

# Common Issues in Texas Divorces

Article provided by [The Law Office of Ryan S. Dougay](#)

Deciding to end a marriage is a difficult decision that many couples find themselves facing each year. The United States has the highest divorce rate in the world, with nearly 48 percent of marriages ending in divorce, according to the National Center for Health Statistics. Those going through the process are often unsure about what will happen, and how they can emerge from the divorce in as best of shape as possible.

In Texas, there are many requirements that must be satisfied before someone can file for divorce. In order to begin proceedings, you must have lived within the state for six months, and live in the county where you file the suit for 90 days prior to bringing the action.

Situations may arise where one spouse lives in Texas, while the other is a resident of another jurisdiction. As long as one spouse has lived within the state for the six months prior to the petition being filed, the divorce will be allowed to proceed. Once the matter begins, couples will start discussing the issues that are commonly associated with the process.

## **Property Division**

Property division can be a particularly challenging aspect of a divorce. Texas is a community property state, meaning that all marital property must be divided equally between the parties. Marital property consists of anything that was accumulated during the marriage, which can mean assets or debts, including retirement accounts, investments or other sources of income. For couples with a home, any equity gained during the marriage is also subject to division.

If one of the spouses owns a business, it may be necessary to have professionals evaluate the business's value. Parties will want to carefully examine the financial information provided by the other side, especially during contentious divorces. One side may try to hide assets to prevent them from being split. Decisions about property division can be incredibly

difficult to reverse. Generally, once an agreement is in place, it cannot be modified, unless a party willfully withholds financial information.

### **Child Custody and Support Concerns**

For couples with children, custody is another important issue which will need to be resolved. If an arrangement cannot be worked out between the parties prior to litigation, the court will decide custody based on the best interests of the child. It is not uncommon for custody matters to become extremely costly and time-consuming if they end up in the courtroom. Courts may require mediation, where the parties try to come up with a parenting plan that allows both parents to be involved in the child's life.

The parent who is the primary caretaker may be eligible to receive support to help pay for the costs associated with raising the child. Depending upon the age of the child, money for day care or extracurricular activities at school may also be provided to the custodial parent. Parties will also need to decide how any health care costs will be handled, as well as how future educational expenses will be divided.

### **Relocation of One Parent**

In this economy, it is not uncommon for one parent to have difficulty finding work in a particular field. A situation may arise where the primary custodian for the child will have to move for employment or other reasons. This can be potentially devastating for the other parent, as it will limit the opportunities that he or she will have with the child.

When the relocation of a child becomes necessary, parties will need to petition the court to modify their existing child custody arrangements. The court will carefully examine each situation to determine whether or not to allow the child to leave the area. In 2002, the issue of child relocation was before the Texas Supreme Court in the *Lenz v. Lenz* case. Prior to this decision, there was a presumption against relocation, making it difficult to remove a child outside of a specific geographic region for any reason.

However, the ruling from *Lenz* allowed courts to look at the bigger picture. Courts would have to look at the complete scenario, learning why one parent

needs to move and how this would impact the best interests of the child. Later cases continued with this policy of fact-intensive review, making modification of custody agreements due to relocation more common.

If you have a potential relocation matter, be sure to speak with an experienced attorney in your area. Case preparation is essential, as there is really one opportunity to present your side. Once a decision is reached in the matter, it will be difficult, if not impossible, to overturn.