

# Enforce your divorce decree: Money and property issues

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## Last Review Date

February 17, 2026

How to make sure everyone follows the final divorce order and collect the money or property your ex-spouse must pay or give you.

## What happens when my divorce case ends?

At the end of your divorce case, the judge will issue a final order. In Washington, we call this a **Final Divorce Order** (or **Divorce Decree**). Other states may call it something else.

This final order may order your former spouse to pay you, or award you certain property. We describe here things you can do to make sure everyone follows (you can try to **enforce**) the final divorce order, and collect any money or property your ex-spouse must pay or give you.

**This information is general.** For more help with your case, try to talk to a lawyer.

## How can I make sure my ex-spouse pays me child support?

If you get legal custody of your children (you become the **primary residential parent**), the judge will order your ex to pay child support to you. A Washington child support order usually makes a parent pay through the State's Support Registry. In these cases, the Division of Child Support (DCS) (<https://www.dshs.wa.gov/esa/division-child-support>) automatically opens a child support case for you.

If your court order does **not** direct your ex to pay through the state Support Registry, you can still open a case with DCS by applying for services. You can do

this even if your order comes from another state. DCS's services are free. Call your local DCS office ([https://www.dshs.wa.gov/office-locations?field\\_geofield\\_distance%5Bdistance%5D=100&field\\_geofield\\_distance%5Bunit%5D=395](https://www.dshs.wa.gov/office-locations?field_geofield_distance%5Bdistance%5D=100&field_geofield_distance%5Bunit%5D=395)) to apply for their services, or apply online (<https://www.dshs.wa.gov/esa/division-child-support/enroll-child-support-services>).

### **What if my ex owes me back support?**

If the debt (also called the **arrears**) isn't too old, DCS may be able to collect it (<https://www.dshs.wa.gov/esa/division-child-support/enroll-child-support-services>). But **DCS doesn't collect unpaid interest.**

If you're owed lots of back support, you may not want DCS's services. Instead, you might find a lawyer to take the case on a **contingent basis**. Instead of you paying the lawyer a fee, the lawyer gets part of the back payments as payment for services. A lawyer might take your case depending on how much your ex owes, if you can find your ex, and if the ex can pay.

A lawyer could also help you get a judgment so you can bring a collection action on your own.

### **Can I change the child support amount?**

You can try. Either parent can file a motion to change the child support amount if the case meets certain conditions.

You can try to change the child support amount on your own or, if DCS is handling your case, ask DCS to do it.

### **How do I collect alimony?**

If you already have an open child support case with DCS, they can collect alimony, called maintenance in Washington State, for you. DCS automatically includes maintenance if your court order says it must go to the state Support Registry. If your order doesn't mention the Support Registry, contact your Support Enforcement Officer ([https://www.dshs.wa.gov/office-locations?field\\_geofield\\_distance%5Bdistance%5D=100&field\\_geofield\\_distance%5Bunit%5D=395](https://www.dshs.wa.gov/office-locations?field_geofield_distance%5Bdistance%5D=100&field_geofield_distance%5Bunit%5D=395)).

If the debt isn't too old, DCS can also help collect back maintenance payments.

### **I was awarded maintenance only, not child support. Will DCS still help me?**

No. DCS won't open a case. You must file a motion for contempt to collect back payments.

If you win your contempt motion, the judge will order your ex to pay you the maintenance or make your ex pay a court fine, **unless** your ex shows that they've tried to follow the order but don't have enough money.

**Example:** Your ex is unemployed, but is looking for work. The judge won't hold your ex in contempt. You won't get the maintenance payments.

### How do I get the property the Final Divorce Order awarded me?

A judge may order your ex to pay you money or give you property. If your ex doesn't follow the court order, you have some options. You can read the state law about enforcing judgments (<https://app.leg.wa.gov/RCW/default.aspx?cite=6.27>) and special procedures (<https://app.leg.wa.gov/RCW/default.aspx?cite=7.64>), and try to talk to a lawyer about your unique case. What follows here is a general description.

You can use **garnishment** to enforce a money judgment. The judge orders a third party with control of money belonging to your ex, such as your ex's employer who controls your ex's wages, to turn that money over to you.

**Execution and lien foreclosure** against a home or land (real estate) – You get a court order for the sheriff to collect on (to execute) your money judgment. The sheriff seizes your ex's property and sells it to pay your judgment. Your ex should get notice before this happens. The sheriff can't seize certain types of "exempt" property.

Your child support order and final divorce order should include a judgment for any amount owed at the time of the order. If you need a new judgment to update what is due you, try to have a lawyer draft the paperwork.

**Motion to clarify** - to get title of a vehicle awarded to you in the divorce transferred to you.

**Replevin** - to get a specific item of property (not real estate) the judge awarded you. You may also be able to file a motion for contempt.

**Eviction (unlawful detainer)** - If your ex refuses to move out from (**refuses to vacate**) real property the judge awarded you, this court process forces the ex to move. You also may get money damages.

**Injunction** - This court order can stop someone from doing things that you don't want them to do. You can use it to keep an ex with control of property you both own from harming or ruining the value of (called **wasting**) the property.

**Receivership** – The judge can appoint a “receiver” to manage or to get rid of property. The receiver doesn't act for either spouse.

**Contempt** – You can't use contempt to force payment of a general money judgment. You **can** use it to get child support or maintenance. In a very few cases, you can use contempt if your ex doesn't do what the judge ordered them to do.

**Commissioner signature** - A court commissioner can sign (execute) a document when your ex refuses to follow a court order to do something. **Example:** the judge ordered your house sold. Your ex refuses to sign the necessary documents. The commissioner can sign the documents.

### **How do we divide the retirement benefits after our divorce is final?**

You should act right away to let the retirement plan administrator know (<https://legalvoice.org/resources/divorce-future-retirement-benefits/>) what your divorce decree says.

### **What if my Final Divorce Order is from a court in another state?**

You can enforce it in Washington if your ex lives here. You must first correctly file (register) it in Washington. Then you can use whatever options make sense for your situation.

### **How do I enforce the final parenting plan?**

It depends, among other things, on what's in the parenting plan. Contact the family law facilitator ([https://www.courts.wa.gov/committee/?fa=committee.home&committee\\_id=108](https://www.courts.wa.gov/committee/?fa=committee.home&committee_id=108)), if your county has one, or try to talk to a lawyer.

### **When should I talk to a lawyer?**

If DCS can't handle your case, or your county has no family law facilitator, you might want a lawyer. You don't get a court-appointed lawyer in a divorce. You must pay for one.

If you don't have a lot of income, a lawyer might take your case on a contingent basis or offer "limited legal services" (also called "unbundled legal services" and "pro se assistance"). A lawyer who takes your case on a **contingent** basis will only charge you if you win. The lawyer gets part of the award. A lawyer takes a case on a contingent basis depending on

- How much is at stake
- If you can find your ex
- If your ex-spouse can pay

Under a **limited legal services** arrangement, the lawyer gives you legal advice and looks over or helps with paperwork. The lawyer will **not** represent you.

### Do you have other tips?

**An Ounce of Prevention.** Start thinking about potential collection problems **before** your divorce is final. Your spouse may have the best intentions, but things change. Educate yourself about your property. As you take part in drafting your final order, remember: Someone who had trouble with paying bills before the divorce may have just as much or more trouble afterwards.

Make sure you have the information you may need to take collection action if your ex doesn't pay:

- Your ex's social security number
- Your ex's birthdate
- Your ex's address
- Your ex's work address
- Your ex's work phone
- Your ex's bank names and account numbers
- Your ex's vehicle numbers
- A recent, clear photo of your ex
- A copy of the original order (a judge must have signed the order and it must have a file stamp on it)

You may need a **certified copy**. That's a copy made by the clerk's office and verified as accurate.

If the judge awards you a money judgment, you must next get the judgment recorded as a **judgment lien**. A judgment lien attaches to real property the debtor (your ex) currently owns or gets later. Try to talk to a lawyer about how to do this.

**Don't sit on your rights.** Many of your options are only possible during "the life of the judgment." You can usually enforce a judgment for 10 years. Try to talk to a lawyer about how long you have.

Washington has a procedure for renewing the judgment for another 10 years. You must do this before the first 10-year period ends. Otherwise, you can't collect.

Try to get legal advice right away if:

- Your ex doesn't follow the Final Divorce Order.
- You learn your ex has filed for bankruptcy. You can challenge the dischargeability of a property judgment your ex owes you.

**WashingtonLawHelp.org** gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.