Texas Family Law FAQ

Navigating Texas Family Law: A Friendly FAQ

Your Guide to Understanding Divorce, Custody, and Property in Texas

Prepared by: [LOPEZ LAW FIRM, PLLC] [Attorney Name] [123 Law Firm Lane, Suite 100] [City, Texas, ZIP Code] [Phone: (XXX) XXX-XXXX] | [Email: contact@lopezlaw.com] [www.lopezlawfirm.com]

This guide is designed to provide clear, straightforward answers to common family law questions. The questions are grouped by topic to help you quickly find the information you need. While this FAQ is a helpful starting point, every case is unique. For advice tailored to your specific situation, we invite you to schedule a consultation.

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Prefatory Note: Scope, Disclaimer, and When to Consult

Welcome to our Family Law FAQ. We created this guide to help you navigate some of the most common questions that arise in Texas family law cases, from divorce and custody to property division and enforcement. Our goal is to provide clear, accessible information to help you understand the basic legal landscape. We know this can be a challenging time, and having reliable information is the first step toward making empowered decisions for your future.

Please be aware that the information contained in this document pertains specifically to the laws of the State of Texas as of the date of publication. Family law is highly dependent on state statutes and local court rules, and what applies in Texas may not apply elsewhere. This FAQ is intended to provide a general overview of these complex topics and should not be considered an exhaustive analysis of any particular legal issue. The law also changes over time through new legislation and court decisions.

IMPORTANT DISCLAIMER: This document provides general information only and does not constitute legal advice. The law is applied differently to every unique set of facts. Reading this FAQ does not create an attorney-client relationship between you and [LOPEZ LAW FIRM, PLLC]. Relying solely on this general information without consulting a qualified attorney about your specific circumstances could be detrimental to your case. This FAQ is not a substitute for professional legal counsel.

If you are facing a family law matter, the most effective course of action is to seek personalized legal advice. A private consultation allows an attorney to understand the specific details of your situation, answer your questions in depth, and advise you on your legal rights and strategic options. We invite you to schedule a consultation with our firm to discuss your case and learn how we can help you protect your interests and achieve your goals. Contact us today to take that important next step.

Section A — Understanding Texas Divorce Laws: 20 FAQs

1. What are the legal grounds for divorce in Texas?

In Texas, you must state a legal reason, or "ground," for the divorce in your court filings. The most common ground is "insupportability." This is the "no-fault" option, meaning you do not have to prove that either spouse did anything wrong to cause the end of the marriage. You only need to state that the marriage has become insupportable due to discord or conflict of personalities that has destroyed the legitimate ends of the marital relationship, with no reasonable expectation of reconciliation. The vast majority of Texas divorces are granted on this ground.

While no-fault is most common, Texas law also provides several "fault-based" grounds. These include cruelty, adultery, conviction of a felony (with at least one year of imprisonment), abandonment (for at least one year), living apart (for at least three years), and confinement in a mental hospital. Proving a fault-based ground requires presenting specific evidence to the court that your spouse is responsible for the breakup of the marriage.

Choosing between a no-fault and fault-based divorce can have significant consequences. A judge may consider a spouse's fault in the breakup of the marriage when making a "just and right" division of community property. For example, if one spouse committed adultery and spent community funds on their affair partner, the court might award a larger share of the marital estate to the other spouse. Deciding which grounds to plead is a strategic decision that can impact the outcome of your case. To understand how these grounds might apply to your situation, it is best to seek personalized legal advice.

2. How long do I have to live in Texas to file for divorce?

Before a Texas court can grant your divorce, it must have jurisdiction over your case. This requires at least one of the spouses to meet specific residency requirements. To file for divorce in Texas, one of the parties must have been domiciled in the state for the six-month period preceding the filing of the divorce petition.

In addition to the statewide residency requirement, one of the parties must also have been a resident of the specific county in which the divorce is filed for at least 90 days. For example, to file for divorce in Harris County, either you or your spouse must have lived in Texas for the prior six months and in Harris County for the prior 90 days. It is important to note that only one spouse needs to meet these requirements. If you meet the criteria, you can file in Texas even if your spouse lives in another state.

These residency requirements are strictly enforced by the courts. If you file a petition for divorce but do not meet the durational residency requirements, the court does not have the authority to grant a final divorce. Navigating jurisdictional issues, especially when spouses live in different counties or states, can be complex. Consulting with an attorney can ensure your case is filed in the correct court from the start, avoiding unnecessary delays and potential dismissal.

3. Where in Texas do I file for divorce?

The question of where to file your divorce petition relates to "venue," which refers to the proper county for the lawsuit. In Texas, the venue for a divorce is determined by the residency of the parties. As discussed previously, to file in a particular county, at least one spouse must have resided in that county for the 90 days immediately preceding the filing.

If you and your spouse live in different Texas counties, you may have a choice of where to file. For instance, if you have lived in Travis County for the last year and your spouse has lived in Dallas County for the last year, the divorce could properly be filed in either Travis or Dallas County. In these situations, the person who files first generally gets to choose the venue. This can be a strategic advantage, as it may be more convenient and less expensive to have the case heard in a courthouse closer to your home or office.

If a divorce petition is filed in a county where neither party meets the 90-day residency rule, the other spouse can file a "motion to transfer venue," asking the court to move the case to a proper county. Properly establishing venue is a critical first step in the divorce process. An attorney can help you determine the appropriate venue for your case and advise you on the strategic considerations of where to file.

4. What is the first step to starting a divorce in Texas?

The first legal step to initiate a divorce in Texas is to file a document with the court called an "Original Petition for Divorce." This petition is a formal legal document that provides the court and your spouse with essential information about your case. It officially opens your case with the court system and starts the legal timeline for your divorce, including the mandatory 60-day waiting period.

The petition must include certain key details. It will name both spouses as parties, state that the residency requirements have been met, and list the grounds for the divorce (most commonly, insupportability). If you and your spouse have minor children together, the petition will also include a “Suit Affecting the Parent-Child Relationship” (SAPCR), which asks the court to make orders regarding custody, visitation, and child support. The petition typically concludes with a “prayer for relief,” which is a list of the orders you are asking the court to grant, such as dividing property, confirming separate property, and ordering child support.

Filing the Original Petition for Divorce is a crucial step that sets the stage for the entire case. The petition can also include requests for temporary orders or a temporary restraining order (TRO) to establish ground rules while the divorce is pending. Because of its importance, it is highly recommended to have an experienced family law attorney draft and file your petition to ensure it is done correctly and includes all necessary requests to protect your rights from the very beginning.

5. What happens while the divorce is pending? Can we get temporary rules in place?

Yes. The period between filing for divorce and the final decree can take several months or longer. To manage affairs and establish stability during this time, the court can issue “Temporary Orders.” These are legally binding court orders that function as rules for both parties to follow while the divorce is pending. They are intended to prevent conflict and ensure that financial and parental responsibilities are handled appropriately until final orders can be put in place.

Temporary Orders can address a wide range of issues. In cases with children, they will establish a temporary custody, visitation, and possession schedule, determine who pays temporary child support, and decide who provides health insurance. For financial matters, Temporary Orders can specify who will live in the marital home, who is responsible for paying certain bills (like the mortgage and car notes), which spouse can use certain property, and whether one spouse should pay temporary spousal support to the other.

Often, at the beginning of a case, one party will ask the court for a Temporary Restraining Order (TRO), which is typically granted without a hearing and lasts for 14 days. A TRO often prohibits parties from taking certain actions, such as harassing each other, hiding or selling property, or removing children from the state. A hearing is then held within those 14 days to decide on more comprehensive Temporary Orders that will last for the duration of the case. Obtaining favorable Temporary Orders is critical, as they often set a precedent for the final outcome. A consultation with an attorney can help you understand what to ask for and how to prepare for a temporary orders hearing.

6. How long does a divorce take in Texas? Is there a waiting period?

Texas law imposes a mandatory 60-day waiting period before a divorce can be finalized. This “cooling off” period begins on the day the Original Petition for Divorce is filed with the court. A judge cannot grant your divorce until at least 61 days have passed since the filing date. The only exception to this waiting period is in cases involving a conviction for family violence.

The 60-day waiting period is the absolute minimum amount of time for a divorce in Texas. In reality, most divorces take significantly longer. An uncontested divorce, where both parties agree on all issues (property division, custody, support, etc.), can sometimes be finalized shortly after the 60-day period expires. However, if the parties disagree on any issue, the case is considered "contested," and the timeline will be much longer.

Contested divorces can take anywhere from six months to over a year, or even longer, depending on the complexity of the issues. The process involves stages such as exchanging financial information (discovery), attending mediation, and potentially preparing for a final trial. The level of conflict between the parties, the complexity of the marital estate, and the court's own docket schedule all play a significant role in how long the process will take. An attorney can give you a more realistic timeline based on the specific facts of your case.

7. What happens if my spouse doesn't respond to the divorce papers?

If your spouse is properly served with the divorce petition and citation but fails to file a formal "Answer" with the court within the legally required time, you may be able to proceed with a "default divorce." In Texas, the non-filing spouse (the Respondent) generally has until the Monday following 20 days from the date of service to file an Answer.

If that deadline passes and no Answer has been filed, the filing spouse (the Petitioner) can file a motion for a default judgment. This means you are asking the court to grant the divorce and approve the terms you requested in your petition without any input from your spouse. You will still need to appear before the judge for a brief hearing to provide testimony and present a proposed Final Decree of Divorce for the judge to sign. The judge will review the decree to ensure it is fair, especially if children are involved.

While a default divorce may seem like a simple way to end the marriage, there are specific procedural rules that must be followed precisely. For example, you must be able to provide the court with proof that your spouse was properly served and that the time for filing an Answer has expired. Furthermore, a spouse who has had a default judgment taken against them may have the ability to challenge it and request a new trial. To ensure you follow the correct procedures and obtain a valid, enforceable decree, it is wise to consult with an attorney.

8. How do I make sure my spouse legally receives the divorce papers?

Legally notifying your spouse that you have filed for divorce is a critical step called "service of process" or "service." Proper service is a constitutional requirement that ensures the other party has notice of the lawsuit and an opportunity to respond. Without valid service, the court cannot exercise its authority over your spouse and cannot grant a divorce.

The most common method of service in Texas is personal service. This involves hiring a private process server or a sheriff's deputy to personally deliver a copy of the filed petition and a "citation" (a document issued by the court clerk) to your spouse. The process server then files a "Return of Service" with the court, which is a sworn statement confirming when, where, and how your spouse was served. This provides the court with formal proof of service.

If your spouse is cooperative, they can agree to sign a "Waiver of Service." This is a notarized document that your spouse signs after receiving a copy of the petition, acknowledging they have received the lawsuit and are waiving their right to be formally served by a process server. This is often a simpler and less confrontational method. In situations where your spouse cannot be located or is avoiding service, your attorney can ask the court for permission to use "substituted service," which might involve leaving the papers with someone over 16 at a specified location or even service by posting or publication. Because proper service is essential, you should discuss the best method for your case with an attorney.

9. What are the typical stages of a Texas divorce case?

While every divorce is unique, most contested cases in Texas follow a predictable path with several key stages. The process begins with the **Filing and Service** stage, where one spouse files the Original Petition for Divorce and ensures the other spouse is formally served with the lawsuit. The responding spouse then files an Answer. This is often followed by a **Temporary Orders Hearing**, where a judge establishes rules for custody, support, and property use while the case is ongoing.

The next major phase is **Discovery**. During discovery, both parties exchange information and documents relevant to the case. This is the fact-finding stage, where attorneys use tools like Requests for Production of Documents, Interrogatories (written questions), and Depositions (sworn oral testimony) to gather information about finances, property, and issues related to children. The goal is to ensure both sides have a complete picture of the marital estate and any other relevant facts before attempting to settle or go to trial.

After discovery, the case moves to **Mediation**. Most Texas courts require parties to attend mediation with a neutral third-party mediator before they can have a final trial. The vast majority of cases settle at this stage. If mediation is successful, the attorneys will draft a Final Decree of Divorce based on the settlement terms. If mediation fails, the final stage is **Trial**, where both sides present evidence and testimony to a judge (or occasionally a jury), and the judge makes a final, binding decision on all unresolved issues. Understanding this timeline can help you prepare for the road ahead, and a consultation can provide clarity on what to expect at each stage.

10. How much does a divorce cost in Texas?

The cost of a divorce in Texas can vary dramatically, from a few thousand dollars to tens of thousands or even more. The primary factor influencing the cost is the level of conflict between the parties. If you and your spouse can agree on all the terms of your divorce (an "uncontested" case), the cost will be significantly lower, primarily consisting of attorney's fees for drafting documents and court filing fees.

For contested cases, costs are much higher. Attorney's fees are the largest expense, and most family lawyers bill hourly. The more issues there are to resolve and the more time your attorney must spend on negotiations, discovery, and court appearances, the higher the fees will be. Other costs include court filing fees, fees for serving the other party, the cost of mediation (mediators also charge an hourly rate, which is typically split between the parties), and potentially fees for expert witnesses. The court may award costs in a proceeding as in other civil cases.

Experts may be needed to value complex assets, such as a business or a pension, or to perform a custody evaluation or psychological assessment. These professionals can add thousands of dollars to the total cost. While it is impossible to predict the exact cost of a divorce, the most effective way to manage expenses is to remain focused on resolution and avoid unnecessary conflict. An attorney can discuss potential costs with you during a consultation and help you develop a strategy that is both effective and mindful of your budget.

11. What is mediation and is it required in a Texas divorce?

Mediation is a form of alternative dispute resolution (ADR) where a neutral third party, called a mediator, helps the divorcing parties and their attorneys negotiate a settlement. The mediator does not represent either party and has no authority to make decisions or force an agreement. Instead, their role is to facilitate communication, help identify common ground, and guide the parties toward a mutually acceptable resolution of their issues. The process is confidential and allows for creative solutions that might not be available in a courtroom.

In Texas, most courts require couples to attend at least one mediation session before they are allowed to have a final trial on any contested issues. The goal is to give the parties every opportunity to resolve their case without the time, expense, and stress of litigation. Even in highly contentious cases, mediation is often successful because it provides a structured environment for negotiation with the help of an experienced professional.

If you reach an agreement in mediation, the terms are written down in a Mediated Settlement Agreement (MSA). Once signed by both parties and their attorneys, an MSA is binding and cannot be revoked. The attorneys then use the MSA as the blueprint to draft the Final Decree of Divorce for the judge's signature. Because of the binding nature of an MSA and the importance of the negotiation process, it is critical to be well-prepared for mediation. An attorney can help you develop a negotiation strategy and advise you throughout the mediation process to protect your interests.

12. What is collaborative divorce and how is it different from a traditional divorce?

Collaborative divorce, or collaborative law, is another form of alternative dispute resolution designed to help couples divorce without going to court. It is a structured, non-adversarial process where both parties, their respective collaborative-trained attorneys, and sometimes other neutral professionals (like financial planners or mental health professionals) work together as a team to reach a settlement. The core of the process is a contractual agreement signed by everyone involved, which states that they will work honestly and openly to resolve all issues and will not go to court.

The key difference from a traditional divorce is the disqualification agreement. If the collaborative process breaks down and the parties cannot reach a settlement, both collaborative attorneys are disqualified from representing their clients in any future court proceedings. This creates a powerful incentive for everyone to stay committed to the negotiation process and work toward a resolution. This “all-in” approach fosters a more cooperative and less threatening environment, focused on problem-solving rather than winning or losing.

Collaborative divorce is an excellent option for couples who are committed to resolving their issues respectfully and privately, and who want to maintain a positive co-parenting relationship after the divorce. It allows for creative solutions tailored to the family’s specific needs and often proceeds more quickly and with less emotional turmoil than litigation. However, it requires a high degree of trust and transparency from both parties. To determine if collaborative divorce is the right path for you, a consultation with a collaboratively trained attorney is essential.

13. What is the difference between a divorce and an annulment?

While both divorce and annulment result in the legal termination of a marital relationship, they are fundamentally different legal concepts. A divorce is the legal process for ending a *valid* marriage. An annulment, on the other hand, is a legal declaration that the marriage was *never valid* in the first place due to a specific impediment that existed at the time of the marriage ceremony. In a decree of divorce or annulment, the court will still divide the estate of the parties in a just and right manner.

To obtain an annulment in Texas, you must prove one of several specific grounds. These include one party being under the age of 18 without parental consent or a court order; one party being under the influence of alcohol or narcotics at the time of the ceremony and unable to consent; either party being permanently impotent; the marriage being based on fraud, duress, or force; one party lacking the mental capacity to consent to marriage; or the marriage taking place within 72 hours of the marriage license being issued (with some exceptions). For most of these grounds, you must stop living with your spouse once you discover the issue.

Annulments are much rarer than divorces because the grounds are specific and must be proven with evidence. Unlike a no-fault divorce, there is no “no-fault” annulment. If you cannot prove one of the statutory grounds for annulment, your only option to end the marriage is to file for divorce. The legal standards and timelines for annulment can be complex, and discussing your situation with an attorney is the best way to determine if you may qualify.

14. Can I change my name back to my prior name during the divorce?

Yes, it is very common for a person to request that their prior name be restored as part of the divorce process. Texas law makes this process straightforward and efficient. A party can include a special prayer, or request, in their divorce petition or counter-petition asking the court to change their name back to a previously used name, typically a maiden name.

According to Texas Family Code § 45.105, a court *shall* grant a name change request made during a divorce unless it states a specific reason in the final decree for denying the change. The court is explicitly prohibited from denying a name change solely to keep the last names of family members the same. This means that judges almost always grant these requests unless there is evidence that the name change is sought for a fraudulent purpose, such as to avoid creditors or criminal liability.

Once the judge signs the Final Decree of Divorce containing the name change order, that decree becomes the legal document authorizing your name change. You can then obtain certified copies of the decree from the district clerk's office and use them to update your name on your Social Security card, driver's license, bank accounts, passport, and other important documents. An attorney can ensure this request is properly included in your divorce pleadings so that it is addressed in the final judgment.

15. I'm concerned about my safety. Are there special protections available during a divorce?

Absolutely. The Texas legal system takes family violence very seriously and provides several avenues for protection. If you are a victim of family violence and are concerned for your safety or the safety of your child, you can ask the court for a Protective Order. A Protective Order is a civil court order designed to stop violent or harassing behavior and protect you from the abuser.

A Protective Order can prohibit the abuser from committing further acts of violence, harassing or threatening you, coming within a certain distance of your home or work, and possessing a firearm. These orders can remain in effect for up to two years. A finding of family violence by the court can also have a significant impact on the divorce itself, particularly in custody matters. There is a legal presumption that it is not in a child's best interest for a parent with a history of family violence to be appointed as a joint managing conservator or to have the exclusive right to determine the child's residence. Under the Texas Code of Criminal Procedure, courts with jurisdiction over a family law matter must be notified if a party is convicted of an offense involving family violence.

If you need immediate protection when filing for divorce, your attorney can request a Temporary Restraining Order (TRO) without advance notice to the other party. A TRO can include provisions to prevent your spouse from coming near you or engaging in harmful behavior. Your safety is the top priority. If you are in a situation involving domestic violence, it is critical to speak with an attorney immediately to discuss your options for legal protection.

16. Is my divorce case private?

In Texas, as in most of the United States, court proceedings and records are generally open to the public. This principle of open access applies to divorce cases. This means that the documents filed in your case, such as the Original Petition for Divorce, the Answer, motions, and the Final Decree of Divorce, become part of the public record. Anyone can typically go to the district clerk's office in the county where your case was filed and view or obtain copies of these documents.

While the case file itself is public, there are ways to protect certain sensitive information. For example, financial documents that contain personal identifiers like bank account numbers or Social Security numbers are often filed with a "redacted" version for the public file, with the complete version filed under seal and available only to the parties, their attorneys, and the court. In rare circumstances, a court may agree to seal the entire case file, but this is a very high legal standard to meet and is not commonly granted.

If privacy is a primary concern, you may want to consider alternative dispute resolution methods like mediation or collaborative divorce. In both of these processes, the financial details and personal matters discussed during negotiations remain confidential and are not filed with the court. The only public document is typically the final, agreed-upon decree, which can often be drafted with less sensitive detail than a litigated order. An attorney can explain the privacy implications of different legal strategies and help you protect your sensitive information as much as possible.

17. What parts of my divorce are public record?

As a general rule, almost everything that is formally filed with the court in a divorce case becomes a public record. This includes the main pleadings that start and end the case: the Original Petition for Divorce, the Respondent's Answer, any counter-petitions, and the Final Decree of Divorce. Any motions filed by either party, along with the judge's orders on those motions, are also part of the public court file.

This means that the public can access information such as the grounds alleged for the divorce, the names and ages of your children, and the specific terms of your final property division and custody orders. However, certain highly sensitive information is usually protected. For example, financial documents like tax returns, pay stubs, and bank statements that are exchanged during the discovery process are not typically filed with the court and thus do not become public record. If they must be attached as evidence to a court filing, attorneys will typically ask to have them filed under seal.

It is also important to note that while the records are public, they are not typically searchable on the internet by name in a way that someone could easily stumble upon them. A person would generally need to know which county the divorce was filed in and visit or contact the district clerk's office to specifically request the file. If you have significant privacy concerns, you should discuss strategies for minimizing the amount of sensitive information in the public record with your attorney.

18. Do I need a lawyer to get a divorce in Texas?

Legally, you are not required to have a lawyer to get a divorce in Texas. You have the right to represent yourself, which is known as proceeding “pro se.” However, family law is a complex area with intricate rules of procedure and evidence. Attempting to navigate the system without legal training can be very risky, and a mistake can have long-lasting consequences for your finances and your relationship with your children.

If your divorce is truly uncontested—meaning you and your spouse agree on every single issue, have a relatively simple estate, and have no children—it may be possible to handle it on your own using forms provided by the court. However, even in these cases, an attorney can ensure that the Final Decree of Divorce is drafted correctly and that all necessary legal steps are taken to make your agreement enforceable and finalize the divorce properly. An incorrectly drafted decree can be ineffective or lead to major legal problems down the road.

If your case involves children, significant assets (like a house, retirement accounts, or a business), or any level of disagreement with your spouse, hiring an attorney is strongly recommended. An experienced family law attorney will protect your legal rights, provide strategic advice, manage all deadlines and procedures, and advocate for your best interests in negotiations and in court. The investment in legal representation can prevent costly mistakes and provide invaluable peace of mind during a difficult time.

19. What if we agree on everything? Can we get an “uncontested” divorce?

Yes. If you and your spouse have reached an agreement on all issues in your divorce—including the division of all your property and debts, as well as custody, visitation, and support for your children—you can proceed with an “uncontested” or “agreed” divorce. This is the fastest, least expensive, and least stressful way to end a marriage.

In an agreed divorce, one spouse still files an Original Petition for Divorce. However, instead of proceeding with litigation, the parties (usually with the help of their attorneys) work together to draft and sign a Final Decree of Divorce. This decree is a comprehensive legal document that contains all the terms of your settlement. It details exactly how your property is being divided, sets out the rights and duties of each parent, includes a possession schedule for the children, and specifies the amount of child support to be paid. The other spouse will typically sign a Waiver of Service to avoid formal service.

Once the 60-day waiting period has passed and all the paperwork is signed, one of the parties and their attorney will attend a brief, informal hearing to “prove up” the divorce. The attorney will ask their client a few simple questions on the record to confirm the terms of the agreement, and the judge will review and sign the Final Decree of Divorce, making it a binding court order. Even if you believe you agree on everything, it is highly advisable for each party to have an attorney review the proposed decree to ensure it accurately reflects the agreement and fully protects their rights.

20. Can I receive financial support from my spouse after the divorce?

Post-divorce financial support in Texas can be a complex issue. There are two main types of support: court-ordered “spousal maintenance” and “contractual alimony,” which is support agreed upon by the parties. Texas has very strict eligibility requirements for a court to order spousal maintenance, and it is not granted in most cases. The Texas Constitution was even amended to allow for the garnishment of wages for spousal maintenance payments, highlighting its status as a court-enforceable obligation.

To be eligible for court-ordered spousal maintenance, the spouse seeking support must first show that they will lack sufficient property after the divorce to provide for their minimum reasonable needs. Then, they must also meet one of several additional criteria, such as: the paying spouse was convicted of an act of family violence, the marriage lasted 10 years or more and the seeking spouse is unable to earn sufficient income, or the seeking spouse has an incapacitating disability. The amount and duration of court-ordered maintenance are also strictly limited by statute.

Because the requirements for court-ordered support are so high, many couples choose to agree to “contractual alimony” as part of their settlement. This is a voluntary arrangement where one spouse agrees to pay a certain amount of support to the other for a specified period. The terms are entirely up to the parties and are included in the Final Decree of Divorce. Whether you may be eligible for spousal maintenance or could negotiate for contractual alimony depends heavily on the specific facts of your case. A consultation with a family law attorney is the best way to understand your options.

Section B — Child Custody in Texas: What Parents Need to Know: 20 FAQs

21. What do “conservatorship,” “possession,” and “access” mean in Texas?

In Texas family law, the terms used for custody can be confusing. Instead of “custody,” Texas law uses the term “conservatorship” to describe the legal rights and responsibilities of a parent. When a court names a parent as a “conservator,” it is granting them the authority to make important decisions on behalf of their child. These decisions can include matters related to the child’s education, medical care, and psychological well-being.

“Possession and access” are the terms Texas law uses to refer to what most people think of as visitation. A “possession order” is a court-ordered schedule that dictates when the child will be in the physical care of each parent. “Access” refers to a parent’s right to interact with their child, which can include the right to attend school activities and the right to communicate with the child by phone or other electronic means.

Together, conservatorship, possession, and access make up the legal framework that governs the parent-child relationship after a divorce or separation. These orders define not just where a child will live and when, but also who has the legal authority to make critical life decisions for the child. Because the terminology is so specific, having an attorney guide you through the process can ensure you fully understand your rights and obligations. Schedule a consultation to learn more about how these concepts apply to your family.

22. What's the difference between a Joint Managing Conservator and a Sole Managing Conservator?

In Texas, there is a legal presumption that it is in the best interest of a child for the parents to be named "Joint Managing Conservators" (JMCs). This is the most common arrangement. As JMCs, both parents share the rights and responsibilities of raising their child. However, this does not necessarily mean the child's time is split 50/50. Typically, one parent is designated as the "primary" JMC and has the exclusive right to determine the child's primary residence, while the other JMC has a standard possession order (visitation schedule) and pays child support.

A "Sole Managing Conservator" (SMC) is a parent who is given the exclusive right to make most of the major decisions for the child. The other parent is typically named the "Possessory Conservator" (PC) and will have a visitation schedule and the obligation to pay child support. A court will only appoint one parent as an SMC if appointing both parents as JMCs would not be in the child's best interest, often because it would significantly impair the child's physical health or emotional development.

Grounds for appointing an SMC can include a history of family violence, substance abuse, extreme conflict between the parents, or one parent's absence from the child's life. The difference between these two arrangements is significant, as it determines how much authority each parent has in the child's life. Understanding which arrangement is likely in your case is a critical conversation to have with an attorney.

23. What is a "Possessory Conservator"?

When a court appoints one parent as a Sole Managing Conservator (SMC), the other parent is typically named the "Possessory Conservator" (PC). The Possessory Conservator has more limited rights and duties compared to a managing conservator. The primary right of a Possessory Conservator is the right to have possession of the child according to the court-ordered schedule, often a Standard Possession Order.

While a Possessory Conservator's decision-making authority is limited, they still have important parental rights. For instance, a PC generally has the right to receive information from the other parent and from the child's school and doctors, the right to attend school activities, the right to consent to emergency medical treatment, and the duty to care for and discipline the child during their periods of possession. However, the Sole Managing Conservator typically retains the exclusive right to make key decisions, such as where the child lives and which school they attend.

Being named a Possessory Conservator does not mean you are any less of a parent; it is simply a legal term that defines a specific set of rights within the court's orders. If you are in a situation where one parent is seeking to be named Sole Managing Conservator, it is crucial to understand what that would mean for your parental rights. An attorney can explain the distinctions and advocate for the arrangement that best protects your relationship with your child.

24. What is the “best interest of the child” standard?

The single most important concept in any Texas custody case is the “best interest of the child.” Under the Texas Family Code, this is the primary consideration for the court in determining all issues of conservatorship, possession, and access. This means that a judge’s final decision must be based on what they believe will best promote the child’s physical and emotional well-being and development, rather than on the desires of the parents.

The “best interest” standard is intentionally broad and flexible, allowing a judge to consider a wide array of factors. It is not a simple checklist but a holistic evaluation of the child’s circumstances and the parents’ abilities. The court will hear evidence from both parents and potentially from other witnesses or experts to make its determination. This standard applies in all Suits Affecting the Parent-Child Relationship (SAPCRs), whether it is part of a divorce or a standalone suit between unmarried parents.

Because the best interest standard is subjective and based on the specific facts presented to the judge, the quality of the evidence you present is crucial. What one judge considers to be in a child’s best interest, another might see differently. This is why having an experienced family law attorney is so important. They can help you identify the most relevant facts in your case and present them to the court in the most persuasive way possible.

25. What specific factors do courts consider to determine the child’s best interest?

To help guide the “best interest” analysis, Texas courts often refer to a non-exhaustive list of factors known as the “Holley factors,” which originated from the Texas Supreme Court case *Holley v. Adams*, 544 S.W.2d 367 (1976). While these factors are not written into the Family Code for all custody cases, they are widely used by judges to structure their decision-making process. The court does not have to consider every factor, and no single factor is more important than another.

Some of the key *Holley* factors include: the emotional and physical needs of the child now and in the future; the emotional and physical danger to the child now and in the future; the parental abilities of the individuals seeking custody; the programs available to assist those individuals to promote the best interest of the child; the plans for the child by each parent; the stability of the home or proposed placement; and any acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one.

The court will also consider the child’s desires, though the weight given to those desires depends on the child’s age and maturity. The court evaluates each parent’s ability to provide a safe, stable, and loving environment. Proving to a court that your proposed plan is in your child’s best interest requires a tailored legal strategy. A consultation can help you understand which factors will be most important in your case and what evidence you need to gather.

26. What is a Standard Possession Order (SPO) and how does it work?

The Standard Possession Order (SPO) is a detailed, presumptive visitation schedule laid out in the Texas Family Code. It is designed to provide a consistent and predictable schedule for both parents and the child. Unless the parties agree otherwise or a judge finds it would not be in the child's best interest, the SPO is the default schedule ordered in most Texas custody cases for children over the age of three.

The SPO provides slightly different schedules depending on how far apart the parents live. If the parents live 100 miles apart or less, the non-primary parent typically has possession on the first, third, and fifth weekends of a month; for a significant portion of the winter holidays on a rotating basis; and for 30 days during the summer. If the parents live over 100 miles apart, the schedule is similar, but the non-primary parent may have the option to have possession on every school holiday and for a longer period in the summer (usually 42 days).

While the SPO is the standard, parents are free to agree to any possession schedule that works for their family. They can agree to a 50/50 schedule or create a completely custom calendar. However, if they cannot agree, the judge will most likely order the SPO. Understanding the nuances of the SPO is key to any custody negotiation. An attorney can explain how it would work for your family and help you decide whether to seek a standard or customized order.

27. What is a geographic restriction, and can I move with my child?

A geographic restriction is a provision in a custody order that limits where the "primary" parent can establish the child's residence. The purpose is to ensure that both parents can maintain a close and continuing relationship with the child and to facilitate the possession schedule. Typically, the restriction limits the child's residence to a specific county and its contiguous (neighboring) counties.

In an initial divorce or custody case, the Texas Family Code specifically allows the court to establish a geographic area within which the primary conservator must maintain the child's residence. A general request for the court to determine conservatorship gives the court the authority to impose such a restriction. Whether a court will impose a restriction depends on the best interest of the child and factors like the parents' locations and the importance of frequent contact.

If you are the primary parent and want to move with your child outside the restricted area, you cannot just pick up and go. You must either get the other parent's written agreement to the move or file a modification suit and get a court order allowing the relocation. The parent seeking to move has the burden to prove that the move is in the child's best interest. Relocation cases are some of the most difficult and emotionally charged in family law. If you are considering a move or facing a situation where the other parent wants to move, seeking legal advice immediately is critical.

28. Who decides where the child lives?

In a Texas custody order, one parent is typically given the "exclusive right to designate the primary residence of the child." This is often referred to as being the "primary" parent. This right is usually subject to a geographic restriction, as discussed above. The parent with this right is the one who establishes the child's home and determines where the child will live within that specified area.

The decision of which parent to grant this exclusive right is one of the most important determinations a judge makes in a custody case. The court will decide based on the best interest of the child, considering all the *Holley* factors. The judge may look at which parent has historically been the child's primary caregiver, the stability of each parent's home, the parents' work schedules, and any other factor relevant to the child's well-being.

It is a common misconception that joint managing conservatorship means a 50/50 split of time and decision-making. In reality, even when parents are named JMCs, one is almost always designated as the primary parent with the right to establish the child's residence. The other parent is then ordered to pay child support and has visitation under a possession order. The fight over who will be the "primary" parent is often the most contested issue in a custody battle, and you should consult with an attorney to build the strongest possible case.

29. What are the basic rights and duties of a parent conservator?

A Texas custody order will spell out a list of rights and duties for each parent conservator. Many of these rights are shared between both parents, regardless of who is the primary conservator. These shared rights typically include the right to receive information about the child's health, education, and welfare; the right of access to medical, dental, psychological, and educational records; the right to consult with school officials and medical providers; and the right to attend school activities.

The order will also specify which rights are held exclusively by one parent, which are held jointly by agreement, and which are held independently by each parent. For example, the right to designate the child's primary residence is usually exclusive to one parent. Other major decisions, like the right to consent to invasive medical procedures or to make decisions concerning the child's education, may be exclusive to the primary parent, or the parents may be required to consult with each other or agree.

Understanding this allocation of rights is crucial, as it defines your legal authority to make decisions for your child. A well-drafted order can prevent future conflict by clearly defining each parent's role. An attorney can help you negotiate for the specific rights and duties that are most important to you and ensure the final order is clear and enforceable.

30. Can my child choose which parent to live with?

This is one of the most common questions in custody cases. In Texas, if a child is 12 years of age or older, they can file a document with the court called a "choice of managing conservator," stating which parent they would prefer to have the exclusive right to determine their primary residence. The judge is required to interview the child if a parent requests it.

However, it is critical to understand that the child's preference is **not** binding on the court. The judge will consider the child's wishes, but the final decision must still be based on the judge's determination of the child's best interest. A judge can, and often does, make an order that is different from what the child has requested, especially if there are concerns about the child's reasons for their preference or the fitness of the chosen parent.

The older and more mature the child, the more weight a judge is likely to give their preference. However, the court will be cautious to ensure the child has not been improperly influenced by one parent. Relying solely on a child's preference to win a custody case is a risky strategy. These situations are delicate and can place a great deal of stress on a child. A consultation with an attorney can help you navigate this sensitive issue appropriately.

31. How is custody decided while the case is pending?

Just like with financial issues, courts in Texas can and will make temporary orders for custody, visitation, and child support that will be in effect while the case is ongoing. These orders are intended to provide stability for the child and establish clear rules for the parents during the litigation process. A hearing for temporary orders is typically one of the first major events in a contested custody case.

At the temporary orders hearing, the judge will listen to limited evidence and testimony from both parents to make a quick decision about what is in the child's best interest on an interim basis. The judge will issue an order that establishes a temporary possession schedule, designates a temporary primary parent, and sets temporary child support. These orders are legally binding and enforceable through contempt actions.

Temporary orders are extremely important because they often set a "status quo" that can be influential on the judge's final decision. If a child is doing well under a particular temporary arrangement for many months, a judge may be reluctant to change it at the final trial. For this reason, it is critical to be well-prepared for your temporary orders hearing. An attorney can help you present your case effectively and fight for a temporary arrangement that protects your relationship with your child.

32. What is a Guardian ad Litem or an Attorney ad Litem, and when are they appointed?

In highly contested custody cases, especially those involving allegations of abuse, neglect, or severe parental conflict, a judge may appoint a neutral third-party to assist the court. The court can appoint a "Guardian ad Litem" (GAL), whose job is to represent the best interest of the child. The GAL acts as the "eyes and ears" of the court, conducting an independent investigation by interviewing the parents, the child, teachers, counselors, and others, and then making a recommendation to the judge about what is in the child's best interest.

An “Attorney ad Litem” (AAL) has a different role. The AAL is an attorney who represents the child’s expressed wishes and preferences, much like an attorney represents an adult client. The AAL advocates for what the child wants, which may or may not be the same as what the GAL or the judge believes is in the child’s best interest. In some cases, one person may be appointed to serve in both roles.

The involvement of an ad litem can significantly impact the outcome of a case, as judges often give great weight to their recommendations. These professionals are typically paid by the parents as ordered by the court. If an ad litem has been appointed in your case, or if you believe one should be, it is essential to discuss the strategic implications with your own attorney.

33. Can someone other than a parent (like a grandparent) get custody?

Yes, in certain circumstances, a non-parent can file a lawsuit to seek conservatorship of a child in Texas. This most commonly involves grandparents, but it can also include other relatives or even non-relatives who have had a significant role in the child’s life. However, the law strongly presumes that it is in a child’s best interest to be raised by their parents. This is a fundamental constitutional right.

For a non-parent to overcome this “parental presumption,” they must first have “standing”—the legal right to file the suit. Grandparents and other relatives may have standing if they can show they have had “actual care, control, and possession of the child for at least six months.” Once they establish standing, they face a very high burden. They must prove to the court that appointing the parent(s) as managing conservators would not be in the child’s best interest because it would significantly impair the child’s physical health or emotional development.

Simply proving that you would be a “better” custodian than the parent is not enough. You must show that the parent is unfit in a way that poses a risk of harm to the child. These are very difficult cases to win. If you are a non-parent seeking custody, or a parent facing a suit from a third party, you need experienced legal counsel to navigate these complex legal standards.

34. What can I do if I believe my child is in danger?

If you have a credible belief that your child is in immediate physical or emotional danger in the other parent’s care, the Texas Family Code provides for emergency relief. You can file a request for a Temporary Restraining Order (TRO) with an affidavit explaining the emergency situation. A judge can sign a TRO, often without the other parent even being present, ordering the child to be returned to you and prohibiting the other parent from having contact until a full hearing can be held.

The legal standard for this type of emergency relief is very high. You must present evidence to the court showing that there is an imminent risk of serious harm to the child’s physical health or emotional well-being. A vague concern or a general disagreement over parenting styles is not enough. The danger must be real and immediate. The TRO will typically set a hearing within 14 days, at which time both parties will have the opportunity to present their case, and the judge will decide whether to issue more lasting temporary orders.

In addition to seeking a TRO, if you believe a crime has been committed or the child is in immediate danger, you should also contact law enforcement or Child Protective Services (CPS). Filing a frivolous request for emergency relief can have serious negative consequences in your case. Before taking such a drastic step, it is crucial to speak with an attorney to evaluate the situation and determine the best course of action.

35. How do I change a custody order after it's final?

Once a final custody order is in place, it can only be changed by filing a "Petition to Modify the Parent-Child Relationship." You cannot simply decide to do something different than what the order says, even if the other parent verbally agrees. To be successful in a modification suit, you must prove to the court that there has been a "material and substantial change" in the circumstances of the child or one of the parents since the date the last order was signed.

A material and substantial change is something significant that affects the child's life. Examples could include a parent's remarriage, a major change in a parent's job or living situation, a decline in a parent's health, or new evidence of substance abuse or family violence. The change must be something that was not anticipated at the time the prior order was made.

In addition to proving a material and substantial change, you must also convince the judge that changing the order would be in the child's best interest. The court prioritizes stability for children, so it will not modify an order lightly. If you are seeking to change a custody order, it is important to gather strong evidence of both the change in circumstances and why the modification is necessary for your child's well-being. An attorney can help you assess whether you meet the legal standard for a modification.

36. What happens if the parent with the right to establish residence wants to move?

If the primary parent wants to move with the child and the custody order contains a geographic restriction, they cannot do so without permission. The parent must either obtain the written, signed agreement of the other parent or file a Petition to Modify the Parent-Child Relationship and ask the court for permission to lift the geographic restriction and relocate.

In a relocation case, the parent seeking to move has the burden to prove two things: first, that there has been a material and substantial change in circumstances, and second, that the proposed relocation is in the best interest of the child. The court will analyze the best interest question using the *Holley* factors, paying special attention to the reasons for the move, the opportunities available at the new location, and how the relationship between the child and the non-moving parent can be maintained.

Relocation cases are often the most difficult in family law. The court must balance one parent's right to move and pursue new opportunities against the other parent's right to have frequent and continuing contact with their child. The outcome is highly fact-specific. If you want to relocate or if you want to prevent the other parent from relocating with your child, you should seek legal advice from an experienced family law attorney immediately.

37. Are there tools or apps to help us co-parent more effectively?

Yes, technology has provided some excellent tools to help separated or divorced parents manage the challenges of co-parenting. In many cases, judges will order parents to use a co-parenting communication service, especially where there has been a history of conflict. These tools can reduce misunderstandings, create a clear record of communication, and help parents focus on the business of raising their child.

Popular co-parenting apps include OurFamilyWizard, AppClose, and TalkingParents. These platforms typically offer a suite of tools in one place, such as a shared calendar to track the possession schedule and extracurricular activities, a message board for communication (which is often monitored and cannot be deleted), an information bank for storing important details like medical records and contact lists, and an expense log for tracking shared costs and reimbursement requests.

Using one of these tools can be incredibly helpful for maintaining boundaries and ensuring communication stays respectful and child-focused. It creates a documented record that can be used in court if one parent is being uncooperative or making false claims. Whether you are ordered to use one or you decide to do so voluntarily, these apps can be a valuable resource. An attorney can advise you on which features might be most beneficial for your situation and can help you request that the use of such a tool be included in your court orders.

38. What happens if the other parent doesn't follow the custody order?

A custody order, which includes the possession schedule, is a legally binding order from a judge. If a parent violates the order—for example, by refusing to turn over the child for the other parent's scheduled weekend of possession—the other parent can take legal action to enforce it. The primary tool for this is a "Motion for Enforcement."

A Motion for Enforcement asks the court to force the non-compliant parent to follow the order. This can result in several remedies. The court can order the parent to turn over the child, order make-up visitation time to compensate for the time that was denied, and order the non-compliant parent to pay the other parent's attorney's fees and court costs. In many cases, just filing the motion is enough to get the other parent to comply.

If the violations are serious or repeated, the court can also hold the non-compliant parent in "contempt of court." A finding of contempt can be punished with fines, community supervision (probation), or even jail time for each violation. The enforcement process is technical and requires precise pleading and proof. If the other parent is denying your court-ordered time with your child, you should consult with an attorney about your options for enforcement.

39. How does a history of family violence affect custody decisions?

A finding of family violence has a profound impact on a Texas custody case. The law contains a "rebuttable presumption" that it is not in the best interest of a child for a parent with a history of family violence to be appointed as a Joint Managing Conservator. This means that if a judge finds a parent has committed family violence, the judge will presume that parent should not share joint custody or have the right to determine the child's residence.

The parent with the history of violence can try to "rebut" this presumption by presenting evidence that appointing them as a JMC would still be in the child's best interest, but this is a very high burden to meet. A finding of family violence can also lead the court to order that the parent's possession of the child be supervised, or to deny them possession altogether if necessary to protect the child. Furthermore, if a parent is convicted of a criminal offense involving family violence, the criminal court is required to notify the family court that has jurisdiction over the child.

The safety of the child is paramount. If there is a history of family violence in your relationship, it is absolutely critical that you bring this to the attention of your attorney and the court. An attorney can help you understand how to present this evidence and what protective measures you can seek for yourself and your child.

40. What is a "Suit Affecting the Parent-Child Relationship" (SAPCR)?

A "Suit Affecting the Parent-Child Relationship," commonly known as a SAPCR (pronounced "sap-sir"), is the official legal term for any lawsuit in Texas that involves children. This is the type of suit that establishes or modifies conservatorship (custody), possession and access (visitation), and child support. The Family District Courts in Texas have primary responsibility for handling these cases.

A SAPCR can be filed in several different contexts. If a married couple with children is divorcing, the SAPCR is joined with the divorce petition. All issues related to the children are decided as part of the divorce case. If the parents are not married, either parent can file a standalone SAPCR to establish legal parentage and obtain court orders for custody and support. A SAPCR is also the type of suit filed to modify an existing custody order or to enforce one.

Essentially, any time you are asking a Texas court to make a legally binding decision about a child, you will be doing so through a SAPCR. These suits are governed by Title 5 of the Texas Family Code and have their own specific rules and procedures. Because these cases determine your fundamental rights and responsibilities as a parent, navigating a SAPCR without legal representation is highly discouraged. A consultation with a family law attorney is the best first step.

Section C — Property Division in Texas Divorce: 20 FAQs

41. How is property divided in a Texas divorce?

Texas is a community property state. This means that most property acquired by either spouse during the marriage is considered to be owned jointly by both spouses. The fundamental principle guiding property division in a Texas divorce is not necessarily equality, but rather what is "just and right." The Texas Family Code requires a court to order a division of the parties' estate in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage.

This "just and right" standard gives the judge significant discretion. While a 50/50 split is common, it is not required. The court can award one spouse a disproportionate share of the community estate based on various factors, such as a disparity in earning capacity, fault in the breakup of the marriage (like adultery or cruelty), or the needs of the children. The court's goal is to achieve a fair and equitable outcome based on the specific circumstances of the family.

The process begins with identifying and categorizing all property as either community or separate property. Each spouse will typically prepare a Sworn Inventory and Appraisement, which is a detailed list of all assets and debts along with their estimated values. Once the size and character of the marital estate are determined, the parties can negotiate a division, or if they cannot agree, the court will make the division for them at trial. Property division can be one of the most complex aspects of a divorce, and a consultation is vital to understand your rights and protect your financial future.

42. What is "community property"?

Community property is the legal term for most of the assets and debts that a couple acquires during their marriage while living in Texas. There is a legal presumption that all property owned by the couple at the time of divorce is community property. This includes income earned by either spouse during the marriage, real estate purchased during the marriage (even if titled in only one spouse's name), cars, furniture, bank accounts, and retirement benefits accrued during the marriage.

It doesn't matter whose paycheck bought the asset or whose name is on the title. If it was acquired during the marriage, it is presumed to belong to the "community estate," meaning both spouses have an ownership interest in it. This concept is broad and covers a wide range of assets, from the tangible, like the family home, to the intangible, like a portion of a pension plan or stock options that vested during the marriage.

Because the presumption is so strong, any property on hand at the time of divorce will be treated as community property and will be subject to a "just and right" division by the court unless one spouse can prove it is their separate property. Understanding which of your assets fall into the community estate is the first step in any property division analysis. An attorney can help you categorize your assets and explain the implications for your divorce settlement.

43. What is “separate property”?

Separate property is property that belongs exclusively to one spouse and is not part of the community estate subject to division by the court. In Texas, there are three main categories of separate property: property owned by a spouse before the marriage; property acquired by a spouse during the marriage as a gift; and property acquired by a spouse during the marriage by inheritance. Additionally, any recovery for personal injuries sustained by a spouse during the marriage is also their separate property, except for any recovery for loss of earning capacity during the marriage.

For example, if you owned a house before you got married, that house remains your separate property. If your grandmother passed away during your marriage and left you money in her will, that inheritance is your separate property. Similarly, if your parents gave you a sum of money as a birthday gift, that gift is your separate property. Income or appreciation derived from separate property during the marriage can be more complex; while the underlying asset remains separate, the income it generates may be considered community property.

The distinction between separate and community property is critical, as a court cannot divest a spouse of their separate property. The court’s authority is limited to dividing the community estate. Proving that an asset is separate property, however, can be challenging and requires strong evidence. To protect your separate property assets, it is essential to seek guidance from an experienced family law attorney.

44. Who has to prove that property is “separate”?

In a Texas divorce, all property possessed by either spouse at the end of the marriage is presumed to be community property. The spouse who claims that a particular asset is their separate property has the burden of proving it. This is a significant burden that requires a high standard of proof.

To overcome the community property presumption, the claiming spouse must prove the separate character of the asset by “clear and convincing evidence.” This is a higher and more difficult standard to meet than the “preponderance of the evidence” standard used in most civil cases. “Clear and convincing” means the evidence must produce a firm belief or conviction in the mind of the judge that the claim is true.

Simply testifying that an asset was a gift or was owned before marriage is often not enough. You typically need documentary evidence that traces the asset back to its separate property source. Failing to meet this high evidentiary standard means the asset will be treated as community property and divided by the court. If you have assets you believe are your separate property, you should immediately discuss with an attorney what evidence you will need to gather to successfully prove your claim in court.

45. What is “tracing”?

“Tracing” is the legal process used to prove that an asset is separate property. It involves tracking an asset from the time of divorce back to its origin as a separate property source, using documentary evidence. Since money is fungible and accounts can become mixed over time, tracing is often a complex and detailed forensic accounting exercise.

For example, imagine you inherited $50,000 from an aunt during your marriage. That inheritance is your separate property. If you deposited that money into a brand-new bank account that you never used for anything else, tracing it would be simple. However, if you deposited it into a joint checking account where you and your spouse also deposited your paychecks (community funds) and paid monthly bills, the separate and community funds have become “commingled.” To prove what portion of that account is still your separate property, you would have to trace the funds, showing exactly where the separate property money went.

This process often requires bank statements, brokerage records, deeds, and other financial documents, sometimes going back many years. For complex accounts or long marriages, it may be necessary to hire a forensic accountant as an expert witness to prepare a formal tracing report for the court. Because the standard of proof is “clear and convincing,” meticulous documentation is key. An attorney can evaluate your situation and advise you on whether a formal tracing analysis is necessary.

46. What happens when separate and community property are mixed together?

When separate property and community property are mixed together in a way that the separate property loses its distinct identity and can no longer be traced, it is called “commingling.” If funds are so commingled that it becomes impossible to identify and trace the separate property portion with clear and convincing evidence, the entire asset may be treated by the court as community property.

A classic example is a bank account. If one spouse deposits their separate property inheritance into a joint checking account that is used for household expenses over many years, the separate funds may become hopelessly commingled with community funds (paychecks). In this scenario, the entire account may be presumed to be community property because the separate property portion cannot be accurately traced and identified.

Commingling can risk the loss of your separate property. The best way to avoid this is to always keep separate property assets in a separate account, titled in your name alone, and to avoid depositing any community funds into that account. If your assets are already commingled, all is not necessarily lost, but you will need to undertake a careful tracing analysis to prove your separate property claim. Given the risks, consulting with a family law attorney to understand how to handle and protect your separate property is a crucial step.

47. What is a “reimbursement” claim?

A reimbursement claim arises when one “marital estate” contributes funds to another marital estate and seeks to be paid back during the divorce. There are three marital estates in Texas: the community estate, the wife’s separate estate, and the husband’s separate estate. Reimbursement is an equitable claim, meaning the court has discretion whether to grant it and for how much.

A common example is when community funds are used to pay down the principal on a mortgage for a house that is one spouse’s separate property. For instance, if the husband owned the house before the marriage, it is his separate property. If, during the marriage, the couple uses their joint income (community property) to make mortgage payments, the community estate has a claim for reimbursement for the amount of principal reduction it paid on the husband’s separate property debt. The community estate essentially “reimbursed” itself for the benefit it conferred on the separate estate.

Another common reimbursement claim arises when one spouse uses their separate property to pay for community debts or to make improvements on a community asset. For example, if the wife uses her inheritance money (separate property) to pay off a community credit card, her separate estate may have a reimbursement claim against the community estate. These claims can be complex to calculate and prove. An attorney can help you identify potential reimbursement claims in your case and gather the necessary evidence to support them.

48. How are debts divided in a Texas divorce?

Debts, like assets, are characterized as either community or separate and are divided as part of the overall “just and right” division of the marital estate. A community debt is a liability incurred by either spouse during the marriage. It is presumed that any debt existing at the time of divorce is a community debt, and it is the responsibility of the community estate.

A separate debt is a debt that was incurred by one spouse before the marriage, or a debt that was incurred during the marriage but was not for the benefit of the community. For example, a student loan taken out before marriage is a separate debt. The spouse who incurred the separate debt is typically responsible for paying it from their separate property or from their share of the community property awarded in the divorce.

In the Final Decree of Divorce, the judge will assign responsibility for each debt to one of the spouses. It is important to understand that this court order is only binding between you and your ex-spouse. It is not binding on the creditor. If your ex-spouse is ordered to pay a joint credit card but fails to do so, the credit card company can still come after you for payment. This makes the proper allocation and handling of debt in a divorce decree critical. A consultation with an attorney can help you develop a plan to protect your credit and limit your post-divorce liability.

49. Is Texas a 50/50 state?

This is a common misconception. While Texas is a community property state, it is **not** a mandatory 50/50 state. The legal standard for property division is “just and right,” not necessarily “equal.” This gives the trial court broad discretion to divide the community estate in a manner it believes is fair and equitable under the circumstances.

While a 50/50 division is a frequent starting point and a common outcome, especially in shorter marriages with no children and similar earning capacities, the court can and often does order an unequal division. The judge may decide that a 60/40, 70/30, or some other unequal split is “just and right.” This is particularly true in cases where there are significant disparities between the spouses or where one spouse is found to be at fault for the breakup of the marriage.

If you are hoping for a division other than 50/50, you must present evidence to the court that justifies an unequal split. Understanding the factors a judge will consider is key to building a persuasive case for a disproportionate share of the estate. An attorney can analyze your case and advise you on the likelihood of achieving an unequal division.

50. What factors can lead to an unequal property division?

When deciding on a “just and right” division, Texas courts can consider a wide range of factors. These are often called the “Murff factors” from a well-known court case. While there is no exhaustive list, some of the most common factors that can justify an unequal division include a disparity in the spouses’ earning capacities or business opportunities, differences in age and health, and the educational backgrounds of the parties.

The court may also consider the nature of the property being divided, the needs of the children, and whether one spouse has a significantly larger separate estate than the other. Importantly, the court can consider fault in the breakup of the marriage. If one spouse can prove the other committed adultery, cruelty, or was convicted of a felony, the court may award the “innocent” spouse a larger share of the community property as a way to achieve an equitable result.

The amount of evidence needed to persuade a judge to order an unequal division is substantial. The judge will weigh all of these factors together to arrive at a division. If you believe your circumstances warrant more than half of the community estate, it is crucial to work with an attorney who can help you gather and present the necessary evidence to support your claim for a disproportionate share.

51. How is our house divided in a divorce?

The marital home is often a couple’s most significant asset and can be a source of great emotional attachment, making its division a central issue in many divorces. If the house is community property, there are generally three main options for how it can be handled in the divorce.

First, the parties can agree to sell the house and divide the net proceeds. This is often the cleanest and simplest solution, as it provides both parties with cash and disentangles them from a joint asset and liability. Second, one spouse can “buy out” the other spouse’s interest in the house. This typically involves refinancing the mortgage to remove the other spouse’s name from the loan and paying them their share of the home’s equity. This allows one spouse and the children to remain in the home, but it requires the buying spouse to have the financial ability to qualify for a new loan.

A third, less common option is for the parties to continue to co-own the house for a certain period after the divorce, with an agreement to sell it at a later date (for example, when the youngest child graduates from high school). This can be a complex arrangement with many potential pitfalls. The best option for you will depend on your financial situation, the needs of your children, and the level of cooperation between you and your spouse. An attorney can help you evaluate these options and negotiate a solution that works for you.

52. How are retirement accounts and pensions divided?

Retirement accounts, such as 401(k)s, IRAs, and pensions, are often among a couple’s most valuable assets. In Texas, the portion of a retirement account that was earned or accrued during the marriage is community property and is subject to division in a divorce. The portion earned before the marriage or after the divorce is separate property.

Dividing retirement funds requires a special court order called a Qualified Domestic Relations Order (QDRO), pronounced “kwah-dro.” A standard divorce decree is not sufficient to instruct a retirement plan administrator to pay benefits to a non-employee ex-spouse. The QDRO is a separate, complex legal document that must be drafted to comply with both federal law (ERISA) and the specific rules of the retirement plan. It instructs the plan administrator on how to divide the account and create a separate interest for the ex-spouse.

Drafting a QDRO is a highly technical process, and an error can have devastating financial consequences. It is not something that should be attempted without an experienced attorney. Many family lawyers work with QDRO specialists to ensure these documents are prepared correctly. If retirement assets are part of your marital estate, it is essential to consult with an attorney to ensure they are divided properly and your interests are protected.

53. What about a business owned by one or both spouses?

Dividing a business in a divorce can be one of the most complex challenges in family law. If the business was started or acquired during the marriage, it is presumed to be community property. If it was started before the marriage, it is separate property, but the community may have a reimbursement claim for any increase in value that resulted from the time, toil, and talent of either spouse during the marriage.

The first step is to determine the fair market value of the business. This almost always requires hiring a neutral business valuation expert to conduct a thorough analysis. The expert will review financial statements, tax returns, and other business records to arrive at an opinion of what the business is worth. The spouses can agree to use one neutral expert, or each can hire their own, which can lead to a “battle of the experts” at trial.

Once a value is established, the parties must decide how to divide it. It is often impractical to split the business itself, so the common solution is for the spouse who will continue to run the business to buy out the other spouse’s interest. This can be done by trading other community assets of equivalent value (like the equity in the house or other investment accounts) or through a cash payment over time. If you or your spouse own a business, expert legal and financial advice is not just recommended; it is essential.

54. What is a premarital agreement and how does it affect property division?

A premarital agreement, often called a “prenup,” is a written contract entered into by a couple before they get married. This agreement allows the couple to define their financial rights and obligations during the marriage and in the event of divorce or death. A primary purpose of a premarital agreement is to alter the standard rules of Texas community property law.

For example, a premarital agreement can specify that all income earned by each spouse during the marriage will remain their separate property, rather than becoming community property. It can also define how property will be divided in a divorce, potentially limiting or eliminating claims for a “just and right” division of assets accumulated during the marriage. These agreements are often used when one or both parties are bringing significant separate property, business interests, or potential inheritances into the marriage, or if it is a second marriage for one or both parties.

For a premarital agreement to be enforceable in Texas, it must be in writing and signed by both parties. It is not enforceable if a party can prove they did not sign it voluntarily or if the agreement was “unconscionable” when it was signed and they were not provided a fair disclosure of the other party’s finances. If you have a premarital agreement, it will be the starting point for your property division. An attorney can review the agreement to determine its validity and how it will impact your divorce.

55. What is a post-marital agreement?

A post-marital agreement (or post-nuptial agreement) is similar to a premarital agreement, but it is signed by the spouses *after* they are already married. These agreements can be used to accomplish many of the same goals as a prenup, such as converting existing or future community property into separate property, or dividing the community estate in a specific way in the event of a future divorce.

In Texas, these agreements are often called “Partition or Exchange Agreements.” Spouses can agree to “partition” or “exchange” all or part of their community property, making it the separate property of one spouse. For example, a couple could agree that one spouse’s business and all its future income will be that spouse’s separate property. These agreements can also be used to settle property rights in anticipation of a separation or divorce.

Like premarital agreements, post-marital agreements must be in writing and signed by both spouses to be enforceable. They are also subject to being challenged on the grounds of involuntariness or unconscionability. These are powerful legal tools that fundamentally change the character of a marital estate. If you signed an agreement during your marriage, or are considering one, it is critical to get advice from a knowledgeable family law attorney to understand its full legal effect.

56. How do we figure out all the property we have and what it's worth?

The process of identifying all assets and debts in a divorce is part of the "discovery" phase of a lawsuit. The most common tool for this is the "Sworn Inventory and Appraisement." This is a detailed, sworn document that each party is required to prepare and file with the court. It must list all community and separate property assets and liabilities, along with the party's good-faith estimate of the value of each item.

To ensure the other party's inventory is accurate and complete, attorneys use formal discovery tools to request information. These can include "Requests for Production," which require the other party to produce documents like bank statements, tax returns, deeds, and retirement account statements. Another tool is "Interrogatories," which are written questions that the other party must answer under oath. For more complex cases, attorneys can take "Depositions," which involve questioning the other party or other witnesses under oath in front of a court reporter.

This process is designed to ensure that both sides have a full and fair picture of the marital estate before any division is made. The duty to disclose financial information is taken very seriously by the courts. An attorney can guide you through the process of preparing your own inventory and can use the tools of discovery to uncover all relevant financial information from your spouse.

57. Can I protect our assets from my spouse during the divorce?

Yes. It is a common concern that one spouse might try to sell, hide, or waste community assets once a divorce is filed. Texas law provides several tools to prevent this and preserve the marital estate while the divorce is pending. When a divorce petition is filed, it can include a request for a Temporary Restraining Order (TRO), which a judge can sign immediately without a hearing.

A standard TRO in a divorce case prohibits both parties from taking certain actions. It typically includes orders not to harass each other, but it also contains financial injunctions. For example, it can prevent either party from selling or transferring property, taking on new debt in the other party's name, changing insurance beneficiaries, or making unusual expenditures that are not for normal living expenses or business operations. A TRO provides immediate, temporary protection.

Within 14 days of the TRO being signed, the court will hold a temporary orders hearing. At this hearing, the judge will decide whether to turn the temporary injunctions into "Temporary Orders" that will remain in effect for the duration of the divorce. These orders ensure that the community estate is preserved so that it can be divided fairly at the end of the case. If you are concerned about your spouse dissipating assets, you should speak with an attorney immediately about seeking these protections.

58. What can I do if I think my spouse is hiding assets?

Discovering that a spouse is hiding assets can be one of the most stressful parts of a divorce. Fortunately, the legal system provides powerful tools to uncover hidden property and income. The formal discovery process is designed specifically for this purpose. Your attorney can use various methods to investigate your spouse's finances and trace suspicious transactions.

Your attorney can serve subpoenas directly on third parties, such as banks, credit card companies, employers, and business partners. These subpoenas compel the third party to produce financial records directly to your attorney. This allows you to obtain account statements and transaction histories that your spouse may not have willingly produced. Your attorney can also take the deposition of your spouse or others with knowledge of their finances, forcing them to answer questions under oath.

In cases involving complex finances or suspected fraud, it may be necessary to hire a forensic accountant. These experts are skilled at analyzing financial records to find inconsistencies, trace hidden money, and identify undisclosed assets or income streams. They can provide an expert report and testify in court. If you suspect your spouse is not being truthful about their finances, a consultation with an attorney is the first step to uncovering the truth and ensuring a fair property division.

59. What happens if my ex-spouse doesn't follow the property division in the decree?

A Final Decree of Divorce is a legally binding court order. If your ex-spouse fails to comply with the property division—for example, by refusing to sign over a car title, failing to pay you your share of an account, or not refinancing the house as ordered—you can take them back to court to enforce the order. The primary vehicle for this is a "Suit to Enforce the Property Division."

In an enforcement suit, you can ask the judge to force your ex-spouse to comply. The court can issue further orders to clarify the original decree and specify the exact manner for carrying out the property division, as long as it does not change the substantive division. For example, the court could appoint a receiver to sell a property if your ex-spouse refuses to cooperate with the sale. If the asset to be turned over was money, the court can grant a money judgment, which you can then enforce like any other civil judgment.

The court can also find your ex-spouse in contempt of court for failing to follow the order, which can result in fines or even jail time. Additionally, the court can award you the attorney's fees and costs you incurred in bringing the enforcement action. If your ex-spouse is not following the rules set out in your decree, you should consult with an attorney to discuss your enforcement options.

60. Are there tax consequences to how our property is divided?

Yes, the way property is divided in a divorce can have significant tax implications, and it is an important consideration during settlement negotiations. While the transfer of property between spouses as part of a divorce is generally not a taxable event, decisions about specific assets can create future tax liability.

For example, consider two assets of equal value: a bank account with $100,000 in cash and a traditional 401(k) account with $100,000. While they have the same current value, the 401(k) is a pre-tax account. The person who receives the 401(k) will have to pay income taxes on the money when they withdraw it in retirement. The person who receives the cash will not. Therefore, the after-tax value of the 401(k) is significantly less than the cash account. It is crucial to consider the "tax basis" and future tax liability of assets when dividing them.

Other tax issues can arise from the sale of a marital home, the allocation of the right to claim children as dependents on tax returns, and the structure of spousal support payments. Family law attorneys can identify these issues, but they are generally not tax experts. In cases with complex assets, it is often wise to consult with a CPA or tax attorney to fully understand the tax consequences of your proposed settlement. An attorney can work with your tax professional to structure a division that is both fair and tax-efficient.

Section D — Child Support Guidelines in Texas: 20 FAQs

61. How is child support calculated in Texas?

Child support in Texas is calculated using a structured, formula-based approach set by the Texas Family Code. The law provides specific guidelines that courts use to determine the amount of support one parent (the "obligor") will pay to the other parent (the "obligee"). This formula is designed to create consistency and predictability in child support awards across the state. The Texas Legislature's family law committees periodically review these guidelines to ensure they remain appropriate.

The calculation process starts with determining the obligor's average monthly "gross resources" or income. From this gross amount, the court subtracts certain allowed deductions—such as social security taxes, federal income tax (based on a single person claiming one exemption), state income tax (if applicable), union dues, and the cost of the child's health insurance—to arrive at the obligor's "net resources." The child support amount is then calculated by applying a percentage to these net resources.

The law presumes that the amount of support calculated using this formula is in the best interest of the child. While the calculation may seem straightforward, disputes often arise over what counts as "income" and what deductions are allowable. Getting this calculation right from the start is critical for your child's financial well-being. A consultation with an attorney can ensure all sources of income are properly considered and the support amount is calculated correctly under Texas law.

62. What are the "guideline percentages" for child support?

The Texas Family Code sets out specific percentages that are applied to the obligor's net monthly resources to calculate the presumptive amount of child support. The percentage depends on the number of children before the court. For one child, the guideline percentage is 20% of the obligor's net resources. For two children, it is 25%; for three children, 30%; for four children, 35%; and for five or more children, it is 40%.

These percentages are adjusted if the obligor has a legal duty to support other children who are not part of the current lawsuit. For example, if an obligor has one child before the court but also has another child from a different relationship that they are legally obligated to support, the percentage for the child in the current case would be reduced from 20% to 17.5%. The Family Code provides a chart for these multi-family adjustments.

It is important to remember that these percentages are applied to the obligor's net resources only up to a certain statutory cap, which is adjusted for inflation. While these guidelines create a strong presumption, they are not absolute. Navigating the correct application of these percentages, especially in situations involving multiple families, requires careful analysis. An attorney can help you understand how the guidelines apply to your specific situation.

63. What counts as "net resources" for calculating child support?

"Net resources" is the foundation of a Texas child support calculation. To determine net resources, the court first looks at all of the obligor's "gross resources." This is a very broad category that includes 100% of all wage and salary income; self-employment income; interest, dividends, and royalty income; rental income; retirement benefits; and any other income actually being received. It can include everything from overtime pay and bonuses to gifts and prizes.

Once the total gross resources are determined, the court subtracts only a specific list of items to arrive at the net resources. These deductions are: federal and state income taxes (calculated as if the person were single with one exemption), Social Security taxes (or mandatory retirement plan contributions if not paying into Social Security), union dues, and the amount paid for the child's health and dental insurance premiums. No other expenses—such as car payments, mortgage payments, or credit card debt—are deducted.

Determining a party's true net resources can be one of the most contentious parts of a child support case, especially when a parent is self-employed, receives irregular bonuses, or has complex investments. An experienced attorney can utilize discovery tools to ensure all sources of income are identified and that the final net resource calculation is accurate and fair. Schedule a consultation to discuss how to properly calculate net resources in your case.

64. Is there a cap on the amount of income used to calculate child support?

Yes, the Texas child support guidelines apply to a parent's net monthly resources up to a certain statutory "cap." This cap is adjusted every six years to account for inflation. As of the most recent adjustment, the presumptive cap is $9,200 in net monthly resources. This means that for an obligor whose net resources are at or below $9,200 per month, the court will apply the standard guideline percentages to their entire net income.

If the obligor's net resources exceed the $9,200 per month cap, the court will presumptively apply the guideline percentages to the first $9,200. For example, for one child, this would result in a baseline child support amount of $1,840 (20% of $9,200). The court can then order additional support above this baseline amount, but only if the person requesting the additional support can prove that the "proven needs of the child" justify a higher amount.

To get support above the guideline cap, you must present evidence of the child's specific needs and expenses, such as costs for private school tuition, extensive extracurricular activities, or specialized medical care. The court will consider the lifestyle of the family and the specific circumstances of the child. If you are in a high-net-worth case, it is crucial to consult with an attorney to discuss strategies for presenting evidence of your child's needs to justify an above-guideline support award.

65. Who is responsible for providing health insurance for the child?

The Texas Family Code requires that a child support order also include orders for the child's health and dental insurance. The court will order one or both parents to provide coverage. Typically, the court will first look to see if the child can be covered at a reasonable cost through either parent's employer-provided health insurance plan.

The parent who is ordered to pay child support (the obligor) is often ordered to provide the health insurance, and the monthly cost of that insurance premium is credited back to them in the child support calculation. For example, if the guideline support amount is $800 per month and the obligor pays $200 per month to cover the child's health insurance, their net child support payment may be reduced to $600.

If neither parent has access to affordable private health insurance, the court may order the parents to apply for government-provided health coverage, such as Medicaid or CHIP. The child support order will specify which parent is responsible for providing the coverage and will allocate the cost. Ensuring your child has continuous health coverage is a top priority for the court. An attorney can help you navigate these provisions and make sure the final order clearly defines each parent's responsibilities.

66. How are uninsured medical and dental expenses handled?

Even with health insurance, children will have out-of-pocket medical and dental expenses, such as co-pays, deductibles, and costs for services not covered by insurance (like braces). Child support orders in Texas must include a provision that allocates responsibility for these uninsured expenses.

Typically, the court will order the parents to split these costs 50/50. However, the court has the discretion to order an unequal split based on the parents' relative incomes and financial circumstances. A well-drafted decree will include a clear process for how these expenses are to be handled. For instance, the order may require the parent who incurs an expense to send the receipt and proof of payment to the other parent within a certain number of days, and the other parent then has a specific timeframe (e.g., 30 days) to pay their share.

Disputes over medical expense reimbursement are common. In *McBride v. McBride*, for example, a court reviewed claims for reimbursement of uninsured health care expenses as part of an enforcement action. Keeping meticulous records and following the exact procedure in your decree is crucial to ensure you are properly reimbursed. To avoid future conflicts, it is important to have an attorney draft clear and specific language in your order regarding these expenses.

67. Who pays for daycare or childcare costs?

Guideline child support is intended to cover a child's basic needs like food, clothing, and shelter. It does not typically include the cost of work-related childcare or daycare. These expenses are considered an "additional" form of child support and are handled separately by the court.

If daycare is necessary for the parent with whom the child primarily resides to be employed, the court can order that the cost be shared by the parents. Much like uninsured medical expenses, the court will often order the parents to split the daycare costs 50/50, or it may allocate the cost based on their respective incomes. The parent paying for the daycare is usually required to provide proof of the expense to the other parent regularly.

Failing to follow the specific requirements for providing proof of these expenses can jeopardize your ability to be reimbursed. For instance, in *McBride v. McBride*, a mother's claim for reimbursement of over $14,000 in daycare expenses was complicated by testimony that she had only provided a spreadsheet she created, rather than actual receipts or invoices as required by the order. To ensure you are able to collect these additional amounts, you need a clearly drafted order and a good understanding of your evidentiary requirements. A consultation can help clarify these important details.

68. Can a judge order child support that is different from the guideline amount?

Yes. While the guideline calculation is presumed to be in the child's best interest, a judge can "deviate" from the guidelines and order a higher or lower amount of child support if the evidence shows that applying the guidelines would be "unjust or inappropriate" under the circumstances. The court must state its reasons for the deviation in the final order.

The Texas Family Code provides a non-exhaustive list of factors the court can consider when deciding whether to deviate. These include the age and needs of the child, the ability of the parents to contribute to the support of the child, the financial resources available for the support of the child, the amount of time the child spends with each parent, and whether one parent has intentionally underemployed themselves.

For example, if a child has special needs that require expensive therapy or care, the court might order child support above the guideline amount. Conversely, if the non-primary parent has the child for a nearly equal amount of time (e.g., a 50/50 possession schedule), the court might order a lower amount of child support than the guidelines would suggest. If you believe your situation warrants a deviation from the standard guidelines, you must present specific evidence to the court to justify your request. An attorney can help you build this case.

69. What is “imputed income” and when is it used?

“Imputed income” refers to income that a court attributes to a parent even though they are not actually earning it. This typically happens when a court finds that a parent is “intentionally unemployed or underemployed.” If a judge believes a parent is voluntarily earning less than they are capable of earning in an attempt to reduce or avoid their child support obligation, the court can calculate child support based on that parent’s earning potential, rather than their actual income.

For example, if a parent with a long history of earning $100,000 per year as an accountant suddenly quits their job to work for minimum wage right before a child support hearing, the court would be highly suspicious. If the other parent presents evidence of the obligor’s work history, skills, and the job opportunities available, the judge could “impute” an income of $100,000 and calculate child support based on that higher figure.

Proving intentional underemployment requires evidence. It is not enough to simply claim the other parent could be earning more. You need to show that they have the ability and opportunity to earn more and are choosing not to. This is a complex factual issue that often requires expert testimony about earning capacity. If you suspect the other parent is trying to manipulate their income, you should speak with an attorney about how to prove it to the court.

70. Is child support ordered while the divorce is still pending?

Yes. Because a contested divorce can take many months or even years to finalize, Texas courts will issue “temporary orders” at the beginning of the case to establish rules that will apply while the case is ongoing. These temporary orders almost always include an order for the payment of temporary child support.

The purpose of temporary child support is to ensure that the child’s financial needs are met during the litigation process and that both parents are contributing to the child’s support from the outset. The amount of temporary support is usually calculated using the same guideline formula as final child support. The temporary orders will specify the amount of support, who pays it, and when payments are due.

The temporary orders hearing is a critical early stage in any case involving children. The orders put in place at this hearing often set a "status quo" that can influence the final outcome of the case. Being prepared to present clear evidence of both parents' incomes is essential to ensure the temporary support amount is fair and accurate. A family law attorney can guide you through this important hearing.

71. How long does a parent have to pay child support?

In Texas, the obligation to pay child support typically continues until the child turns 18 years old or graduates from high school, whichever occurs later. This means that if your child turns 18 during their senior year of high school, the child support obligation will continue until the end of the school year in which they graduate.

There is a major exception to this rule for a child with a disability. If a court finds that a child is disabled and will require substantial care and personal supervision after their 18th birthday, the court can order that child support continue for an indefinite period, for as long as the child continues to meet the legal definition of disabled. The disability must have existed, or the cause of the disability must have been known to exist, on or before the child's 18th birthday.

The termination date of child support should be clearly stated in your court order. While the general rules seem simple, there can be unique circumstances. For example, the obligation can terminate earlier if the child marries, is otherwise emancipated, or dies. To fully understand your rights and obligations regarding the duration of child support, a consultation with an attorney is recommended.

72. What happens if the paying parent loses their job or their income changes?

A child support order is based on the parent's income at the time the order is made. If the paying parent's income later changes significantly—for example, due to an involuntary job loss, a promotion, or a major pay cut—the existing child support order does not automatically change. The court order remains in full force and effect until it is formally modified by a judge.

To change the child support amount, the parent whose circumstances have changed must file a "Petition to Modify" the order. They must be able to prove that there has been a "material and substantial change" in circumstances. A significant and involuntary change in income is a classic example of such a change. The parent cannot simply decide to pay less; they must get a new court order.

It is critical to act quickly. A court can only modify child support payments going forward from the date the other parent was served with the modification lawsuit. The court cannot go back and retroactively reduce support that has already come due. If you have experienced a major change in income, you should contact an attorney immediately to discuss filing a modification suit to protect yourself from accruing large arrearages.

73. What is "retroactive" child support?

Retroactive child support is support that a court orders for a period in the past when the parents were separated but no child support order was in place. This most often arises in cases where the parents were never married and one parent files a suit to establish parentage and support long after the child was born.

The court can order the non-custodial parent to pay support for the time before the lawsuit was filed. There is a legal presumption that it is in the child's best interest for the court to order retroactive support for the four years preceding the date the petition was filed. The court will calculate the amount of retroactive support based on what the parent's net resources were during that past period.

The court can decide not to order retroactive support, or to order it for a shorter period, if the paying parent can show a good reason, such as that they were not aware they were the father of the child. The court can also order support going back to the date of the child's birth if it finds the parent knew they were the father and was intentionally avoiding their support obligation. Claims for retroactive support can be complex, and you should seek legal advice to understand your rights or potential liability.

74. What are child support "arrearages"?

"Arrearages" is the legal term for the amount of unpaid child support that has accumulated when a parent fails to make their court-ordered payments. Each time a child support payment is missed, it becomes a final judgment for the amount due. The total of all missed payments is the arrearage.

When a parent files a motion to enforce a child support order, they will ask the court to confirm the total amount of arrearages and render a cumulative money judgment for that amount. A court has a mandatory duty to confirm the arrearages and grant a judgment. A judge in Texas has no authority to reduce, forgive, or modify the amount of child support arrearages, except in very limited and specific circumstances. This means that once a payment is missed, the debt is owed and cannot be retroactively erased by the court.

Calculating the exact amount of arrearages, including any credits for payments made, can be a detailed process. The Office of the Attorney General often maintains payment records, but in private cases, the parties must provide their own proof. If you are owed child support, or if you are accused of being in arrears, it is critical to have an attorney help you ensure the final judgment amount is accurate.

75. Does interest accrue on unpaid child support?

Yes. In Texas, unpaid child support accrues interest. Under the Texas Family Code, a child support payment that is not timely made constitutes a final judgment for the amount due. This judgment automatically begins to accrue interest at a rate of six percent per year, calculated as simple interest.

This means that the total amount owed can grow significantly over time. The interest applies to the principal amount of each missed payment from the date it was due. When a court confirms the total arrearage in an enforcement action, the judgment will include both the principal amount of the missed payments and all the accrued statutory interest.

This automatic accrual of interest is a powerful tool to compensate the receiving parent and the child for the delay in payment and to incentivize the paying parent to stay current. Calculating the precise amount of interest owed can be complicated, often requiring a payment-by-payment analysis over many years. Whether you are seeking to collect or are obligated to pay, an attorney can help you ensure the interest calculation is performed correctly according to the statute.

76. How is child support enforced if the other parent doesn't pay?

If a parent fails to pay court-ordered child support, the other parent has several powerful legal tools to enforce the order. The primary method is to file a "Motion for Enforcement" with the court that issued the child support order. This motion details each payment that was missed and asks the judge to compel the non-paying parent to comply.

The Texas Constitution was specifically amended to allow for the garnishment of wages for the enforcement of court-ordered child support, making it one of the few debts for which this powerful remedy is available. Other enforcement remedies include holding the non-compliant parent in contempt of court, which can lead to fines and jail time, and obtaining a money judgment for the total amount of unpaid support (the arrearages). Once you have a judgment, you can pursue collection remedies like placing liens on property, levying bank accounts, and intercepting tax refunds or lottery winnings.

The court takes the obligation to support a child very seriously. As one court noted, unpaid child support is an "unfulfilled duty to the child." The enforcement process, however, is highly technical and requires strict adherence to procedural rules. An experienced family law attorney can help you choose the most effective enforcement strategy and navigate the court process to collect the support your child is owed.

77. What is a "wage withholding order"?

A wage withholding order, also known as an income withholding order, is the most common and effective tool for collecting child support in Texas. It is a court order sent directly to the paying parent's employer, instructing the employer to deduct the child support payments directly from the parent's paycheck each pay period and send the money to the state's official child support disbursement unit.

In virtually every case where child support is ordered, the court will also sign a wage withholding order. This is a mandatory, standard procedure. It is not a punishment and does not imply that the parent is unwilling to pay. It is simply the state's preferred method for ensuring that payments are made consistently and on time, and that there is an official record of all payments made.

If the paying parent changes jobs, it is their legal duty to notify the court and the other parent of their new employment information so that a new withholding order can be sent to the new employer. The system is designed to be as automatic as possible to prevent missed payments. If you are not receiving support and believe the other parent is employed, an attorney can help you ensure a wage withholding order is properly issued and served.

78. Can a parent go to jail for not paying child support?

Yes. Failing to pay court-ordered child support is a violation of a direct order from a judge, and it can be punished by contempt of court. A parent seeking to enforce a support order can ask the court to hold the non-paying parent in contempt. If the judge finds, beyond a reasonable doubt, that the parent was ordered to pay, knew about the order, and had the ability to pay but chose not to, the judge can make a finding of contempt. Contempt proceedings were a central issue in the cases of *McBride v. McBride* and *In re N.V.R.*

Contempt can have two consequences. First, the judge can sentence the parent to jail for up to 180 days for each violation as punishment for “criminal contempt.” Second, the judge can order the parent confined to jail under “civil contempt” until they pay a specific “purge” amount—a lump sum payment that goes toward the back child support. The purpose of civil contempt is not to punish, but to coerce compliance with the order.

Jail time is considered a remedy of last resort and is typically reserved for cases of willful and repeated non-payment. The court must find that the parent had the financial ability to make the payments. Inability to pay is a defense to contempt. Because the consequences are so severe, it is critical for any parent facing a contempt action to have legal representation. Likewise, if you are seeking to use this powerful tool, an attorney can ensure it is done correctly.

79. Can my driver’s license or other professional licenses be suspended for unpaid child support?

Yes. In addition to wage withholding and contempt, Texas has other administrative tools to encourage the payment of child support. One of the most effective is license suspension. If a parent is delinquent in their child support payments, the Office of the Attorney General or a private attorney can file a proceeding to have the parent’s various licenses suspended.

This can include the suspension of a driver’s license, a professional license (such as a license to practice law, medicine, or cosmetology), a commercial driver’s license, and even hunting and fishing licenses. The purpose of this remedy is to create a significant incentive for the parent to make arrangements to pay their back child support.

Before a license can be suspended, the parent must be given notice and an opportunity for a hearing. The suspension can usually be avoided or lifted if the parent enters into a payment plan to catch up on the arrearages. This is a powerful enforcement tool that can have a serious impact on a person’s livelihood. If you have received a notice of a potential license suspension, you should contact an attorney immediately to understand your options.

80. Does receiving public assistance affect child support?

If a parent or child is receiving certain types of public assistance, such as Temporary Assistance for Needy Families (TANF) or Medicaid, it can impact the child support process. When a custodial parent applies for these benefits, they are generally required to assign their right to collect child support to the state.

This means that the Office of the Attorney General (OAG) will step in to establish and enforce a child support order against the non-custodial parent. Any child support payments collected by the OAG are then used to reimburse the state for the cost of the public assistance benefits provided to the family. The family may receive a small portion of the support collected, but the bulk of it often goes back to the state.

The OAG's child support division handles a very high volume of cases, and while they provide essential services, they do not represent either parent. Their client is the State of Texas. If you are involved in a case with the OAG, you still have the right to hire your own private attorney to represent your personal interests, negotiate on your behalf, and ensure your rights are protected throughout the process. A consultation with a private attorney can help you understand how the OAG's involvement affects your case.

Section E — Modifications and Enforcement: 20 FAQs

81. What does it mean to "modify" a court order?

Life is not static, and after a divorce or custody case is finalized, circumstances can change in ways that make the original court order unworkable or no longer in the child's best interest. "Modification" is the legal process used to formally change the terms of a final court order related to children, such as orders for conservatorship (custody), possession (visitation), or child support.

To begin this process, a person must file a new lawsuit called a "Petition to Modify the Parent-Child Relationship." This petition is typically filed in the same court that issued the last order, as that court generally retains what is called "continuing, exclusive jurisdiction." Simply agreeing with the other parent to do something different is not enough; informal agreements are not legally enforceable and the original order remains in full effect until a new one is signed by a judge.

The modification process allows the legal orders governing your family to adapt to new realities, whether that involves a parent's new job, a child's changing needs, or a new living situation. Because modification requires a new lawsuit and a high burden of proof, it is essential to understand if your changed circumstances meet the legal threshold. A consultation can help you assess the strength of your case for a modification.

82. What is the legal standard for modifying a custody or child support order?

You cannot change a court order simply because you do not like it. To successfully modify a custody or child support order in Texas, you must prove two things to the court. First, you must show that there has been a “material and substantial change” in the circumstances of the child or one of the parents since the date the last order was signed. Second, you must show that the change you are requesting is in the “best interest of the child.”

A “material and substantial change” must be a significant development that alters the situation in a meaningful way. For example, a minor fluctuation in a parent’s income might not be enough, but a long-term job loss or a promotion with a 50% raise likely would be. The court’s primary consideration will always be the child’s best interest, and it will not modify an order unless the evidence shows the change is necessary for the child’s well-being and stability. The policy is to prevent constant relitigation over children.

This two-part legal standard creates a high hurdle. The court prioritizes stability for children and is often reluctant to change an existing order unless there is a compelling reason. Meeting this burden of proof requires strong, persuasive evidence. An attorney can help you determine if your situation meets the legal standard for modification and what evidence you will need to present to the court.

83. What are some examples of a “material and substantial change”?

What constitutes a “material and substantial change” is highly fact-specific and depends on the circumstances of each case. For a custody modification (conservatorship or possession), common examples include one parent moving a significant distance away, a parent’s remarriage that introduces a new and potentially disruptive person into the child’s life, or a change in a parent’s lifestyle that could endanger the child, such as substance abuse or criminal activity. A child who is 12 or older expressing a strong preference to change which parent they primarily live with can also be a basis for modification.

For a child support modification, the change is almost always financial. A significant and involuntary decrease or increase in the paying parent’s income is the most common reason to modify support. Other examples could include a change in the child’s health insurance costs, the child developing a medical condition that requires expensive care, or a change in the possession schedule that results in the paying parent having the child for a much greater amount of time.

It is not enough for a change to have occurred; you must prove that the change is both “material” and “substantial.” The court will look at the big picture to see how the change impacts the child’s life. An attorney can help you analyze your specific circumstances to determine if they rise to the level required to file a modification suit.

84. How do I start a modification case?

A modification case is a new lawsuit. The process begins when one party files a “Petition to Modify the Parent-Child Relationship.” This formal legal document is filed with the district clerk in the county that has continuing, exclusive jurisdiction over your child—usually, this is the same court that signed your last custody or support order. The petition will identify the parties, state that the court has jurisdiction, and describe the material and substantial change in circumstances that warrants the modification.

After the petition is filed, the other party must be formally notified of the lawsuit through "service of process," just as in an original divorce case. This typically involves having a sheriff, constable, or private process server personally deliver a copy of the lawsuit to them. Once served, the other party has a specific amount of time to file a formal Answer with the court.

From there, the case proceeds much like any other family law case. It may involve discovery (exchanging information), temporary orders, mediation, and potentially a final trial if no agreement can be reached. Because the procedural rules must be followed precisely, having an attorney guide you through the process of initiating a modification is highly recommended to ensure it is done correctly from the start.

85. Can we get temporary orders during a modification case?

Yes. Just as in an original divorce or custody suit, you can ask the court to issue temporary orders at the beginning of a modification case. These temporary orders will put rules in place that last until the modification is finalized. This is particularly important if there is an urgent issue that needs to be addressed immediately.

For instance, if you are seeking to modify custody because you believe the child is in an unsafe environment, you can ask the court for a temporary order changing where the child lives while the case is pending. For child support modifications, if a parent has had a sudden and significant drop in income, they can ask for a temporary order to reduce the support amount right away, rather than continuing to accrue arrearages at the old rate while waiting for a final hearing.

To get temporary orders, you will typically have a hearing where the judge listens to limited evidence from both sides and makes a decision based on the best interest of the child and the circumstances presented. These hearings happen quickly and are critically important. A consultation with an attorney can help you prepare to present your case for temporary relief effectively.

86. What does it mean to "enforce" a court order?

Enforcement is the legal process of forcing a party to comply with a court order that they have violated. A final decree or other family law order is not a suggestion; it is a legally binding directive from a judge. If a party chooses to ignore their obligations under the order, the other party can take them back to court to ask for help compelling their compliance.

The enforcement process can be used for any part of a family law order, including the possession schedule (visitation), child support, medical support, and the division of property and debts. For example, if your ex-spouse is refusing to let you see your children during your court-ordered weekends, or if they have stopped paying child support, you can file an enforcement action.

It is important to understand that an enforcement action is not for changing the terms of the order. Its only purpose is to make a person follow the order as it is currently written. The primary tool for this is filing a "Motion for Enforcement" with the court. An attorney can help you determine if an enforcement action is the right tool for your situation and can draft the necessary documents to get the process started.

87. What is a "Motion for Enforcement"?

A "Motion for Enforcement" is the specific legal document you file with the court to begin an enforcement action. This is a highly technical pleading that must be drafted with great precision. The motion must identify the exact provision of the order that you allege was violated and state how the other party failed to comply.

For each alleged violation, the motion must state the date, time, and place of the violation. For example, a motion to enforce child support would list each missed payment by the date it was due and the amount that was unpaid. A motion to enforce a possession order would list the specific date and time that the other party failed to turn over the child as required. A motion that is vague or fails to include this level of detail can be found to be legally insufficient and may be dismissed by the court. As seen in *In re N.V.R.*, jurisdictional and procedural requirements are strictly scrutinized.

The motion concludes by asking the court for specific "relief," or remedies. This can include ordering the other party to comply, ordering make-up visitation time, granting a money judgment for unpaid support, holding the other party in contempt of court, and ordering them to pay your attorney's fees. Because these motions are so technical, having an attorney draft one is crucial to its success.

88. What happens if the other parent doesn't follow the possession order (visitation schedule)?

A parent's denial of court-ordered possession of a child is a serious violation. If the other parent refuses to follow the visitation schedule, you can file a Motion for Enforcement. The court has several tools to address this. The most direct remedy is to order the parent to comply and turn over the child. The court can also grant you additional "make-up" visitation time to compensate you for the periods of possession you were wrongfully denied.

In addition to ordering compliance and make-up time, the court can punish the non-compliant parent. The judge can hold the parent in contempt of court, which could result in fines or even jail time. The court can also order the non-compliant parent to pay for all the attorney's fees and court costs you had to spend to bring the enforcement action. In the case *McBride v. McBride*, for example, a mother was held in contempt for denying the father visitation on two specific occasions and was sentenced to jail time (though the commitment was suspended).

No parent should be denied their court-ordered time with their child. The law provides powerful remedies to protect your rights. If your possession schedule is being violated, you should document every incident and consult with an attorney immediately to discuss your options for enforcement.

89. What are the penalties for violating a court order?

The penalties for violating a court order can be severe. The most powerful tool a court has is its "contempt" power. If a judge finds that a party has willfully disobeyed a lawful court order, the judge can hold that party in contempt of court.

There are two types of contempt, each with different penalties. "Criminal contempt" is punitive and is designed to punish the person for past violations. For each separate violation, the judge can sentence the person to up to 180 days in the county jail and/or impose a fine of up to $500. "Civil contempt" is coercive, designed to force compliance. Here, the judge can order the person to be confined in jail until they comply with the order. For example, a judge might order a parent to remain in jail until they pay a significant portion of their past-due child support.

In addition to contempt, the court can order other remedies, such as granting a money judgment for any financial losses, ordering make-up visitation time, and ordering the violating party to pay the other side's attorney's fees and costs. The serious nature of these potential penalties underscores how importantly the courts treat compliance with their orders. An attorney can advise you on the potential penalties in your specific enforcement case.

90. What is "contempt of court"?

Contempt of court is the act of willfully disobeying a lawful order from a judge. It is a quasi-criminal proceeding, meaning that a person accused of contempt has certain constitutional rights, including the right to be represented by an attorney. To find a person in contempt, the judge must find, beyond a reasonable doubt, that there was a clear court order, the person knew about the order, and they intentionally failed to comply with it.

As discussed, contempt can be either criminal or civil. An example helps illustrate the difference. In *McBride v. McBride*, the father was found to have missed five specific child support payments. For those past acts of disobedience, the court found him in criminal contempt and sentenced him to 120 days in jail for each violation as punishment. The court also found that he owed $35,888 in back child support. To coerce him to pay that amount, the court held him in civil contempt and ordered him confined until he paid the full arrearage. Both jail sentences were suspended, and he was placed on community supervision (probation).

Contempt is a powerful but complex legal tool. The pleadings must be precise, and the standard of proof is high. Whether you are seeking to hold someone in contempt or are facing a contempt charge yourself, the stakes are very high, and you should seek legal representation immediately.

91. How do I defend myself against a motion for enforcement?

If you have been served with a Motion for Enforcement, it is critical that you take it seriously and respond. The most common defense to a contempt allegation is an "affirmative defense." This means you admit that you did not follow the order but argue that you had a legally valid excuse.

For the enforcement of child support, the primary affirmative defense is "inability to pay." To succeed with this defense, you must prove that during the period you missed payments, you did not have the money to pay, you had no property that could be sold to raise the money, and you made unsuccessful attempts to borrow the money. It is a very difficult defense to prove. For enforcement of possession, a valid defense might be that you could not comply for reasons beyond your control (e.g., a flight was canceled, or the child was hospitalized).

Another potential defense is that the underlying court order is too vague or ambiguous to be enforced by contempt. If the language of the order is not clear and specific enough for a person to know exactly what they are required to do, a court cannot hold them in contempt for violating it. Because a contempt finding can lead to jail time, you have significant legal rights. An experienced attorney can evaluate the motion against you and help you mount a proper defense.

92. Can I get my attorney's fees paid if I have to file an enforcement action?

Yes. Texas law recognizes that a party who is forced to hire an attorney and go to court just to get what they were already promised in a prior order should not have to bear that financial burden. In enforcement actions for child support and possession orders, the law states that the court "shall" award the successful party their reasonable attorney's fees and all court costs.

This means that if you win your enforcement case, it is mandatory for the judge to order the non-compliant party to reimburse you for your legal fees. This is a powerful provision that helps make enforcement accessible. In cases involving the enforcement of a property division, the court "may" award costs and attorney's fees, meaning it is discretionary rather than mandatory.

The goal of this rule is to make the wronged party whole. The threat of having to pay the other side's legal fees can also be a strong deterrent that encourages compliance. If you are considering an enforcement action, you should discuss the likelihood of recovering your attorney's fees with your lawyer.

93. What is a child support arrearage judgment?

As previously noted, every child support payment that is not made on time becomes a final judgment for the amount due, plus interest. In an enforcement action, the person seeking payment will ask the court to confirm the total amount of all missed payments and accrued interest and render one "cumulative money judgment" for the full amount. This is known as an arrearage judgment.

Under the Texas Family Code, if a motion for enforcement requests a money judgment for arrearages, the court has a mandatory duty to confirm the amount and render the judgment. A judge has no authority to reduce or forgive past-due child support; the debt is fixed. This was a key issue in *George v. Jeppeson*, where the court emphasized that a trial court cannot forgive or modify arrearages.

Once you have this arrearage judgment, it is a powerful collection tool. It can be enforced like any other civil judgment in Texas. This means you can use it to place liens on the other parent's property (like a house or land), garnish their bank accounts, or intercept non-wage income. An attorney can help you not only obtain an arrearage judgment but also take the next steps to actively collect on it.

94. How are property division orders enforced? Is it different from custody/support?

Yes, the enforcement of property division orders has some unique rules. While the process also begins with filing a suit to enforce, the remedies can be different. Unlike child support, which is a continuing duty, a property division is a one-time transfer of assets and debts. The Texas Family Code gives a court the power to render "further orders" to help implement or clarify the original division, as long as these new orders do not alter the substantive division of property.

For example, if your decree awarded you a specific piece of furniture and your ex-spouse refuses to turn it over, you can file an enforcement suit. The court could issue a clarifying order specifying a date and time for the turnover, or it could grant you a money judgment for the value of the furniture. If your ex was ordered to sell the house and refuses, the court could appoint a receiver to take control of the property and complete the sale.

While contempt is available for property division violations, courts use it more cautiously than in child support cases due to constitutional prohibitions against imprisonment for debt. However, a failure to turn over a specific piece of property (as opposed to failing to pay a sum of money) is more likely to be enforced through contempt. An attorney experienced in property enforcement can advise you on the best remedy to seek.

95. What is a wage withholding order and how is it used in enforcement?

A wage withholding order (or income withholding order) is a court order sent to the paying parent's employer that directs the employer to deduct child support payments directly from the employee's paycheck. The employer then sends the funds to the Texas Child Support Disbursement Unit, which processes the payment and forwards it to the receiving parent. This is the primary and most effective method of ensuring regular payment of child support.

In an enforcement case, if a wage withholding order is not already in place, the court will almost certainly issue one as part of its ruling. This is made possible by a specific provision in the Texas Constitution that allows for the garnishment of current wages for court-ordered child support payments, which is an exception to the general rule protecting wages from garnishment.

This tool is proactive and preventative. It reduces the likelihood of future missed payments by making the process automatic. If you are owed back child support and the paying parent is employed, ensuring a withholding order is in place is one of the most important steps your attorney will take in an enforcement action.

96. Can a court modify an agreement we made in mediation?

Yes. A Mediated Settlement Agreement (MSA) is a binding contract that resolves the issues in your case *at that time*. Once the MSA is approved by the court and incorporated into a final order, that final order becomes the governing directive for your family. Just like any other final order, it is subject to future modification if the legal standards are met.

The fact that you originally agreed to the terms in mediation does not prevent you from seeking a modification later on. If a “material and substantial change” in circumstances occurs after the order is signed, you have the right to file a Petition to Modify. The court will then analyze whether a change is warranted based on the new circumstances and the best interest of the child.

For example, if you agreed to a certain child support amount in mediation, but two years later the paying parent gets a major promotion and their income doubles, you could file a suit to modify and increase the child support. The original agreement does not lock you in forever if the facts on the ground change significantly. An attorney can review your prior agreement and your new circumstances to advise you on a potential modification.

97. What if we just agree to change something? Do we still need to go to court?

This is a critical point that causes frequent problems: Yes, you absolutely must go back to court. Any informal agreement you make with the other parent—even if it’s in writing, signed, and notarized—is not legally enforceable if it contradicts your existing court order. The court order is the only document that matters, and it remains in full force and effect until a judge signs a new one.

For example, if the paying parent loses their job and you verbally agree to let them pay a lower amount of child support for a while, the original, higher amount is still legally accruing under the court order. If you later have a falling out, you could go back to court and enforce the original order, and they would owe you the full amount of back child support, regardless of your informal agreement. The court has held that “a party who agrees to a void order has agreed to nothing,” and the same principle applies to informal modifications of valid orders.

To make any change legally binding and permanent, you must formalize it by having an attorney draft an “Agreed Order of Modification” that reflects your new agreement. Both parties sign it, and it is then submitted to the judge for their signature. This protects both sides and ensures there are no future misunderstandes. An attorney can handle this process for you efficiently.

98. I have a court order from another state. How can I modify or enforce it in Texas?

Handling a court order from another state involves a special set of rules governed by uniform state laws. To enforce an out-of-state order in Texas, you must first "register" it here. This is a formal legal process where you file a certified copy of the order with a Texas court, along with other required paperwork. Once properly registered, the out-of-state order can be enforced by a Texas court just as if it were a Texas order.

Modifying an out-of-state order is more complex and has strict jurisdictional requirements. For custody orders, Texas generally cannot modify another state's order unless Texas has become the child's "home state" (where the child has lived for the six months prior to filing) and the court in the original state no longer has jurisdiction or has declined to exercise it. For child support orders, the rules are even stricter; generally, the original state retains jurisdiction to modify support as long as one of the parties or the child still lives there.

These interstate jurisdiction issues are governed by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the Uniform Interstate Family Support Act (UIFSA). They are among the most technical aspects of family law. If you have moved to Texas with an order from another state, a consultation with an attorney is essential to understand your rights and options for enforcement and modification.

99. What is "standing" and why is it important in a modification case?

"Standing" is the legal term for a person's right to bring a lawsuit before a court. It is a component of subject matter jurisdiction, meaning that if a person does not have standing, the court lacks the authority to hear the case at all. In a family law context, you must have a legally recognized connection to the child or the case to be able to file a suit.

In a modification case, the parents who were parties to the original order automatically have standing to file a petition to modify it. For anyone else, such as a grandparent or other relative, to file a modification, they must meet very specific and difficult statutory requirements to establish their standing. This often requires showing that the child's present circumstances would significantly impair their physical health or emotional development. The Texas Supreme Court has been clear that standing must be established for each individual party.

The courts strictly enforce standing requirements to protect the rights of parents to raise their children without interference from third parties. If you file a case without standing, it will be dismissed. An attorney can analyze your relationship to the child and the case to determine if you have the legal standing required to file a modification suit.

100. What kind of evidence do I need to win a modification or enforcement case?

The evidence you need depends entirely on what you are trying to prove. For an enforcement action, your evidence must be precise and documentary. To enforce child support, you need a clear payment history showing which payments were made and which were missed. To enforce a possession order, you need a detailed calendar of the dates and times you were denied visitation, supported by any text messages, emails, or other communications that prove the denial.

For a modification case, your evidence needs to tell a story. You need to show the court both the "material and substantial change" and why your requested modification is in the child's "best interest." For a support modification, this means financial documents like tax returns, pay stubs, and profit and loss statements. For a custody modification, the evidence can be much broader and may include report cards showing a decline in school performance, testimony from teachers or counselors, photos or videos, and communications between the parents that show conflict or a lack of cooperation.

Whether you are seeking to modify or enforce an order, the success of your case will depend almost entirely on the quality and admissibility of your evidence. An attorney's most important job is to help you identify, gather, and present that evidence to the court in the most persuasive way possible. Schedule a consultation to begin building your case today.

Section F — Preparing for Your Family Law Case: Practical Steps & Checklists: 20 FAQs

101. What documents should I gather before my first consultation?

Being prepared for your initial consultation with a family law attorney can make the meeting incredibly productive. The more information you can provide upfront, the more specific and useful the attorney's initial advice will be. Start by gathering any existing court orders related to you, your spouse, or your children. This includes any previous divorce decrees, custody orders, child support orders, or protective orders.

Next, create a simple, one-page timeline of your relationship. Include key dates such as the date of marriage, dates of birth for your children, the date of separation, and a brief chronology of major events that are relevant to your case. Also, prepare a list of your primary questions and goals. What are you most concerned about? What outcome are you hoping for regarding your children and your property? Thinking through these questions ahead of time helps focus the conversation.

Finally, gather some basic financial information. This doesn't need to be exhaustive for the first meeting, but having recent pay stubs for both you and your spouse, your most recent tax return, and a general list of your major assets (house, cars, bank accounts) and debts (mortgage, credit cards) will give the attorney a preliminary understanding of your financial situation. The goal is to give the attorney a snapshot of your life so they can give you a realistic assessment of your case. A consultation is the first step in building your legal strategy, and preparation makes it count.

102. What financial documents are most important in a divorce?

In a divorce, full financial disclosure is not just expected; it's required. The discovery process is designed to ensure both parties have a complete picture of the marital estate.

You should begin gathering these documents as soon as possible, as it can take time to collect them all. The most important documents are those that establish income, assets, and debts.

For income, you will need your tax returns for the last three to five years (both personal and business), pay stubs for the last six months for both you and your spouse, and any W-2 or 1099 forms. For assets, you'll need statements for all financial accounts for the period of the marriage, including checking, savings, investment, and retirement accounts (401(k)s, IRAs, pensions). You will also need deeds for any real estate, titles for vehicles, and any documentation related to life insurance policies or stock options.

For debts, gather statements for all mortgages, car loans, student loans, and credit cards. It is also helpful to create a monthly budget outlining your current living expenses. This organized financial information will be used to create your Sworn Inventory and Appraisement, a critical document that lists everything you own and owe. An attorney can provide you with a comprehensive checklist and help you use these documents to build a clear financial picture for the court.

103. What documents are important for a custody case?

In a custody case, the central focus is the "best interest of the child." The documents you need to gather should help paint a picture of your child's life and your role as a parent. Start with the child's official records: their birth certificate, Social Security card, and any past or current passports. You should also gather all school records, including report cards, attendance records, disciplinary notices, and any communications with teachers or school administrators.

Medical records are also crucial. This includes a list of all doctors, dentists, and therapists the child has seen, along with any relevant medical reports, psychological evaluations, or immunization records. If your child has special needs, gather all documentation related to their diagnosis and treatment plan. This information helps the court understand the child's specific needs and which parent has been more involved in meeting them.

Finally, evidence of your parenting role is key. Collect photos and videos of you engaging in activities with your child. Keep a detailed calendar that shows the possession schedule and documents your involvement in the child's daily life, such as taking them to school, doctor's appointments, and extracurricular activities. Any communication between you and the other parent, such as emails or text messages related to the children, should also be preserved. An attorney can help you organize this information into a compelling narrative that supports your custody goals.

104. How can I prove my income if I'm self-employed?

Proving income for a self-employed individual is more complex than for a W-2 employee, as income can be inconsistent and expenses can be difficult to verify. The key is to provide clear, detailed, and credible financial records. The most important document is usually a Profit and Loss (P&L) statement for your business. This should be prepared on at least a quarterly, if not monthly, basis and should clearly show all revenue and all legitimate business expenses.

In addition to a P&L, you will need to provide your business and personal tax returns for the past several years. For a sole proprietorship, this would include the Schedule C from your Form 1040. You should also be prepared to produce bank statements for all business and personal accounts to show the flow of money. It is crucial that your business expenses are legitimate and well-documented with receipts; personal expenses run through the business will likely be added back in as income by the court.

Because of the complexity and the potential for suspicion, transparency is your best ally. It is far better to be upfront and provide thorough documentation than to appear to be hiding something. In some cases, it may be necessary for a forensic accountant to analyze the business records. An attorney can provide invaluable guidance on how to present your self-employment income clearly and credibly to the court to ensure a fair child support or property division outcome.

105. What’s the best way to collect evidence like text messages and emails?

Electronic communications like text messages, emails, and social media messages are frequently used as evidence in family law cases. The most important rule is to preserve them in their original format. Do not delete them. The best way to capture text messages is to take screenshots of the conversation on your phone. Make sure the screenshots clearly show the date and time of the message and who sent it. For long conversations, take a series of overlapping screenshots.

Once you have the screenshots, you should back them up by emailing them to yourself or saving them to a cloud storage service like Google Drive or Dropbox. You can then organize them by date and topic. For emails, you can save them as PDFs or simply keep them organized in a dedicated folder in your email account. Avoid the temptation to alter or edit the communications in any way; doing so can destroy their credibility and potentially lead to sanctions from the court.

There are also forensic software programs and services that can download the entire contents of a phone, including deleted messages. These services can be expensive but may be necessary in highly contentious cases where authenticity is a major issue. Because there are specific rules of evidence for admitting electronic communications in court, you should consult with an attorney to ensure you are preserving and collecting this critical evidence in a legally admissible way.

106. Should I be careful about what I post on social media?

Yes, absolutely. During a family law case, you should assume that anything you post on social media (Facebook, Instagram, Twitter, TikTok, etc.) will be seen by the other party, their attorney, and the judge. Social media posts are frequently used as evidence, and a seemingly innocent post can be taken out of context and used against you.

You should immediately review and tighten your privacy settings on all social media accounts. However, do not assume that a “private” setting makes your posts safe; a “friend” can always screenshot your post and share it. The safest course of action is to stop posting altogether while your case is pending. At a minimum, you should refrain from posting anything about your divorce, the other parent, your children, or your social life. Posts showing you on vacation, making large purchases, or at parties can be used to argue about your finances or your fitness as a parent.

It is also critical that you do not delete past posts or your entire account once a case has started. This could be viewed by the court as “spoliation” or destruction of evidence, which can lead to serious sanctions. The best policy is a simple one: when in doubt, don’t post. Discuss your social media use with your attorney to get clear guidance on how to protect yourself and your case.

107. How can I budget for the costs of a family law case?

Budgeting for a family law case is challenging because the total cost can be unpredictable. The biggest variable is the level of conflict. An amicable, uncontested case will cost far less than a highly litigious one that goes to trial. The first step in budgeting is to understand how your attorney will bill you. Most family lawyers work on an hourly basis and require an upfront “retainer,” which is a lump sum deposited into a trust account from which your attorney’s fees are paid as they are earned.

When you hire an attorney, you should have a frank discussion about their hourly rate, the rates of any other staff who might work on your case (like paralegals), and the size of the initial retainer. You should also discuss other potential costs, such as court filing fees, fees for service of process, and the cost of mediation. If your case might require expert witnesses, such as a business valuator or a custody evaluator, you will need to budget for their fees as well, which can be substantial.

To prepare financially, it is wise to start setting aside funds as early as possible. If you are the lower-earning spouse, your attorney may be able to ask the court to order the other spouse to contribute to your attorney’s fees as part of a temporary orders hearing. Being open and honest with your attorney about your financial situation will help them work with you to manage the costs and make strategic decisions that are mindful of your budget. A consultation can provide you with a clearer understanding of the potential costs for your specific case.

108. How do I choose the right family law attorney for my case?

Choosing the right attorney is one of the most important decisions you will make in your family law case. You are not just hiring a legal technician; you are choosing a guide and an advocate who will help you navigate a deeply personal and stressful process. Start by looking for an attorney who specializes in family law and who has significant experience practicing in the specific county where your case will be heard, as they will be familiar with the local judges and court procedures.

Board certification is another important credential to look for. An attorney who is Board Certified in Family Law by the Texas Board of Legal Specialization has passed a rigorous exam and has demonstrated a high level of expertise in the field. Beyond credentials, you need to find someone whose approach and communication style are a good fit for you. Do you want an aggressive litigator or a skilled negotiator? Do you prefer frequent updates, or are you comfortable with less communication?

The best way to assess this is through an initial consultation. Use that meeting not just to get legal advice, but also to interview the attorney. Ask about their experience with cases like yours, their legal philosophy, and how they would approach your situation. Ultimately, you need to choose an attorney you trust and with whom you feel comfortable. Schedule a consultation to see if our firm and our approach are the right fit for you and your goals.

109. How can I best prepare for mediation?

Mediation is a critical stage in most family law cases, and preparation is the key to success. Your goal is to reach a final settlement, so you need to go into the process with a clear plan. The first step is to work with your attorney to define your goals. Make a list of what you absolutely must have (your “needs”), what you would like to have (your “wants”), and what you are willing to compromise on.

Next, you need to be thoroughly familiar with the facts of your case, especially the finances. Review your Sworn Inventory and Appraisement and make sure you understand the value of your assets and debts. If custody is an issue, review the key events and facts that support your position. Your attorney will likely prepare a mediation brief or a summary for the mediator outlining your position, and you should review this document carefully.

Finally, prepare for a long and potentially draining day. Mediation can take a full day or even longer. Get a good night’s sleep, bring snacks and water, and be prepared for emotional ups and downs. Trust your attorney to guide you through the negotiation process, listen to their advice, and try to keep an open mind. A successful mediation can save you an enormous amount of time, money, and stress. An attorney can help you develop a comprehensive mediation strategy designed to achieve your goals.

110. What is an “expert witness” and will I need one?

An expert witness is a person with specialized knowledge, skill, experience, or training in a particular field who is hired to provide their professional opinion to the court. In family law, experts are often used to help the court understand complex issues that are beyond the knowledge of a layperson. The need for an expert depends entirely on the specific issues in your case.

Common types of experts in divorce cases include business valuation experts, who are hired to determine the fair market value of a family-owned business, and forensic accountants, who can trace separate property claims or uncover hidden assets. In custody cases, the court might appoint a custody evaluator or a psychologist to conduct a comprehensive evaluation of the family and make a recommendation to the court about what is in the child's best interest. You might also need a real estate appraiser to value a home or a vocational expert to assess a spouse's earning capacity.

Hiring experts can be expensive, as they bill hourly for their time, but their testimony can be essential to winning your case. The decision to hire an expert is a strategic one that should be made in consultation with your attorney. If your case involves complex property or custody issues, an attorney can help you determine if an expert is necessary and can help you find a qualified and credible professional.

111. How do I create a safety plan if I'm concerned about family violence?

If you are in a situation involving family violence, your physical safety and the safety of your children are the absolute top priority. A safety plan is a set of practical steps you can take to protect yourself. If you are still living with the abuser, this includes identifying a safe place you can go in an emergency, like the home of a trusted friend or a family violence shelter. Pack an emergency bag with essentials like cash, keys, medications, and important documents, and keep it in a hidden but accessible place.

Your safety plan should also include securing your important personal documents. Gather your and your children's birth certificates, Social Security cards, passports, and any financial records you can safely access. Make copies and leave them with a trusted person. You should also change your passwords for all online accounts, including email, social media, and online banking, and consider getting a new phone or a pre-paid "burner" phone that your abuser does not know about.

The legal system offers powerful protections. You can seek a Protective Order, which can legally prohibit the abuser from coming near you or contacting you. You can also request a Temporary Restraining Order when you file for divorce. Your safety is paramount. If you have any concerns about family violence, you should contact a family law attorney and a local family violence resource immediately to get help creating a comprehensive safety and legal plan.

112. What is "electronic discovery" or "e-discovery"?

"Electronic discovery," or "e-discovery," is the process of requesting, obtaining, and exchanging electronically stored information (ESI) for use as evidence in a lawsuit. In today's world, a vast amount of information is created and stored electronically. E-discovery in a family law case can include emails, text messages, social media posts, photos, videos, computer files, location data from a smartphone, and much more.

The same rules of discovery that apply to paper documents apply to ESI. This means you have a duty to preserve all potentially relevant electronic information once a lawsuit is filed or anticipated. You cannot delete emails, text messages, or social media posts that might be relevant to the case. Doing so can result in serious sanctions from the court. Your attorney can send formal discovery requests to the other party asking for specific types of ESI, and they can also issue subpoenas to third parties like phone companies or social media platforms.

Navigating e-discovery can be technically complex. It often involves challenges related to data collection, preservation, and authentication. In some cases, it may be necessary to hire a computer forensic expert to recover deleted data or analyze electronic devices. An attorney can help you understand your obligations regarding your own electronic data and can use the tools of e-discovery to obtain critical evidence from the other party.

113. What is a deposition and how should I prepare for it?

A deposition is a formal, sworn statement made by a party or a witness outside of court. It is a key part of the discovery process. During a deposition, the person being deposed (the "deponent") is asked questions by the opposing attorney, and their answers are recorded word-for-word by a court reporter. The testimony is given under oath, just as if it were in a courtroom.

Depositions have two main purposes. First, they allow the attorneys to gather information and find out what a witness will say at trial. Second, the sworn testimony can be used during court hearings or at trial to question a witness's credibility if their live testimony contradicts what they said in their deposition. The deposition is a serious and important event.

Your attorney will spend time preparing you for your deposition. The most important rules are to always tell the truth, to listen carefully to the question being asked, and to only answer the question that was asked. Do not volunteer extra information. If you do not know the answer, it is perfectly acceptable to say "I don't know." If you do not understand a question, ask for it to be rephrased. Your attorney will be there with you to object to improper questions and to guide you through the process.

114. What should I expect at a court hearing?

Court hearings in a family law case are formal proceedings, and understanding what to expect can help reduce anxiety. Whether it's a short hearing on a simple motion or a multi-day final trial, the process is structured and controlled by the judge. You should plan to arrive at the courthouse early to allow time for parking and security screening. Once you are in the courtroom, you should turn off your cell phone and remain quiet.

During the hearing, the attorneys will do most of the talking. The judge will preside over the proceeding, listen to legal arguments, rule on objections, and hear evidence. Evidence is presented through witness testimony and the admission of documents called "exhibits." If you are called to testify, you will be placed under oath and will be asked questions by both your attorney ("direct examination") and the opposing attorney ("cross-examination").

It is crucial to be respectful to everyone in the courtroom, especially the judge. Address the judge as "Your Honor." Do not interrupt the judge or the attorneys. When you are testifying, speak clearly and direct your answers to the judge or the jury. Your attorney will prepare you for what to expect at each specific hearing and will be by your side to guide you through the entire process.

115. What should I wear to court?

While it may seem like a minor detail, your appearance in court matters. The way you dress sends a message to the judge about how seriously you are taking the proceedings. The best rule of thumb is to dress conservatively, as if you were going to a job interview or a formal religious service. This shows respect for the court and the legal process.

For men, this typically means a suit or a dress shirt, slacks, and a tie. For women, a conservative dress, a suit, or a blouse and skirt or slacks is appropriate. You should avoid wearing anything flashy, revealing, or overly casual. This includes avoiding shorts, t-shirts with logos or slogans, jeans, flip-flops, and hats. Your grooming should be neat and clean.

The goal is to present yourself as a responsible, credible, and serious person. You want the judge to focus on the substance of your testimony, not be distracted by your appearance. While your attire will not win or lose your case, a respectful appearance contributes to the overall positive impression you want to make. Your attorney can provide specific guidance, but the key is to err on the side of being formal and professional.

116. How should I behave in the courtroom?

Your conduct in the courtroom is just as important as your appearance. The judge is observing everything, and your behavior reflects on your credibility and character. The most important rule is to show respect for the court at all times. This begins with punctuality; always arrive early. When the judge enters or leaves the courtroom, you will be instructed to rise and should do so.

When addressing the judge, always use the title “Your Honor.” Never interrupt the judge, the other attorney, or a witness. You should not speak at all unless you are on the witness stand being asked a question or your attorney has instructed you to do so. Even if you hear the other party say something that is untrue, you must remain calm and not have an emotional outburst. Your attorney will have an opportunity to cross-examine them and correct the record.

Your body language also matters. Sit up straight, make eye contact when appropriate, and avoid sighing, eye-rolling, or other gestures that show frustration or disrespect. Your attorney is your advocate and will do the talking for you. By remaining composed and respectful, you allow your attorney to do their job effectively and you present yourself to the court as a reasonable and credible party. Your attorney will guide you through the specific protocols of the courtroom.

117. What are some effective settlement negotiation tips?

The vast majority of family law cases settle before a final trial, making negotiation skills crucial. An effective negotiation starts with preparation. Before you begin negotiations, work with your attorney to clearly define your goals and priorities. Separate your “needs” (the things you cannot live without) from your “wants” (the things that are important but negotiable). This will help you know where you can be flexible.

An effective negotiator also understands the other side's perspective. Try to understand what is motivating your spouse. What are their priorities and concerns? Understanding their interests can help you find creative solutions that meet their needs without sacrificing your own. This is not about giving in; it is about finding common ground to build a durable agreement.

Finally, always negotiate through your attorney. While you have the final say on any settlement offer, your attorney is a professional negotiator who is not emotionally invested in the case. They can help you evaluate offers objectively, advise you when to hold firm and when to compromise, and prevent you from making a decision based on emotion or pressure. A consultation can help you develop a negotiation strategy tailored to the specific dynamics of your case.

118. How can I help my attorney help me?

The attorney-client relationship is a partnership. While your attorney is the legal expert, you are the expert on the facts of your life. The best thing you can do to help your attorney is to be organized, responsive, and completely honest. When your attorney asks for documents or information, provide it as quickly and completely as possible. The more organized your information is, the less time your attorney has to spend sorting through it, which can save you money.

Communication is key. Keep your attorney informed of any significant changes in your life, such as a change in your job, a new relationship, or any important developments with your children. However, try to be efficient in your communication. It is often more cost-effective to send a single, detailed email with several questions rather than making multiple short phone calls.

Most importantly, be honest with your attorney, even about facts that you think are unfavorable to your case. Your attorney can only protect you if they know the whole story. They need to be prepared for the bad facts as well as the good ones. Surprising your attorney with new information in the middle of a hearing is one of the worst things you can do. A strong, trusting partnership with your attorney is the foundation of a successful case.

119. What is a realistic timeline for my case?

It is natural to want your case to be over as quickly as possible, but the legal process takes time. In Texas, there is a mandatory 60-day waiting period from the date the divorce is filed before a judge can finalize it. This is the absolute minimum. A truly uncontested case where both parties agree on everything from the start can often be finished shortly after the 60 days are up.

However, if your case is contested, the timeline will be much longer. A typical contested divorce in Texas can take anywhere from six months to a year and a half, or even longer for very complex cases. The process involves several stages, each with its own timeline: filing initial pleadings, conducting discovery (which can take several months), attending mediation, and if necessary, waiting for a final trial date on the court's busy docket.

The biggest factors that influence the timeline are the complexity of the issues and the level of conflict between the parties. The more there is to fight about, the longer it will take. While your attorney will work to move your case along as efficiently as possible, many parts of the timeline are controlled by court rules and the judge's schedule. A consultation can help you get a more realistic timeline based on the specific circumstances of your case.

120. Should I keep a journal during my case?

Keeping a journal during your family law case can be an incredibly useful tool, but it is important to do it correctly. The purpose of the journal is not to vent your emotions, but to create a factual record of events that may be relevant to your case. A well-kept journal can help you recall specific details and can sometimes be used as evidence.

Your journal should be a simple log. For each entry, record the date, the time, and a brief, factual description of what occurred. For custody cases, you might track when the other parent was late for an exchange, a scheduled phone call that was missed, or any concerning statements the child made. For financial issues, you could document payments made or received. Stick to the facts: "On March 15 at 6:05 PM, Spouse was 5 minutes late for the exchange," is much better than, "Spouse was late again, as usual, because he doesn't care."

It is important to understand that your journal could potentially become evidence that the other side can see. For this reason, you should avoid writing down your legal strategy, your private conversations with your attorney, or emotional rants. A factual, objective log of events is the most powerful tool. An attorney can give you specific guidance on what to track in your journal to create a record that will be most helpful to your case.

Closing Section: How to Use These FAQs & Call to Action

These FAQs are meant to be a starting point, not a destination. They give you a framework for understanding the major issues in Texas family law—divorce, custody, property division, support, and enforcement—but they cannot capture every nuance or unique fact pattern. Use them to clarify terminology, spot the main decision points in your situation, and prepare thoughtful questions. When you find yourself thinking, "How does this apply to *my* case?" that is usually the point at which a one-on-one consultation becomes essential.

A private consultation is especially important if: (1) you have minor children, significant assets, or a family business; (2) there is any history of family violence, substance abuse, or serious conflict; (3) you have an out-of-state order or you or your spouse have recently moved; or (4) you have already been served with papers, are facing a deadline, or have received notice of a hearing. Time and procedure matter in family law, and early, tailored advice can prevent missteps that are difficult or expensive to fix later.

To make the most of your consultation with [LOPEZ LAW FIRM, PLLC], please bring, if available: (1) any prior court orders (divorce decrees, custody or child support orders, protective orders); (2) at least two recent pay stubs and your last two years of tax returns; (3) a simple list of your major assets and debts; and (4) a short written summary of key dates and events (marriage/separation dates, children's birthdates, major incidents). If you do not have all of this yet, do not wait—come with what you have, and we will help you fill in the gaps.

Scheduling is straightforward. You may call our office at [PHONE NUMBER], email us at [EMAIL ADDRESS], or submit a request through our website at [WEBSITE URL]. Our staff will gather basic conflict-check information, briefly screen for urgent issues, and set a consultation time that works for you—either in person, by phone, or via secure video. At the meeting, we will review your situation, outline your options, discuss likely timelines, and talk through potential costs. We typically explain our fee structure, retainer requirements, and engagement process in clear, written form so you can make an informed decision about how to proceed.

If, after the consultation, you choose to retain our firm, the next steps usually include formally opening your file, drafting or reviewing initial pleadings, setting a plan for temporary orders (if needed), and creating a document/evidence checklist tailored to your goals. Throughout, our focus is on giving you practical, candid guidance so you can make confident decisions for yourself and your family. If you are ready to move from general information to a concrete plan, we invite you to contact us today and schedule a consultation to discuss your case in detail.

Appendix: Quick Reference Resources and Select Statutory Citations (no exhaustive citations)

This appendix highlights a non-exhaustive set of Texas authorities often consulted in divorce, custody, support, and enforcement matters, along with a few related codes and regulations that frequently intersect with family law practice. It is intended as a starting point for your own research; always confirm you are working with the most current version of any statute or rule.

1. Core Texas Family Code Provisions

- **Title 1, Subtitle C – Property and Post-Decree Issues**
    - **Chapter 7 – Division of Property**
      General rule that, in a decree of divorce or annulment, the court must divide the parties' estate in a manner it deems "just and right," considering the rights of each party and any children of the marriage.
    - **Chapter 9 – Post-Decree Enforcement of Property Division**
      Provides mechanisms to enforce a prior property division (including suits to enforce, clarification orders, and authority to award costs).
- **Title 2, Subtitle C – Change of Name**

- **Chapter 45, Subchapter B – Change of Name in Divorce Suit**
  On final disposition of a divorce, annulment, or suit to declare a marriage void, the court must grant a request to return to a prior used name unless it states a reason for denying the request, and may not deny solely to keep family members' last names the same.

- **Title 5, Subtitle A – Suits Affecting the Parent–Child Relationship (SAPCRs)**
  - **Chapters 101–266 – General SAPCR Framework**
    Title 5 governs suits affecting the parent–child relationship, including conservatorship, possession, and support.
  - **Chapter 104 – Rules of Evidence**
    Incorporates the Texas Rules of Evidence in SAPCR and related proceedings, unless otherwise provided.
  - **Chapter 111 – Review of Child Support and Possession Guidelines**
    Requires periodic review of possession/access guidelines under Chapter 153 and child support guidelines under Chapter 154.
  - **Chapter 153 – Conservatorship, Possession, and Access**
    Establishes the "best interest of the child" as the primary consideration in conservatorship and access orders and includes the parental-presumption provisions.
  - **Chapter 154 – Child Support**
    Contains the percentage-of-income guidelines and related provisions referenced in the statutory review requirement in Chapter 111.
  - **Chapter 155 – Continuing, Exclusive Jurisdiction**
    Provides that a court acquires continuing, exclusive jurisdiction over SAPCR matters on rendition of a final order.
  - **Chapter 156 – Modification**
    Governs modification of conservatorship, possession, and child support, and incorporates the "material and substantial change" / "best interest" standards.
  - **Chapter 157 – Enforcement**
    Addresses enforcement of child support and possession orders, including arrearage judgments, limits on "forgiving" arrears, and related remedies.

2. Texas Constitutional Provisions

- **Tex. Const. art. I, § 32 – Marriage**
  Defines "marriage" for state-law purposes and prohibits the State from creating or recognizing a legal status identical or similar to marriage.

- **Tex. Const. art. V, § 6 – Courts of Appeals; Jurisdiction**
  Describes the structure and general appellate jurisdiction of the courts of appeals, which review most family-law judgments.

- **Tex. Const. art. XVI, § 28 – Garnishment of Wages**
  Prohibits garnishment of current wages for personal services except for enforcement of court-ordered child support or spousal maintenance, providing the constitutional foundation for income withholding in family cases.

3. Jurisdiction, Family Violence, and Related Codes

- **Family District Court Jurisdiction**
  Texas Government Code § 24.601 confirms that family district courts have district-court jurisdiction and primary responsibility for matters involving divorce, annulment, and parent–child issues, among others.

- **Criminal Cases Involving Family Violence**
  Texas Code of Criminal Procedure article 42.23 requires the convicting court, on conviction or deferred adjudication for an offense involving "family violence," to notify the court of continuing jurisdiction over any related conservatorship or possession orders.

4. Selected Administrative and Professional Regulations

These rules can become important in cases intersecting with CPS, adoption/foster care, or mental-health professionals:

- **Adoption & Foster Care Context**
  - 26 Tex. Admin. Code § 749.3635 – Defines "major life change in the adoptive family" (e.g., marriage, divorce, serious health problems affecting care).
  - 40 Tex. Admin. Code § 700.501 – Describes T3C Basic Foster Family Home Support Service Package, including trauma-informed foster care and credentialing requirements.
  - 40 Tex. Admin. Code § 707.507 – Sets notification requirements when there is a reason-to-believe finding of abuse/neglect in a home that also has children in DFPS managing conservatorship, including notice to the court and ad litem counsel.
- **Juvenile-Justice Records**
  - 37 Tex. Admin. Code § 27.63 – Addresses confidentiality of juvenile justice information and limited circumstances under which it can be disseminated, including to courts exercising jurisdiction over juveniles.
- **Marriage and Family Therapists**
  - Texas Occupations Code § 502.002 – Defines "licensed marriage and family therapist," "licensed marriage and family therapist associate," and "marriage and family therapy," and clarifies that such practice does not constitute the practice of medicine.
- **Retirement & Definition of "Spouse" (Selected Example)**

    - 34 Tex. Admin. Code § 302.1 – Includes a definition of “spouse” for purposes of certain firefighter retirement acts, tied to being legally married under the Texas Family Code or comparable law.

5. Illustrative Case Law for Deeper Study (Non-Exhaustive)

The following decisions, discussed in the FAQ text, provide useful illustrations of recurring family-law issues:

- ***In re M.N.G.*, 113 S.W.3d 27 (Tex. App.—Fort Worth 2003)** – Upholds the constitutionality of the modification statute and explains the “material and substantial change” / best-interest framework with reference to the *Holley* factors.

- ***Patterson v. Brist*, 236 S.W.3d 238 (Tex. App.—Houston [1st Dist.] 2006)** – Addresses modification of conservatorship, the role of child preferences, and application of the abuse-of-discretion standard on appeal.

- ***Giron v. Gonzalez*, 247 S.W.3d 302 (Tex. App.—El Paso 2007)** – Discusses strict pleading and evidentiary requirements for modifying conservatorship and support, including the need to plead statutory grounds and present some evidence of best interest.

- ***In re Smith*, 262 S.W.3d 463 (Tex. App.—Beaumont 2008)** – Analyzes standing in SAPCRs, void orders, and the distinction between original conservatorship proceedings and modification proceedings.

- ***Whitworth v. Whitworth*, 222 S.W.3d 616 (Tex. App.—Houston [1st Dist.] 2007)** – Addresses grandparent standing under former section 102.004 and constitutional constraints on third-party intervention in conservatorship disputes.

- ***George v. Jeppeson*, 238 S.W.3d 463 (Tex. App.—Houston [1st Dist.] 2007)** – Explains that unpaid child support installments become final judgments, limits judicial authority to “forgive” arrears, and interprets enforcement provisions in Chapter 157.

- ***McBride v. McBride*, 396 S.W.3d 724 (Tex. App.—Houston [14th Dist.] 2013)** – Provides a detailed look at contempt enforcement of both child support and possession provisions, and the handling of arrearages and reimbursement claims.

- ***In re N.V.R.*, 580 S.W.3d 220 (Tex. App.—Tyler 2019)** – Discusses subject-matter jurisdiction, continuing exclusive jurisdiction under Chapter 155, and appealability of arrearage determinations versus contempt rulings.

- ***In re Marriage of Christensen*, 570 S.W.3d 933 (Tex. App.—Texarkana 2019)** – Addresses geographic restrictions and the scope of trial-court authority in original SAPCR proceedings joined with divorce.

These authorities are starting points. For any specific issue in your case, targeted research and a tailored legal analysis will be necessary.

[LOPEZ LAW FIRM, PLLC]
[Attorney Name], Attorney at Law
[123 Law Firm Lane, Suite 100]
[City], Texas [ZIP Code]

Phone: (XXX) XXX-XXXX
Fax: (XXX) XXX-XXXX
Email: contact@lopezlaw.com
Website: www.lopezlawfirm.com

To Schedule a Consultation:
Call our office during business hours or visit www.lopezlawfirm.com/consult to request an appointment. We offer in-person, telephone, and secure video consultations for clients throughout Texas.

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