

Timeline for Procedures in Family Law

by Natalie Gregg

1. **File the petition or request for relief.** Your attorney goes to the courthouse, pays the filing fee and asks the court for the list of items contained in your petition. The “Race to the Courthouse” only earns the first person the status of Petitioner and person who lagged behind, is named the Respondent. Strategically, the Petitioner gets to go first in hearings and is the one with primary pleadings on file.
 - a. For Divorce- **61 days later**, if the other side has been properly served, you can finalize if the other party does not respond or enters into an Agreed Final Decree of Divorce.
 - b. For Suit Affecting Parent-Child Relationship- The Monday after **20 days** have passed since service of opposing party, you can finalize.
2. **Serve the petition upon the other party- 20 days to answer;** You need a valid address to serve the other party or a Waiver of Citation.
 - a. If you have a Waiver, then you can proceed without having to pay a third party to serve the other side. Once the other party has either been served by a constable or process server or signed a Waiver of Service, then they have entered a general appearance in the matter. This ensures due process, that the opposing party has notice and knowledge of what you are asking the court to do.
 - b. The Citation will tell you that “if you or your attorney do not file a written answer with the clerk who issued this citation by 10 o’clock a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you.”
3. **Temporary Orders- 2-3 weeks after you have filed** and have the other party served in either a Divorce or Suit Affecting Parent-Child Relationship or Modification, the Court will set Temporary Orders. The following are the issues addressed at Temporary Orders’ hearings by the judge:
 - a. How much you pay/ Child Support- This is a formula pursuant to the guidelines in the Texas Family Code. 1 child = 20% of

net monthly resources; 2 children = 25%; 3 children = 30%; 4 children = 35%; 5 children = 40%; Child support caps out at 40% regardless of number of children as long as the obligor (other party responsible for child support) does not have any children outside of this litigation

- b.** When you get to see them/ Access- Access is also known in common circles as “visitation”; Standard visitation is first, third and fifth weekends and Thursday evenings from 6:00 p.m.-8:00 p.m. and alternating holidays. If the other side has committed family violence, child abuse/neglect, or has an underlying drug/alcohol problem, then supervised access is recommended. Children under the age of three (3) years are given special consideration and “standard” often does not apply.
- c.** Parenting/ Conservatorship- Conservatorship refers to duties and rights of the parents/parties are established; One is either Joint Managing Conservator or Sole Managing Conservator; The default is Joint Managing Conservator, which is essential equal rights and duties. However, if there has been family violence, child abuse or neglect, the presumption is that the other party who has not engaged in those behaviors is the Sole Managing Conservator
- d.** Temporary Spousal Support- Only in divorce; the Court looks to factors such as the disparity of income of the parties, placement of the children with the requesting parent, and household expenses to determine an amount for a set period of time that is quantified as “spousal support” until the final divorce.
- e.** What the Court thinks about you and your children/ Social Study- see below
- f.** Drug/Alcohol Testing- The party that asks for the test pays for the test. If there is a question of the other spouse’s addiction to drugs or alcohol, your attorney will request testing at the first hearing. Beware: don’t live in a glass house. You may be asked to test, so tell your attorney the whole truth- even if it is not pretty.

4. Social Study- This is an evaluative process through which information and recommendations regarding possession and access and conservatorship of a child are made to the court, the parties and the parties' attorneys. A third party neutral meets with the child(ren), the parents/conservators, assesses the relationship between the child at issue and each party seeking possession or access of the child and observes children, obtains collateral source information (neighbors, friends, co-workers), and forms opinions and recommendations regarding what should happen in the future with the child(ren).

- a. Every county is different. In Dallas, Dallas County Family Court Services conducts the social study. On the average, the social study can take anywhere from **two (2) to three (3) months** to complete.
- b. Some counties do not have an entity that conducts social studies, so your attorney needs to find a private source.
- c. Once the social study is complete, you know what the social worker/counselor's opinions are, so you can further understand how the court will see your relationship with your child at Trial.

5. Mediation- You can mediate any issue or the entire case.

- a. What it is- Mediation is an alternative to going in front of a judge; You can instead elect at any time after filing to attend mediation- either half-day or full-day, at which you employ a third party neutral who listens to both sides and tries to bring the interests to the table and find a working model that both sides can live with
- b. How much it costs- Between \$100 per half-day at Dispute Mediation Services and \$1000 per half-day at a premier mediator/attorney's office

6. Final Trial- Trials happen according to the Court's calendar. Some jurisdictions in Texas require a pre-trial in order to obtain a trial setting; Further, you may be required to attend mediation before obtaining a final trial setting.