serve by publication. Fill it out completely except for the judge's signature.

Take the completed Affidavit for Citation by Publication and Motion for Citation by Publication forms and at least one copy of each to the clerk's office where you filed the Petition in your case. The clerk will keep the original, stamp your copies, and give the copies back to you. This can be filed electronically as well.

Note: If your county requires a court order before the clerk will issue the citation, ask the clerk when you can give your proposed Order on Motion for Citation by Publication (called Order for short) to the judge. You may be able to see the judge that day. Or, you may have to come back another day. Read the article **Tips for the Courtroom**

(<https://texaslawhelp.org/article/tips-courtroom>)

for information about going to court. After the judge has signed your Order, turn in the signed Order at the clerk's office. Get a file-stamped copy of the Order for your records.

Tell the clerk you need to serve by publication. Ask the clerk, constable, or sheriff to

- send the citation to a newspaper in the county where you filed your case, and
- issue citation to the **state's public information web site** (<https://www.txcourts.gov/judicial-data/citation-by-publication/>).

The clerk, constable, or sheriff will then fill out a Return of Citation (this says when the notice was published). Make sure the Return of Citation is filed in the clerk's office.

If you're filing a divorce, the citation should also be published in the county where any land or house owned by you and your spouse is located. Pay the newspaper. (Research the cost ahead of time.).

You can serve the other party by publication on the public information site only—and not in the newspaper—if you have filed a **statement of inability to pay costs**

(<https://texaslawhelp.org/article/court-fees-fee-waivers>)

; if serving by newspaper would cost \$200 or more per week; or if the jurisdiction where you are serving the other party does not have a newspaper. (See **Texas Civil Practice and Remedies Code 17.032**

(<https://statutes.capitol.texas.gov/Docs/CP/htm/CP.17.htm#17.032>).

Read **Texas Rules of Civil Procedure 114 through 117**

(<https://www.txcourts.gov/rules-forms/rules-standards/>)

for the rules that control service by publication.

How do I finish my case?

Hire the attorney ad litem to look for the other parent. If the attorney cannot find the other parent, set a date to meet the attorney at court to finish your case. Fill out these forms and bring them with you to court:

- **Military Status Declaration**

(<https://texaslawhelp.org/form/military-status-declaration-0>)

(If your case is filed in Harris County, fill out a **Military Status Affidavit**

(<https://texaslawhelp.org/form/military-status-affidavit>)

instead. Sign it in front of a notary.)

- **Certificate of Last Known Mailing Address**

(<https://texaslawhelp.org/form/certificate-last-known-mailing-address>)

- **Statement of the Evidence (in a Divorce with Children)**

(<https://texaslawhelp.org/form/statement-of-the-evidence-citation-by-publication-divorce-with-children>)

- Order or orders you want the court to sign

Note: If you or the attorney ad litem find the other parent, you cannot serve the other parent by publication. See **How to Serve the Initial Divorce Papers**

(<https://texaslawhelp.org/article/how-serve-initial-divorce-papers>)

"In order to fulfill my obligation to exercise due diligence in my search for the Respondent, I did the following:

(Check only the boxes that apply.)

- a. "I wrote to Respondent's friends and family and asked them where Respondent is.

Persons Contacted	Relationship	Results
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- b. "I tried to have the Respondent served in person or by certified mail at the Respondent's last known address or addresses.

Address	Results
_____	_____
_____	_____

- c. "I tried to find a forwarding address for the Respondent. I mailed a letter to the Respondent at the Respondent's last known address or addresses with the words "Address Correction Requested" printed on the front of the envelope. I included my return address so the Post Office could send me the Respondent's forwarding address.

Address	Results
_____	_____
_____	_____

- d. "I wrote to Respondent's current and previous employers asking where Respondent is.

Employers Contacted	Results
_____	_____
_____	_____
_____	_____

- e. "I checked telephone directories or called telephone information in the city or cities where I think the Respondent might live.

City Directories Checked

Results

_____	_____
_____	_____
_____	_____

- f. "I checked online social networks. (for example, Facebook)

Social Network Sites Checked

Results

_____	_____
_____	_____
_____	_____

- g. "I conducted people-finder research on the internet.

Websites Researched

Results

_____	_____
_____	_____
_____	_____

- h. "I searched property tax listings in the following counties.

Counties Searched

Results

_____	_____
_____	_____
_____	_____

- i. "I checked to see if the Respondent was registered to vote in the following counties.

Counties Searched

Results

_____	_____
_____	_____
_____	_____

- j. "I checked to see if the Respondent was incarcerated by contacting the Texas Department of Criminal Justice at www.tdcj.state.tx.us or 800-535-0283 and the following city, county, state, or federal jails/prisons.

Jails/Prisons Contacted	Results
<u>TX Department of Criminal Justice</u>	_____
_____	_____
_____	_____
_____	_____

- k. "I submitted a record request for the Respondent on the Department of Defense website, <https://scra.dmdc.osd.mil>.

Results:

- l. "I believe the Respondent may be in the military. So, I contacted the following military locator services:

Military Locator Service Contacted	Results
<u>Air Force: (210) 565-2660</u>	_____
<u>Navy: (866) 827-5672</u>	_____
<u>Marines: (800) 268-3710</u>	_____

- m. "I have also done the following to look for the Respondent:

"I cannot find the Respondent.

"I do not know of any other way I can learn the whereabouts of the Respondent.

"The Respondent and I were married on or about: _____ (date).

"The Respondent and I separated on or about: _____ (date).

"The last time I saw or heard from the Respondent was on or about: _____.
(date)

"The last time I saw or heard from the Respondent, the Respondent was in:

(city, state, country)

"The Respondent was originally from: _____.
(city, state, country)

"I understand that I must continue to look for the Respondent during this case.

"I understand that if I find the Respondent during this case, service by publication will not be sufficient and I must have the Respondent served with citation in person or by certified or registered mail return receipt requested or other method of service ordered by the court.

"This affidavit is made to authorize the clerk of the above named court to issue citation for the Respondent by publication in accordance with the:

- Texas Civil Practice and Remedies Code,
- Texas Rules of Civil Procedure,
- Texas Government Code, and
- Texas Family Code.

Your Signature (Do not sign until you are in front of a notary.)

State of Texas

County of _____

SIGNED under oath before me on _____, 20____, by

PRINT the first and last names of the person who signed this affidavit.

Notary Public, State of Texas

(Notary's seal must be included.)

Cause Number: _____

In the Matter of the Marriage of

Petitioner: _____
Print first, middle and last name of the spouse filing for divorce.

In the _____
Court Number

And

District Court County Court of:

Respondent: _____
Print first, middle and last name of other spouse.

_____ County, Texas

In the Interest of the following children:

- 1. _____ 2. _____ 3. _____
- 4. _____ 5. _____ 6. _____

Motion for Citation by Publication

My name is: _____
First Middle Last

I am the **Petitioner** in this case.

This case involves the following children:

	Child's name	Sex	Date of Birth	Current Address
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____
4	_____	_____	_____	_____
5	_____	_____	_____	_____

I am the children's: Mother Father other: _____.

The **Respondent** is: _____
First Middle Last

The Respondent is the children's: Mother Father other: _____.

As shown in my attached Affidavit for Citation by Publication, I have made a diligent attempt to locate the Respondent but have been unable to do so.

I ask the Court to order that the Respondent be served with citation by publication as allowed by the Texas Rules of Civil Procedure, Rules 109 and 244 and the Texas Family Code sections 6.409 and 102.010.

I ask the Court to grant this Motion for Citation by Publication.

Respectfully submitted,

Your signature.

I understand that I must notify the Court, the Respondent and Respondent's attorney (if the Respondent has an attorney) in writing if my mailing address or email address changes during these proceedings.

If I don't, any notices about this case will be sent to me at the mailing address or email address on this form.

(PRINT your name and information.):

Name: _____

Telephone: _____ Fax number (if any) _____

Mailing Address: _____

Email Address: _____

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.

Cause Number: _____

In the Matter of the Marriage of:

Petitioner: _____
Print first, middle and last name of the spouse filing for divorce.

and

In the _____
Court Number

- District Court
- County Court of:

Respondent: _____
Print first, middle and last name of other spouse.

_____ County, Texas

In the Interest of the Following Children:

- 1. _____ 2. _____ 3. _____
- 4. _____ 5. _____ 6. _____

Order on Motion for Citation by Publication

On this date the Court considered the Motion for Citation by Publication filed by the Petitioner and ORDERS that the Respondent, _____,
PRINT the Respondent's full name.

be served with citation by publication, as authorized by

- Texas Civil Practice and Remedies Code 17.032,
- Texas Rules of Civil Procedure Rules 109 and 244,
- Texas Government Code 72.034, and
- Texas Family Code sections 6.409 and 102.010.

SIGNED on _____ (date).

JUDGE PRESIDING

Cause Number _____

Print cause number and other court information exactly as it appears on the petition filed in this case.

In the Matter of the Marriage of

In the: (check one):

Print first, middle and last name of the spouse filing for divorce.

and

Court Number

District Court

County Court at Law

Print first, middle and last name of other spouse.

_____ County, Texas

And in the Interest of the following minor children:

1. _____

4. _____

2. _____

5. _____

3. _____

6. _____

Statement of the Evidence

A trial on the merits was held in this case today.

Petitioner's name is: _____
PRINT Petitioner's full name.

Respondent's name is: _____
PRINT Respondent's full name.

Appearances

Petitioner appeared in person, representing him/herself. Respondent was cited by publication, and did not appear. The undersigned attorney ad litem, a licensed attorney, was appointed by the Court to represent the interest of Respondent and entered a general denial.

The parties announced ready for trial. All witnesses were sworn, the Court took judicial notice of the contents of the case file, any exhibits attached to this Statement of Evidence were introduced and admitted, and the case proceeded.

Domicile and Residence Requirements

Petitioner has been a domiciliary of Texas (lived in Texas) for the six months preceding the filing of the Petition for Divorce and a resident of this county for the ninety days preceding the filing of the Petition for Divorce.

Respondent's Residence Unknown

The residence of Respondent is unknown to Petitioner. Petitioner has exercised due diligence to locate the whereabouts of Respondent and has been unable to do so as evidenced by Petitioner's Affidavit for Citation by Publication filed in this case.

Service of Citation

Respondent was served with citation by publication by the sheriff or constable of this county or the clerk of this Court by having the citation published on (date): _____.

The citation was returned to the Court on (date): _____.

The citation was published in _____
Name of Newspaper

The citation was published on the state public information website on _____ (date).

Long Arm Jurisdiction

The Court may exercise personal jurisdiction over the Respondent because:

(Check all applicable boxes below.)

- Texas is the last marital residence of Petitioner and Respondent, and this suit was filed before the second anniversary of the date on which marital residence ended.
- There is another basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction: _____

The Court may exercise personal jurisdiction over the Respondent in the suit affecting the parent child relationship because: (Check all applicable boxes below.)

- Texas is the last marital residence of Petitioner and Respondent, and this suit was filed before the second anniversary of the date on which marital residence ended.
- The children live in Texas because of Respondent's actions.
- Respondent has lived in Texas with the children.
- Respondent has lived in Texas and provided prenatal expenses or support for the children.
- Respondent had sexual intercourse in Texas, and the children may have been conceived by that act of intercourse.
- The children were born in Texas and Respondent registered with the paternity registry maintained by the bureau of vital statistics or signed an acknowledgment of paternity.
- There is another basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction: _____

Marriage and Separation

The parties were married on or about (date): _____

and separated on or about (date): _____.

Grounds for Divorce

The marriage has become insupportable because of discord or conflict of personalities between Petitioner and Respondent that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

Property of the Parties

A list of the parties' community property and debts was admitted into evidence as Exhibit A. Petitioner testified that the proposed division of the community estate set out in the Final Decree of Divorce is a just and right division.

Separate Property of the Parties

Petitioner testified that the property listed as Petitioner's separate property in the Final Decree of Divorce is Petitioner's separate property under the laws of Texas. Petitioner testified that the property listed as Respondent's separate property in the Final Decree of Divorce is Respondent's separate property under the laws of Texas.

Children of the Parties

Petitioner and Respondent have _____ children who are under 18 or still in high school.

The children are not under the continuing jurisdiction of any other court.

Petitioner testified that the proposed conservatorship, possession and access, and support orders set out in the proposed Decree of Divorce are in the children's best interest.

Pregnancy

Neither spouse is pregnant.

Other children born during the marriage

(Check applicable box below.)

- No wife in this marriage had children with anyone else during the marriage.
- No wife in this marriage had children with someone else during the marriage. Paternity of those children has been established by court order or properly filed acknowledgment and denial of paternity. A copy of that court order or properly filed acknowledgment and denial of paternity is attached to the Decree of Divorce.

Change of Name

(Check applicable box below.)

- Petitioner did not request a name change.
- Petitioner's name should be changed to: _____

APPROVED on _____.

JUDGE PRESIDING

I have read the foregoing and agree that it accurately represents the evidence introduced at the hearing described above.

Signature of Attorney Ad Litem

Name: _____

State Bar No: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

Signature of Petitioner

Exhibit A – Community Property and Debts

Community Property

List all property of significant value that you and your spouse own now and acquired during your marriage, such as a house, land, business, vehicles, retirement or other accounts, stocks, bonds, etc.

- Include property acquired both before and after your separation.
- Do not include property that was given to or inherited by just you or just your spouse.
- Do not include property you or your spouse acquired before your marriage.

	Fair Market Value	Secured Debt Balance	To Wife Net Value	To Husband Net Value
1 _____	\$ _____	\$ _____	\$ _____	\$ _____
2 _____	\$ _____	\$ _____	\$ _____	\$ _____
3 _____	\$ _____	\$ _____	\$ _____	\$ _____
4 _____	\$ _____	\$ _____	\$ _____	\$ _____
5 _____	\$ _____	\$ _____	\$ _____	\$ _____
6 _____	\$ _____	\$ _____	\$ _____	\$ _____
7 _____	\$ _____	\$ _____	\$ _____	\$ _____
6 _____	\$ _____	\$ _____	\$ _____	\$ _____
8 _____	\$ _____	\$ _____	\$ _____	\$ _____
9 _____	\$ _____	\$ _____	\$ _____	\$ _____
10 _____	\$ _____	\$ _____	\$ _____	\$ _____
TOTAL COMMUNITY PROPERTY	\$ _____	\$ _____	\$ _____	\$ _____

Unsecured Community Debts

List debts owed by you and your spouse now and incurred during your marriage.

- Do not include debts you or your spouse incurred before your marriage.

Creditor	Debt Balance	To Wife Net Value	To Husband Net Value
1 _____	\$ _____	\$ _____	\$ _____
2 _____	\$ _____	\$ _____	\$ _____
3 _____	\$ _____	\$ _____	\$ _____
4 _____	\$ _____	\$ _____	\$ _____
5 _____	\$ _____	\$ _____	\$ _____
6 _____	\$ _____	\$ _____	\$ _____
7 _____	\$ _____	\$ _____	\$ _____
6 _____	\$ _____	\$ _____	\$ _____
8 _____	\$ _____	\$ _____	\$ _____
9 _____	\$ _____	\$ _____	\$ _____
10 _____	\$ _____	\$ _____	\$ _____
TOTAL COMMUNITY DEBTS	\$ _____	\$ _____	\$ _____
NET COMMUNITY	\$ _____	\$ _____	\$ _____

"I believe the Respondent may be in the military. Therefore, I contacted the following military locator services:

Military Locator Service Contacted	Results
<u>Air Force: 210-565-2660</u>	_____
<u>Navy: 866-827-5672</u>	_____
<u>Marines: 800-268-3710</u>	_____

I know that the Respondent is not now in the military because:

I do not know if the Respondent is in the military now.

Your Signature (Do not sign until you are in front of a notary.)

State of Texas

County of _____

SIGNED under oath before me on _____, 20_____, by

PRINT the first and last names of the person who signed this affidavit.

Notary Public, State of Texas

(Notary's seal must be included.)