

**Information about Service by Posting
Giving Legal Notice of Your Divorce, When You Cannot Find Your Spouse**

If you and your spouse have:

- * no significant property, and
- * no children under the age of 18, and
- * no children who are over 18, who are enrolled in school, or entitled to child support due to a mental or physical disability,

then you can give your spouse Legal Notice of your divorce by asking the clerk's office to post the notice in the courthouse.

First, you MUST try to Find your Spouse (the Respondent)

It may be tempting to make little or no effort to find the Respondent, especially if he or she has been gone a long time or was abusive. However, Texas law requires you make a diligent search for the respondent to give him or her legal notice of a pending divorce. *Texas Rules of Civil Procedure 109, 114, 116, 117 and Texas Family Code Sections 6.409 and 102.010.*

Below are suggested efforts you can make to satisfy the requirements of a diligent search to locate the Respondent:

- If you have the Respondent's last known address, determine whether he or she still lives there. Contact the Post Office to see if there is a forwarding address.
- Search internet resources such as www.addresses.com, www.anywho.com, www accurint.com, etc.
- Contact all friends, relatives, and former employers who may know his or her current address.
- Check for his or her name in the phone directories/ Directory Assistance of the cities in which you suspect he or she may now live. You can also search by city and county phone directories at www.infobel.com .
- Check with the county clerk's office in the county where you think the Respondent might live to see if the Respondent has recorded any property in his or her name.
- Check the Texas Department of Criminal Justice Status Line (512) 406-5202 to see if he or she is in a Texas prison. Check online at www.tdcj.state.tx.us/offender_information.htm#E-mail or for out-of-state inmates go to www.inmateplus.com .
- Check military records online at <https://www.dmdc.osd.mil/scra/owa/scra.home>.

After completing your diligent search, if you still cannot locate your spouse, follow the instructions below for Service by Posting. You will need four forms for Service by Posting. The four forms include : Affidavit for Citation by Posting, Petitioner's Supporting Affidavit, Statement of Evidence and Servicemember's Affidavit.

1. *Affidavit for Citation by Posting.*

In this form, you swear under oath that you have made a diligent search for your spouse, and ask the District Clerk to issue the Citation by Posting. You will need to sign this form in front of a notary.

2. *Petitioner's Supporting Affidavit.*

In this form, you state under oath the facts of your marriage and describe your efforts to find your spouse. You will also need to sign this form in front of a notary.

These two forms are filed with your divorce petition in the clerk's office. Tell the clerk you want to serve your spouse by posting, and complete any Service of Process request that may be required by your county.

The Citation will post in the courthouse for seven days, giving legal notice of your pending divorce. After the citation has been posted, the clerk will complete a Return of Citation, showing the Court when and where the citation posted. The Return of Citation must be filed with the court papers. The Return has to be on file for at least ten days before a judge can grant your divorce. Additionally, the answer period (twenty days plus the following Monday after 10am) must be completed before the judge can grant the divorce. It begins to run after the seventh day that the citation has been posted.

The final forms needed when you have served your spouse by posting include the:

3. *Statement of Evidence.*

This form recites your testimony about the facts of your divorce and the results of the diligent search you conducted to locate your spouse.

4. *Servicemember's Affidavit.*

In this form you state under oath that the Respondent is not currently on active duty in the U.S. military. You will need to sign this form in front of a notary. Check the Department of Defense website, print out your results, and attach them to your affidavit.

<https://www.dmdc.osd.mil/scra/owa/scra.home>.

[Fill out cause number and heading information EXACTLY as it is written on the Petition]

NO. _____

IN THE MATTER OF THE MARRIAGE OF	§	_____
	§	
_____	§	_____
AND	§	
_____	§	_____

AFFIDAVIT FOR CITATION BY POSTING

BEFORE ME, the undersigned authority--not an attorney in this case-- on this day personally appeared _____,
[PRINT Petitioner's first and last names.]
who, being by me duly sworn upon oath stated as follows:

I.

"My name is _____.
[PRINT Petitioner's first and last names.]

I am the Petitioner in the above-entitled and numbered cause.

II.

"The residence of _____,
[PRINT Respondent's first and last names.]

Respondent in the above-entitled and numbered cause, is unknown to me and I have exercised due diligence to locate the residence of this party and have been unable to do so. I have made the following attempts to locate the Respondent: _____

[List the specific attempts you have made to locate Respondent. For example, contact friends and family, search the internet and phone listings, etc.]

III.

"This affidavit is made for the purpose of authorizing the clerk of the above named court to issue citation for such Respondent by posting in accordance with the Texas Rules of Civil Procedure."

Affiant [Petitioner's signature.]
[Do not sign until you are in front of a notary.]

TO BE COMPLETED BY NOTARY:

State of Texas

County of _____
[PRINT the name of the county where this petition is notarized.]

SWORN to and SUBSCRIBED before me, the undersigned authority, on
the _____ day of _____ [month], _____ [year], by

[PRINT the first and last names of the Affiant.]

Notary Public, State of Texas [Notary's signature.]

[Notary's seal must be included.]

[Fill out cause number and heading information EXACTLY as it is written on the Petition]

NO. _____

IN THE MATTER OF THE MARRIAGE OF § _____
§ _____
AND § _____
§ _____

PETITIONER'S SUPPORTING AFFIDAVIT FOR CITATION BY POSTING

BEFORE ME, the undersigned authority, on this day personally appeared _____

_____,
[PRINT Petitioner's first and last names.]

who, being by me duly sworn upon oath stated as follows:

"My name is _____.

[PRINT Petitioner's first and last names.]

I am of sound mind and capable of making this affidavit. I am personally acquainted with the facts herein stated, which are true.

"I am the Petitioner in the above-entitled and numbered cause.

"The residence of _____,

[PRINT Respondent's first and last names.]

Respondent in the above-entitled and numbered cause, is unknown to me. I have exercised due diligence to locate the residence of this party and have been unable to do so. I have made the following efforts to locate Respondent:

I knew my spouse for _____ years and /or _____ months before we married.

We married in _____ [city and state].

The last place we lived together was in _____ [city and state].

The last time I saw or heard from my spouse was on or about :

_____ [month, day , year].

The last time or saw or heard from my spouse, my spouse was in

_____ [city and state].

My spouse no longer lives in the same place and I cannot locate him/her.

My spouse was from _____

_____ [city, state and country]. I have contacted my spouse's family and friends and they either do not know where my spouse is or will not tell me where my spouse is.

"There is no child now under 18 years of age who was born or adopted of the marriage of Petitioner and Respondent, and none is expected.

"No appreciable amount of property was accumulated by Petitioner and Respondent during the marriage."

Affiant [Petitioner's signature.]
[Do Not sign until you are in front of a notary.]

TO BE COMPLETED BY NOTARY:

State of Texas

County of _____

[PRINT the name of the county where this petition is notarized.]

SWORN to and SUBSCRIBED before me, the undersigned authority, on the _____ day of _____ [month], _____ [year], by

[PRINT the first and last names of the Affiant.]

Notary Public, State of Texas [Notary's signature.]

[Notary's seal must be included.]

[Fill out cause number and heading information EXACTLY as it is written on the Petition]

No. _____

IN THE MATTER OF THE MARRIAGE OF	§	_____
	§	
_____	§	_____
AND	§	
_____	§	_____

STATEMENT OF EVIDENCE

On this day trial on the merits was held in this cause.

Petitioner appeared in person, Pro se, without an attorney. Respondent, _____

_____,
[PRINT Respondent’s first and last names.]

was cited by posting. Petitioner announced ready for trial, was sworn, and the cause proceeded. All witnesses were sworn, with the following evidence being introduced. The Petitioner testified as follows:

“1. My name is _____.
[PRINT Petitioner’s first and last names.]

I filed this suit for divorce from my spouse _____
[PRINT Respondent’s first and last names.]

“2. At the time I filed my petition for divorce, I had lived in Texas for at least the last six (6) months and in _____ County for at least ninety (90) days.
[PRINT the name of the county where you lived at the time the petition was filed.]

“3. My marriage to _____
[PRINT Respondent’s first and last names.]
has become unworkable because of differences and misunderstandings between us. There is no reasonable expectation that we will reconcile.

“4. My spouse and I do not have any children who are under 18 years of age who were born to or adopted of this marriage, and we are not currently expecting any other children.

“5. There was no appreciable amount of property accumulated by Petitioner and Respondent during the marriage.

“6. I am requesting that the community property and debts be divided as set forth in the Decree of Divorce. I believe this division is fair.

“7. I have filled out a Department of Human Services data form and now request that the Court grant this divorce.

“8. The residence of _____,

[PRINT respondent’s first and last names.]

Respondent is unknown to me. I have made the following efforts to locate the Respondent:

I knew my spouse for _____ years and /or _____ months before we married.

We married in _____ [city and state].

The last place we lived together was in _____ [city and state].

The last time I saw or heard from my spouse was on or about :

_____ [month, day , year].

The last time or saw or heard from my spouse, my spouse was in

_____ [city and state].

My spouse no longer lives in the same place and I cannot locate him/her.

My spouse was from _____

_____ [city, state and country]. I

have contacted my spouse’s family and friends and they either do not know where my spouse is or will not tell me when my spouse is.

“9. I have no further testimony.”

APPROVED on _____.

JUDGE PRESIDING

CAUSE NO. _____

[Fill out cause number and heading information EXACTLY as it is written on the Petition]

§ _____

§ _____

§ _____

§ _____

Servicemember’s Affidavit

Today, _____, personally appeared
[PRINT your first and last name.]

before me, the undersigned Notary, and made the following statement:

“My name is _____.
[PRINT your first and last name.]

I am representing myself in this case. I am capable of making this sworn statement. I have personal knowledge of these facts, and they are true and correct. I understand that if I lie in this statement, I could be held criminally responsible.

[Write a check mark in the box beside the statement below that applies to your situation.
Draw a line through the statement that does not apply to your situation.]

“The Respondent, _____,
[PRINT Respondent’s first and last name.]

is not in the military. I know this is true because I asked the Department of Defense Manpower Data System to check whether the Respondent is on active duty in any of the armed forces. The Department of Defense Manpower Data System is an organization of the U.S. Department of Defense that maintains the Defense Enrollment and Eligibility Reporter System (DEERS) database, which is the official source of data on eligibility for military medical care and other eligibility systems.

“The Department determined that the Respondent is not on active duty in the military. Attached is a true and correct copy of the verification from the Department of Defense Manpower Data Center that says the Respondent, _____,
[PRINT Respondent’s first and last name.]

is not currently on active military duty. [Attach printout of verification.]

OR

“ _____
[PRINT Respondent’s first and last name.]

is the Respondent in this case. Respondent was not in the military service when this suit was filed, has not been in military service at any time since then, and is not now in any military service of the United States of America. I know this is true because:

_____.”

[Insert other facts known to you. For example, Respondent is incarcerated, disabled, or is residing illegally in the US.]

OR

"I am unable to determine whether or not

[PRINT Respondent's first and last name.]

the Respondent in this case, is currently serving in the military.

[Choose One]

I am prepared to post a bond in the amount of \$_____, in the event the Respondent
[Print in the amount of bond you are able to post.]
is currently serving in the military and is harmed by this judgment.

OR

There is no need to post a bond, as the Respondent will not be adversely affected by this judgment.

Affiant [Sign your name IN FRONT of Notary]

TO BE COMPLETED BY NOTARY:

State of Texas

County of _____
[PRINT the name of the county where this petition is notarized.]

SWORN to and SUBSCRIBED before me, the undersigned authority, on
the _____ day of _____ [month], _____ [year], by

[PRINT the first and last names of the Affiant.]

Notary Public, State of Texas [Notary's signature.]

[Notary's seal must be included.]