

How to Give Notice by Posting

I'm filing for divorce. Do I have to notify my spouse?

Yes. The law says anyone asking the court for a divorce must give legal notice to their spouse.

What if I can't find my spouse?

If you cannot find your spouse and there are **no children** involved, you may be able to have the notice posted at the courthouse. This is called *notice by posting*.

You **can** give notice by posting if:

- You cannot find your spouse;
- You and your spouse do not have any children under 18 or any children over 18 who are still in high school or are disabled;
- The wife is not pregnant; and
- The wife did not have children with anyone else during the marriage.

You **cannot** give notice by posting if there are children involved. See *How to Give Notice by Publication*.

How hard do I have to look for my spouse?

The law says you must make a *diligent search* for your spouse. Follow these steps:

- ▶ Find out if your spouse still lives at his or her last address. If not, ask the Post Office if there is a forwarding address.
- ▶ Ask your spouse's friends, family, and former employers if they know how to contact your spouse.
- ▶ Check the phone book/directory assistance for the cities where your spouse may be living. Check online at www.infobel.com.
- ▶ Search these websites:
 - www.facebook.com
 - www.myspace.com
 - www.addresses.com
 - www.anywho.com
- ▶ Search the website of the property appraisal district where your spouse may be living.
- ▶ Call the jail in the county where your spouse may be living.

- ▶ Ask the Texas Department of Criminal Justice if your spouse is in a prison.

Call (512) 406-5202 or search online at; www.tdcj.state.tx.us/offender_information.htm

- ▶ Search out-of-state prisons at; www.inmateplus.com
- ▶ Check military records and print out your search results (you will need it later) at: www.dmdc.osd.mil/appj/scra/scraHome.do

How do I give notice by posting?

Fill out these forms, sign them in front of a notary, and file them in the clerk's office when you file your *Petition for Divorce*.

- Affidavit for Citation by Posting*
- Petitioner's Supporting Affidavit*

Tell the clerk you need to give notice by posting. The clerk, constable or sheriff will post your notice for 7 days at the courthouse, then complete a *Return of Citation* form (this says when the notice was posted) and file it in the clerk's office.

Note: If you and your spouse own property of significant value, such as a house, you must also hire an attorney to look for your spouse. This attorney is called an attorney ad litem. You are responsible for locating, hiring and paying for the attorney ad litem.

When can I finish my case?

You can finish your case when:

- It has been at least 60 days since you filed your *Petition for Divorce*;
- It has been at least 27 days plus the next Monday after 10 a.m. since the notice was posted; and
- The *Return of Citation* has been on file at the clerk's office for at least 10 days, not counting the day it was filed or the day you come to court.

How do I finish my case?

Ask the clerk's office when the court hears uncontested divorce cases. Fill out these forms and bring them with you to court:

- Final Decree of Divorce*
- Statement of Evidence*
- Servicemember's Affidavit*
- Certificate of Last Known Address*

Print court information exactly as it appears on your Petition

Name of person who filed for divorce (*Petitioner*):

First Middle Last

Your spouse's name (*Respondent*):

First Middle Last

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Case No:

In the (*check one*): District County Justice Court of:

_____ County, Texas

Affidavit for Citation by Posting

Instructions to Petitioner:

- Fill out this form – *Do not sign it until you are in front of the notary!*
- After signing, file it in the District Clerk's Office. Keep a copy for your records.

Print your answers

1. My name is: _____
First Middle Last

2. The Respondent's name is: _____
First Middle Last

3. I certify that I am the Petitioner in this case and that I do not know the Respondent's address. I have tried to find the Respondent's address, but have not been able to.

4. List what you have done to find the Respondent, (*for example, contact friends, family, search Internet and phone listings, etc*)

5. I ask the clerk to give notice to the Respondent by posting.

Do not sign until you are in front of a notary. –



Petitioner signs here in front of a notary

Date

Notary fills out below –

State of Texas, County of _____
(Print the name of county where this affidavit is notarized.)

Sworn to and subscribed before me, the undersigned authority, on this date: _____

by _____
(Print the first and last names of the person who is signing this affidavit.)



Notary seal here

Notary's signature

Print court information exactly as it appears on your Petition

Name of person who filed for divorce (*Petitioner*):

First Middle Last

Your spouse's name (*Respondent*):

First Middle Last

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Case No:

In the (*check one*): District County Justice Court of:

_____ County, Texas

Petitioner's Supporting Affidavit for Citation by Posting

Instructions to Petitioner:

- Fill out this form – *Do not sign it until you are in front of the notary!*
- After signing, file it in the District Clerk's Office. Keep a copy for your records.

Print your answers

1. My name is: _____
First Middle Last

2. The Respondent's name is: _____
First Middle Last

3.

I certify that I am the Petitioner in this case and that am an adult and of sound mind.I understand that if I lie on this statement, I could face criminal charges. This statement is true and I have personal knowledge of these facts.

I do not know the Respondent's address. I have tried to find the Respondent's address, but have not been able to.

4. Check ALL that apply:

- "I do not know where the Respondent's residence is located. I have exercised due diligence to locate the residence of this party and have been unable to do so.
- "Respondent is a transient person. I have exercised due diligence to locate the Respondent, but have been unable to do so.
- "Respondent is absent from the state of Texas. I have attempted to obtain personal service on the Respondent, but have been unable to do so.
- "Respondent is not a resident of the State of Texas. I have attempted to obtain personal service on the respondent, but have been unable to do so.

5. I have contacted: *(Check all that apply)*

- my spouse's family,
- my spouse's friends,
- my spouse's former employer,
- the US Post Office to see if my spouse left a forwarding address,
- Voter Registration,
- the Texas Department of Criminal Justice (to see if my spouse is incarcerated),
- the Texas Department of Public Safety,
- the United States Military ,

and they either do not know or will not tell me where my spouse is.

I have searched:

- the internet,
- the telephone directory,
- county property records,

but I was still unable to locate my spouse.

More information

My spouse was from *(city, state, country)*: _____

Before we married, I knew my spouse for *(specify)*: _____ years _____ months

We married in *(city, state)*: _____

The last place we lived together was *(city, state)*: _____

The last time I saw or heard from my spouse was on or about *(month, day, year)*: _____

The last time I saw or heard from my spouse, my spouse was in *(city, state)*: _____

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

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

My spouse and I do not have (together) any natural or adopted children under 18 years of age, and we are not expecting a child now.

My spouse and I did not buy or receive any significant property during our marriage.

Do not sign until you are in front of a notary.

 _____
Petitioner signs here in front of a notary _____
Date


Notary fills out below –

State of Texas, County of _____
(Print the name of county where this affidavit is notarized.)

Sworn to and subscribed before me, the undersigned authority, on this date: _____

by _____
(Print the first and last names of the person who is signing this affidavit.)

Notary seal here

 _____
Notary's signature

Print court information exactly as it appears on your Petition

Name of person who filed for divorce (*Petitioner*):

First Middle Last

Your spouse's name (*Respondent*):

First Middle Last

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Case No:

In the (*check one*): District County Justice Court of:

_____ County, Texas

CERTIFICATE OF LAST KNOWN MAILING ADDRESS

I, _____,
Print your first and last name here

certify that the last
known mailing address
that I have for the
Respondent,

Print Respondent's name here

is: _____

Print Respondent's last known address above

Petitioner's signature, *pro se*

Print court information exactly as it appears on your Petition

Name of person who filed for divorce (*Petitioner*):

First Middle Last

Your spouse's name (*Respondent*):

First Middle Last

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Case No:

In the (*check one*): District County Justice Court of:

_____ County, Texas

STATEMENT OF EVIDENCE

Today, trial on the merits was held in this cause. The Petitioner appeared in person, pro se, without an attorney. The Respondent, _____
(Print Respondent's first and last name here)

was cited by posting. The 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 name here)

I filed this suit for divorce from my spouse, _____
(Respondent's first and last name)

2 "At the time I filed my petition for divorce, I had lived in Texas for at least the last 6 months, and for at least 90 days in:

County where you lived when Petition was filed.

3 "My marriage to: _____
(Print Respondent's first and last name here)

has become unworkable because of differences and misunderstandings between us. We will not 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 ask the court to divide the community property and debts as described in the Decree of Divorce. I believe this division is fair.

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

9 I have no further testimony.

Approved on: _____.

Judge Presiding

Print court information exactly as it appears on your Petition

Name of person who filed for divorce (*Petitioner*):

First - Middle - Last -

Your spouse's name (*Respondent*):

First - Middle - Last -

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Case No:

In the (*check one*): District County Justice Court of:

_____ County, Texas

Service Member's Affidavit

Instructions to Petitioner:

- Fill out this form – *Do not sign it until you are in front of the notary!*
- After signing, file it in the District Clerk's Office. Keep a copy for your records.

Print your answers –

1. My name is: _____
First - Middle - Last -

2. The Respondent's name is: _____
First - Middle - Last -

3. I certify that I am the Petitioner in this case.

I am an adult and of sound mind, and I am representing myself in this case. I understand that if I lie on this statement, I could face criminal charges. This statement is true and I have personal knowledge of these facts.

Check all boxes that describe your situation.

I know that my spouse is **not** in the military because I asked the U.S. Department of Defense to check their DMDC database. DMDC notified me that my spouse is not on active duty in any of the armed forces. I attach a true copy of the DMDC verification.

If you check this box, you **must** attach a copy of the DMDC verification.

I know that my spouse is **not** now in the military because (*List facts that you know would make your spouse ineligible for military service, such as being in prison, being an illegal alien, or having a serious disability, etc.*)

- I do not know if my spouse is in the military now. Because of this *(check one)*:
- I am willing to post a bond in case my spouse is in the military now and is harmed by this judgment. *Print the amount of bond you are able to post: \$ _____*
- There is no need to post a bond, because my spouse will not be harmed by this judgment.

Do not sign until you are in front of a notary.



Petitioner signs here in front of a notary

Date

Notary fills out below

State of Texas, County of _____
(Print the name of county where this affidavit is notarized.)

Sworn to and subscribed before me, the undersigned authority, on this date: _____

by _____
(Print the first and last names of the person who is signing this affidavit.)



Notary seal here

Notary's signature