

## EMPIRE STATE LEGAL FORMS

This legal forms package is for uncontested divorces in Texas. Please note that the information and forms contained herein are not a substitute for the advice of an attorney. We are not a law firm. We do not provide legal advice. Laws and procedure change frequently, and can be interpreted differently by different people. No book, software, or other material is a substitute for personalized advice from a knowledgeable lawyer licensed to practice law in your state. These forms and instructions are based on materials published by the Texas court system.

### STARTING YOUR DIVORCE CASE:

#### **STEP #1: FILE THE PETITION**

**Petitioner/Respondent:** the spouse who files for divorce is referred to as the "Petitioner". The other spouse is called the Respondent.

**Where to file:** To file for a divorce in Texas: (i) you and/or your spouse must have lived in Texas for at least six months before filing for divorce; and (ii) you must file in the county in which either you or your spouse has lived for at least ninety days.

**No Fault/Grounds:** Most divorces in Texas are "no-fault." Occasionally, parties plead grounds such as cruelty or adultery in order to gain a tactical advantage, especially when one person is seeking an unequal division of the community estate. Because this package is intended only for use in uncontested case, it is assumed that you will be using no-fault. If your case is contested (i.e. there are unresolved issues relating to property, support, or the divorce itself, you should retain an attorney for professional advice).

**Filing the Petition for Divorce:** If you meet the residency requirements (see above) and have completed and signed your petition form, you are ready to file it with the District Clerk's office. Make at least three copies of your signed Petition. The Original Petition For Divorce (the "Petition"), along with two extra copies, and the appropriate filing fee, should be filed by hand delivery, or mail, with the District Clerk's office in the appropriate county. The clerk will date stamp and file the original, and will date stamp the copies to show the date and time the Petition was filed. The original will be assigned a "cause number" that will be listed at the top of the Petition, and one copy will be returned to you. If you choose to mail the Petition, included a self-addressed and stamped envelope for the clerk to return your copy to you. The third copy will be used to notify the Respondent of the divorce proceeding. There is no cost for file stamping of extra copies. However, there is a fee if the clerk later has to make a copy for you from the court's file. At the time of filing, you will also be required to pay a filing fee. Filing fees vary from county to county and you should call ahead to determine the filing fee for your case. If you cannot afford the filing fee, you must file an Affidavit of Inability to Pay Court Costs, which you must sign in the presence of a notary public, at the same time you file your Petition. If the Judge accepts your Affidavit of Inability to Pay Court Costs, your filing fee and other court costs will be waived.