



Divorce: General Information

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- ❖ Read this only if you live in the state of Washington.
 - ❖ You can find all the fact sheets we link to here at WashingtonLawHelp.org.
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When can I get a divorce?

All these must be true:

- You are married legally or through common law marriage in another state or country. (Washington does not have common law marriage.)
- You or your spouse live here and plan to stay here, **or** you are in the military and will be stationed here for at least 90 days after you file and serve your divorce petition.
- One spouse believes the marriage is broken (cannot be fixed).
- You file and serve the Summons and divorce petition properly.
- At least 90 days have passed since you had the petition and summons filed and served.

My spouse does not want a divorce. Does it matter?

No. If all of the above are true, the judge will grant the divorce anyway.

Your spouse can still argue about such things as:

- How the court should divide your property and debts
- Maintenance (alimony)
- Custody and visitation
- Child support

If you argue about any of these, the divorce will take longer.

What is legal separation?

The judge enters orders for all the same issues as a divorce, including parenting plan, child support, and property and/or debt division. **Here is how legal separation is different:**

- Most people choose it for religious reasons.
- Your marriage does not end.
- You cannot legally remarry unless you convert (change) the separation decree to a divorce decree.
- The Social Security Administration does not recognize legal separation in figuring out benefits.

Read [Legal Separation: General Info](#) to learn more.

How do I convert a separation to a divorce?

Use [Changing Your Legal Separation to a Divorce](#).

What is an annulment?

Also called **invalidity**, it is a court action to make it as if the marriage never happened. Either spouse can file for this. The guardian of an incompetent spouse can also file for invalidity. If a spouse is married to more than one person at the same time, a child of the later marriage or any other legal spouse can file for invalidity.

You can have a court declare your marriage invalid instead of getting a divorce if all these are true:

- both spouses are alive
- at least one spouse lives in Washington (or is in the military and stationed here)
- You can prove a reason for invalidity listed at [RCW 26.09.040\(4\)\(b\)](#)

The reasons for invalidity include:

- One spouse was too young to marry
- The spouses are related by blood
- One spouse was already married to someone else
- One spouse could not consent at the time of marriage because of mental incapacity or use of alcohol or drugs

❖ The spouses cannot have lived together after the conditions above went away. **Example:** A spouse was only fifteen when she got married. She kept living with her spouse after turning 18. The court will not declare the marriage invalid.

What can a decree of divorce, separation, or invalidity do?

The judge rules that the relationship is over. A court that has jurisdiction (authority) to do so will also:

- Divide any property and debts you had during the marriage
- Order any appropriate maintenance (alimony) for a spouse
- Change a spouse's name
- Enter restraining orders or an Order for Protection as needed
- Order custody and visitation (parenting plan) for any of your children under age 18
- Order child support

Does Washington have jurisdiction to hear my case?

It depends. Whether a court has **jurisdiction** can be complicated.

It is simple if you and your spouse both live in Washington now. The court can decide all issues in your case. Even if your spouse does not live here now, if they lived in Washington during the marriage and are personally served (you have your court papers hand delivered to them), the court can rule on some financial matters.

❖ The court will not have jurisdiction over property in another state or country.

Can the divorce court rule on who gets custody of our kids?

Maybe. It depends, in part, on how long your children have lived in Washington. Read [Which Court Can Enter Custody Orders? Questions and Answers about Jurisdiction](#).

Can I get a divorce without a lawyer?

Yes, but it is usually best to hire one, if you can. If you and your spouse disagree about anything, the case may get complicated. It may be hard without a lawyer to protect your rights. Even if you do agree, you may have rights you do not know about. You could lose those rights without expert advice. **Example:** You may have an interest in your spouse's pension plan.

You might be able to pay a lawyer to review your divorce papers after you fill them out. It is probably worth paying for this so you can protect yourself. Some lawyers have reduced rates for this kind of work.

What other help can I get?

- Use our do-it-yourself interview program, [Washington Forms Online](#), to complete the divorce forms at WashingtonLawHelp.org.
- Our packets at WashingtonLawHelp.org have forms and instructions to help you get your own divorce or separation.
- The Legal Voice in Seattle (legalvoice.org) has more on divorce issues.
- The court clerk or facilitator may have other packets.

- Some volunteer lawyer programs and legal services offices offer classes that help with the forms and explain how to file a case.
- If you and your spouse have children, cannot afford a lawyer, and you plan to file on your own, you can ask the judge to appoint a guardian ad litem (GAL) to investigate the situation and report to the court regarding the children's best interests. Some counties have family court investigators, Court Appointed Special Advocates (CASAs), or GALs available free of charge. In other counties, parents must pay for the services. Read [Guardian ad Litem in Family Law Cases](#).

Where can I learn more?

Read [Divorce and Other Options for Ending Your Marriage with Children in Washington State](#) or [Divorce and Other Options for Ending Your Marriage without Children in Washington State](#).

Get Legal Help

Outside King County, call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm.

In King County, call 2-1-1 weekdays between 8:00 am - 6:00 pm. They will refer you to a legal aid provider.

Seniors (age 60 and over) can also call CLEAR*Sr at 1-888-387-7111, statewide.

You can also apply online with CLEAR*Online: nwjustice.org/get-legal-help.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.

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