

How to Give Notice by Publication

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 suit affecting the parent-child relationship (SAPCR), or a name change of a child - must give *legal notice* of the case to each parent.

What if I can't find the other parent?

If you cannot find the other parent, you may be able to give the other parent legal notice by having the notice published in a newspaper. This is called *notice by publication*.

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

Before giving notice by publication, the law says you must make a *diligent search* for the other parent – even if the other parent has not been involved in your child's life. Follow these steps:

- ▶ Find out if the other parent still lives at his or her last address. If not, ask the Post Office if there is a forwarding address.
- ▶ Ask the other parent's friends, family, and former employers if they know how to contact the other parent.
- ▶ Check the phone book/directory assistance. 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 in the county where the other parent may be living.
- ▶ Call the jail in the county where the other parent may be living.
- ▶ Ask the Texas Department of Criminal Justice if the other parent 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 this later) at: www.dmdc.osd.mil/appj/scra/scraHome.do

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

Yes. When giving notice 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.

What are the risks of giving notice by publication?

When you give notice by publication, the other parent may not actually hear about your case. Because of this, the law says that the other parent can have 2 years to ask for a new trial.

How do I give notice by publication?

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

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

Ask the clerk to issue citation by publication for your case. Ask the clerk, constable or sheriff to send the citation to a newspaper in the county where you filed your case. If you're filing a divorce, the citation should be published in the county where any land/house owned by you and your spouse is located. Pay the newspaper. (Research the cost ahead of time.) 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 at the clerk's office.

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. Bring these forms:

- Order or orders you want the court to sign.*
- Statement of Evidence*
- Servicemember's Affidavit*
- Certificate of Last Known Address*

Note: If you or the attorney ad litem find the other parent you cannot give the other parent notice by publication. See *Giving Legal Notice*.

4. "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 Rules of Civil Procedure."

Affiant (Sign your name.)

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's seal here)

▶ _____
Notary's signature

IN THE MATTER OF THE MARRIAGE OF

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

and

Respondent (Print first, middle, and last name of other spouse.)

Cause No:

In the (check one):

District Court County Court of

_____ court number

_____ County, Texas

Names of the children of this marriage who are under 18:

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

PETITIONER’S SUPPORTING AFFIDAVIT FOR CITATION BY PUBLICATION

THE STATE OF TEXAS
COUNTY OF TRAVIS

1. _____, Petitioner, appeared in person before me,
(Print your name.)

today, and stated under oath:

2. "My name is _____. I am of sound mind and capable of
(Print your name.)

making this affidavit. The facts stated in this document are true, and are within my personal knowledge.

I am the Petitioner in this case.

_____, my spouse, is the Respondent in this case.
(Print Respondent's name.)

3. 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.

I have made the following efforts to locate Respondent:

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

5. We married in _____ (city and state).

6. The last place we lived together was in _____ (city and state).

7. The last time I saw or heard from my spouse was in _____
(city and state)
on _____
(date).

8. My spouse no longer lives in the same place and I cannot locate him/her. My spouse was from _____
(city and state/country).

9. 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:

7. "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.

I have made the following efforts to locate Respondent:

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

9. We married in _____ (city and state).

10. The last place we lived together was in _____ (city and state).

11. The last time I saw or heard from my spouse was in _____
(city and state)
on _____. (date).

12. My spouse no longer lives in the same place and I cannot locate him/her. My spouse was from _____
(city and state/country).

13. 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.

14. "I have filled out a Department of Human Services data form. I request that the Court grant this divorce.

15. "I have no further testimony."

APPROVED on _____.

JUDGE PRESIDING

Case No: _____

(Print court information, exactly as it appears on your Petition)

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

_____ County, Texas

Service Member's Affidavit
Declaración jurada de miembro de las Fuerzas Armadas

Print your answers – Escriba sus respuestas en letra de molde

State of Texas
County of _____
(Print the name of county where this statement is notarized)

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

1. "My name is: _____
Mi nombre es: *First - Primer nombre* *Middle - Segundo nombre* *Last - Apellido*
2. "The Respondent's name is: _____
El nombre del Respondedor es: *First - Primer nombre* *Middle - Segundo nombre* *Last - Apellido*

3. "I am the Petitioner in this case. I am an adult and of sound mind. I have personal knowledge of the facts stated in this affidavit.

"The facts stated in this affidavit are true and correct.

Certifico que soy el Solicitante en este caso. Soy mayor de edad y en mi sano juicio, y me represento a mí mismo en este caso. Entiendo que se pueden levantar cargos penales en mi contra si miento en esta declaración.

Esta declaración es veraz y tengo conocimiento personal de estos hechos.

Check all boxes that describe your situation.
*Marque **todas** las casillas que describen su situación.*

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

Sé que el Respondedor no está en las fuerzas armadas porque solicité al Departamento de Defensa de EE UU que averiguaran por medio de su base de datos DDMDS. He recibido confirmación por parte del DDMDS que el Respondedor en la actualidad no está en servicio activo en ninguna de las Fuerzas Armadas.

(If you check this box, you **must** attach a copy of the DMDC verification.)
(Si marcó esta casilla, **tiene que** adjuntar una copia de la verificación.)

- “I know that the Respondent 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.)

Sé que el Respondedor no está en las fuerzas armadas porque:

(Describe los hechos que conoce que harían que el Respondedor no sería elegible para servir en la Fuerzas Armadas, como por ejemplo que está en la cárcel, es inmigrante ilegal, o es severamente discapacitado, etc.)

- “I do not know if the Respondent is in the military now. Because of this *(check one)*:
No sé si el Respondedor está actualmente en las Fuerzas Armadas. Debido a eso *(marque uno)*:

- “I am willing to post a bond in case the Respondent is in the military now and is harmed by this judgment. *Print the amount of bond you are able to post:*
\$ _____

Estoy dispuesto a pagar una fianza en caso que el Respondedor esté en las Fuerzas Armadas actualmente y este fallo lo perjudique. *Escriba el monto de fianza que podrá pagar:* \$

- “There is no need to post a bond, because the Respondent will not be harmed by this judgment.”

No es necesario pagar fianza, ya que el Respondedor no será perjudicado por este fallo.

Do not sign until you are in front of a notary. – No firme hasta que esté ante un notario.



Petitioner signs here in front of a notary – *Solicitante firma aquí ante un notario*

Date - Fecha

Notary fills out below.

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

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

By _____
(Print name of person who is signing this affidavit.)

(Notary's seal here)



Notary's signature