

# Divorce guide

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A detailed step-by-step guide to the divorce process. Includes where to file, temporary orders, the issues a divorce can cover, special protections for military spouses, and where to get help.

For a brief overview, read [Divorce: The basics](#).

## **1. The process**

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### **Fill out forms online**

- File for Divorce

<https://lawhelpinteractive.org/Interview/GenerateInterview/7067/engine>

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To divorce, you must get a court order ending your marriage. Washington is a “no-fault” divorce state. This means you can get a divorce if you want one – you don’t have to prove that your spouse did something wrong.

Your final divorce orders will cover these issues:

- Dividing property and debts
- Spousal support (maintenance), if appropriate
- Name change, if requested
- Restraining or protection order, if needed for safety
- Custody and visitation (a parenting plan) for any children under age 18
- Child support for any children under age 18

If you and your spouse agree to all these issues, you can finalize a divorce by agreement. If not, a judge will decide these issues at a trial.

We strongly recommend that you try to talk with a lawyer before filing for divorce. Even if you can't afford to pay one to handle your divorce for you, a lawyer may advise you about important legal rights your divorce may affect. Example: You may have financial rights, such as a share of your spouse’s pension or other property, that you could lose if you don’t protect those rights in the divorce. If you have children, a lawyer can help you with a parenting plan and child support.

## Step-by-step

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Follow these steps to get a divorce:

## 1. Fill out court forms

Use Washington Forms Online to fill out the forms to file for divorce (<https://lawhelpinteractive.org/Interview/InterviewHome?templateId=7067>)

. It's free and simple. We ask you questions and use your answers to complete your forms.

If you don't want to fill out the forms online, you can answer a few questions on **Get family law forms** to get the right forms for your situation.

## 2. File with the Superior Court Clerk

Make 2 sets of copies of all your completed court forms: one set for you, one for your spouse.

File the originals with the Superior Court Clerk. Ask the clerk to stamp your copies with the case number and the date filed on the first page of each document.

The clerk will charge a filing fee between \$250 – \$320. If you cannot afford the filing fee, you can ask for a fee waiver.

In some counties you can file electronically (e-file). Contact the clerk's office for instructions.

### 3. Have your spouse served

Usually, you must have someone else personally serve copies of all your divorce papers on your spouse.

**Exception!** Do **not** serve a copy of the Confidential Information form. That's just for you and the court.

You **don't** have to personally serve if one of these is true:

- Your spouse signs the Service Accepted form saying they received the divorce papers from you. Your spouse can sign this even if they don't agree to everything you're asking for.
- You and your spouse agree to everything **and** your spouse signs an agreement to join the petition. Your spouse can sign the Agreement to Join Petition (Joinder) form, or the agreement section at the end of the divorce petition.

### 4. Your spouse can respond

Usually, your spouse has 20 days to respond to the divorce papers. They will have longer if they were served outside of Washington (60 days), or if they're served by mail or publication (90 days).

If your spouse signed an agreement to join the petition, they don't have to respond.

If your spouse doesn't respond by the deadline, you can ask the judge to find them in default. If a judge signs a default order, your spouse can no longer take part in the case. The judge can sign final orders and hold hearings without notice to your spouse.

#### 5. **Get temporary orders, if needed**

Either spouse can ask the judge for temporary orders to address issues during the divorce process. The judge can make temporary orders about the children, financial support, property, debts, and safety.

#### 6. **Waiting period**

Washington has a mandatory **90-day** waiting period from the date the petition is filed and served before you can finalize your divorce. This is the least amount of time it takes to get divorced, even if you and your spouse agree on everything. Divorces can take longer than 90 days if you cannot agree.

#### 7. **Gather information, try to reach agreement**

During the waiting period, you can negotiate with your spouse to see if you can agree on any of the issues in your divorce. You may need more information before you know what a fair agreement would be. You can

use legal tools to get the information you need. This is called “discovery.”

You may want to try mediation to help you and your spouse reach an agreement. Some courts also offer or require settlement conferences. It's best to try to come to an agreement if possible. Trials can be complicated.

## 8. Finalize the divorce

If you and your spouse agree, you can both sign final orders and schedule a hearing for the judge to sign them.

If you don't agree, your case will go to trial and a judge will decide. Some counties have case schedules that give you a trial date and other deadlines as soon as you file. In other counties, you must ask for a trial date after your spouse has filed a response. This is usually a local form. Ask the clerk.

If your spouse never responded and you get an order finding them in default, you can ask the judge to sign final orders without a trial.

You may need to fill out the final order forms for the judge to sign.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

You are legally divorced after the judge signs your Final Divorce Order and it is filed with the court clerk. The court clerk will forward a Certificate of Dissolution to the State Registrar of Vital Statistics.

## 2. Where to file

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**State:** You can file for divorce in a Washington State Superior Court if one of these is true:

- You live in Washington.
- Your spouse lives in Washington.
- You're in the military and stationed in Washington.
- Your military spouse will be stationed in Washington for at least 90 days after you file and serve the divorce.

Even if one of the above is true, Washington must also have legal authority over your spouse to be able to make certain types of orders about your spouse. This is called personal jurisdiction. Washington generally will have personal jurisdiction over your spouse if one of these is true:

- Your spouse lives in Washington.
- Your spouse lived in Washington at some point during your marriage and you still live, or are stationed in the armed forces, in Washington.
- One of your children was conceived in Washington.

If you cannot find your spouse, you may still be able to file for divorce and serve your spouse by mail or publication. A judge will still end your marriage

and (if Washington has jurisdiction over your children) enter a parenting plan. But without personal service, the judge may not be able to divide property and debts, award money, set child support or spousal support, or approve a restraining order or protection order. You should still ask for these things if you want them, in case your spouse responds.

If your spouse is Native American and lives on a reservation, you may have to file your divorce in tribal court. Talk to a lawyer with expertise in Indian law.

If the children haven't always lived in Washington, before filing for divorce here, make sure Washington has jurisdiction over your children. If not, you can't ask for a parenting plan or custody order here. You may need to file in another state. Jurisdiction is complicated. If you have questions about whether Washington has jurisdiction over your children, try to talk with a lawyer as soon as possible.

**County:** You should file for divorce in a county where at least one spouse lives. The county court where a case is filed is called its "**venue**." If you file in a county where neither spouse lives, or in a county that's hard for your spouse to respond in, your spouse could ask the judge to transfer the case (change venue).

### 3. Temporary orders

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Either spouse can ask the judge for temporary orders to address issues during the divorce process. The judge can make temporary orders about the children, financial support, property, debts, or safety. The judge makes these orders quickly, usually within a few weeks. Temporary orders can last until trial or the end of your case.

Here are some examples of situations where you could ask for temporary orders:

**Example 1:** You want a parenting plan before trial saying who has custody and how much visitation the other parent will have. **Example 2:** You want an order keeping your spouse from cleaning out the bank accounts or selling things before trial.

It can be hard to decide if you need temporary orders. Ask yourself:

- Are you happy with how things are right now without them?
- Do you need an order making your spouse do (or stop doing) something?

Temporary orders can include:

- A parenting plan saying whom the children will live with until the divorce is final. Until you have an order, each parent has an equal right to custody. If your spouse won't let you see the children, a parenting plan can give you visitation.
- Restraining orders to keep one spouse from harassing or coming near the other.
- Restraining orders keeping a spouse from taking the children out of state.

- Restraining orders keeping a spouse from getting rid of property, taking out loans in both your names, or taking your name off insurance policies.
- Orders for temporary child support, maintenance (alimony), attorney's fees, or use of your house or car.

You can file a motion asking the judge to order your spouse to pay your attorney's fees.

- Order that one spouse can live in the house and the other cannot.
- Appointment of a guardian ad litem (GAL) or parenting evaluator.

**If there's an emergency**, you may need an Immediate Restraining Order right away. You can ask the judge to make this type of temporary order with no notice (or very short notice) to your spouse. A judge makes an Immediate Restraining Order right away and schedules a hearing about 2 weeks later to decide if the order should stay in place. You may need this type of order if you cannot wait a few weeks for regular temporary order hearing. **Examples:** Your spouse

- Is harassing or harming you.
- Has harmed the children **or** poses a danger to them.
- Has threatened to take the children.
- Is taking a lot of money out of your accounts, or selling or hiding property.

If you file for Immediate Restraining Orders, you **don't** need to file for Temporary Orders.

You can ask to change your temporary family law orders any time before your divorce is final. To ask the court to change a temporary order, you file another Motion for Temporary Family Law Order ().

## 4. Pregnancy

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The law considers the other spouse to be the legal parent of any child born during the marriage or within **300 days** after it ends.

You can get a divorce even if a spouse is pregnant. If you're finalizing your divorce before the baby is born, the judge can't make a parenting plan or child support order for that child yet.

If you're expecting a child through adoption or surrogacy, you should talk to an experienced family law lawyer.

## 5. Parenting

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If you have any children together under age 18, you'll need the judge to make a parenting plan as part of your divorce final orders.

Washington courts generally don't say *custody* and *visitation* anymore. They talk about the *parenting plan*, *residential schedule* and *decision-making authority* for the children.

As part of your divorce, the court will decide:

- Who will have custody, or if the children will live with each parent half-time.
- Visitation.
- Who will make decisions about the children's schooling, medical care, and other issues.
- How you will work out disagreements about the children.

Learn more in our [Parenting Plan guide](#).

## 6. Child support

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Child support is what one parent pays the other to help support the children under age 18 they have together. The judge orders it as a monthly amount, although it can be collected in parts with each paycheck. The judge calculates the amount using the Washington State Support Schedule, considering both parents' incomes.

Parents have a legal duty to help support their children. In most divorces, the non-custodial parent pays the other parent child support. Even if you split custody evenly, one parent may have to pay support if there's a big difference in your incomes. Even if you and your spouse agree not to have any child support, the judge can still order it.

A stepparent may have a legal duty to help support stepchildren until a divorce from the child's parent is final or the court ends this obligation.

The judge's main concern is making sure your children have enough to meet their needs. Support is for clothes and food, to give the children a place to live (rent, mortgage, utilities), and to assure they have decent daycare and medical care.

You both may have to share costs for uninsured health care, daycare, school tuition, and long-distance visits. The court determines how much each parent pays in proportion to their incomes and by considering the number of children living with them. The judge may award the federal income tax exemptions each spouse is entitled to claim.

The judge can also order child support to continue after high school while a child is in college or vocational school.

## 7. Property and debt

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Your Divorce Petition proposes how the court should divide the property and debts. The judge in the Final Divorce Order decides who gets what.

You must tell the judge about **all** your property and debts. Washington is a *community property* state. Generally, all property (house, other real estate, car) a spouse gets during the marriage is community property. It belongs to both

of you, even if only one of you is on the title. Each spouse's earnings during the marriage is community property.

*Separate property* belongs to only one spouse. Generally, it is property you got before the marriage through inheritance or as a gift (before or during the marriage), or after separation.

Generally, all debts either spouse took on (incurred) during the marriage are community debts. Both spouses are equally responsible for them. You take on separate debts **before** the marriage **or after** separation.

The law about division of property in divorces can be complicated.  
Try to talk to a lawyer.

## How will the judge divide our property and debts?

In deciding on your property and debts, the judge can make any division that is *just and equitable*, after considering:

- The nature and extent of the community property.
- The nature and extent of the separate property.
- How long the marriage lasted.
- Each spouse's financial situation at the time the property division will become effective.
- Whether the spouse with custody should get the family home.

The judge will probably let the parent with custody keep living in the family home, if possible. The judge may award that parent more property and fewer debts, especially if the other spouse cannot pay much child support.

The judge will also consider how property and debt division will affect each of you after the divorce. They generally don't want one spouse very wealthy and the other poor. They will consider your age, health, education, and work prospects.

**Example 1:** You had a long marriage. You haven't worked much outside the home. The judge may award you more community property (or long-term maintenance) so you don't end up much poorer than your spouse is.

**Example 2:** You have a disability. You cannot work. The judge may award you more community property.

**Example 3:** The judge can consider which spouse will be able to afford to pay the debts when deciding who must pay them.

In most cases, the judge will award each spouse their separate property and order each to pay their separate debts. They rarely award one spouse's separate property or debts to the other.

The judge cannot consider who "caused" the divorce when dividing property. For example, it doesn't matter if one spouse had an affair leading to the divorce. The judge **may** consider if one spouse wasted marital assets without the other's consent or tried to hide property from the judge.

## What if my spouse or I am considering bankruptcy?

[Read our overview on divorce and bankruptcy.](#) You should also try to [talk to a lawyer.](#) Divorce and bankruptcy can be complicated and have serious

consequences.

## **What if my spouse won't pay our community debts?**

You must pay the debt. You can sue your spouse to pay you back if a judge ordered them to pay it. Even if a judge orders your spouse to pay a debt, the creditor (person owed) may still come after you to collect. You cannot stop the creditor by telling the creditor the debt is your ex's responsibility.

If you think this might happen, check the "hold harmless" box in the Final Divorce Order form. It is the second box in section 12. Then, if you must sue your ex- to force them to pay you back for debts you paid, they must also pay your attorney's fees and costs.

It's possible your ex could try to get out of paying your community debts. If your spouse files for bankruptcy, you should get notice of it. Talk immediately with a lawyer who knows bankruptcy law. You may need to take part in the bankruptcy case to protect yourself.

## **8. Home**

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If both spouses bought a home (or land or other real estate) during your marriage, it's community property. The judge will need to make an order in your divorce about what to do with your home. You could sell it, or one of you could continue to live in it. One of you could buy out the other's interest in it.

Look at your home's value, what you still owe on it, and your incomes now. Can one of you pay the mortgage on just your income? If not, awarding one of



you the home may lead to foreclosure and bad credit. It might be safer to sell it.

You and your spouse might disagree about whether you should sell your house as part of the divorce. The judge can order you to sell it anyway and will likely do that if needed to divide the property fairly, or if you're behind on payments.

Instead of selling your house, you could refinance the property in one spouse's name. If you agree to do this, you should do it at or near the time of the divorce. Try not to create a situation where the title is in one name, the debt in another.

- For **example**, the divorce awards you title to the home. Your spouse's name stays on the mortgage. You get behind on mortgage payments. It will be very hard at that point to get a modification of the mortgage with your spouse's name still on it.

If only one spouse bought your home before your marriage, what to do with the home in the divorce becomes a little more complicated, especially if you both paid the mortgage. The house might have remained your spouse's separate property after you married. Or the court might decide that your spouse gave the house to the two of you together as a married unit.

- For **example**, if you refinanced the house in both names during your marriage, you may be entitled to an interest in any increase in the house's value from improvements you made to the house during the marriage, such as a remodel or new deck, plus the community payments on the mortgage.

- Or the court could subtract the house's rental value from your community interest because you had the benefit of living there during the marriage. It might rule you have no community interest in the house because of the value you got from living there.

This issue is complicated. Try to talk to a lawyer.

## 9. Pension

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One spouse in your divorce might be entitled to some of the other's retirement (<https://legalvoice.org/divorce-future-retirement-benefits/>) or pension benefits.

- **Retirement and pension benefits**, including 401(k) plans earned during the marriage, are community property. You both have a legal interest in them.
- The **portion of pension earned during the marriage**, and the increase in value of that portion, is also community property.
- **Disability benefits** that substitute for pension benefits might be community property.

The judge can order one spouse's pension plan to pay the other spouse benefits directly after the first spouse retires. This is called a "qualified domestic relations order (<https://pensionrights.org/resource/im-getting-divorced-what-is-a-qualified-domestic-relations-order-and-why-should-i-care/>)".

## 10. Spousal support

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Alimony, called spousal support or maintenance in Washington State, is a payment one spouse makes to the other for financial support. The judge doesn't always award spousal support. The judge must look at things such as:

- How long you've been married.
- Both your financial situations, given the division of property and debts and your spouse's ability to pay maintenance.
- Time it will take for you to get education or training.
- Standard of living during the marriage.
- Your age and health.

If you've been unemployed a long time, you're more likely to get spousal support than if you've been laid off temporarily. This is especially true if you stayed home to care for the children. On the other hand, the judge can order spousal support even if you're working if the judge decides your spouse can afford it and you should enjoy the same standard of living you had during the marriage. You're more likely to get spousal support if both are true:

- You were married many years.
- You have a disability and/or stayed home to care for the children while your spouse worked. You're less likely to get a good job now.

Spousal support payments generally end when you remarry or die. The Final Divorce Order may say otherwise.

Spousal support is complicated. Try to talk to a lawyer ().

## 11. Personal safety

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Divorce can be a stressful and emotional time, with an increased risk of domestic violence. If you're afraid your spouse may hurt or threaten you or the children, you can ask the judge for a protection order or restraining order. We also strongly recommend you contact a domestic violence program for help with safety planning and other services.

**Community organizations can help!** If you've experienced domestic violence, harassment, stalking, or sexual assault, or the threat of any of these, get help from your local domestic violence shelter or sexual assault center. Shelters provide safety planning, temporary shelter, legal advocacy, counseling, and other services.

Visit Washington State Domestic Violence Information & Referral (<https://www.domesticviolenceinforeferral.org/domestic-violence-programs>) to search for local programs by county, or for culturally/community specific ([https://www.domesticviolenceinforeferral.org/domestic-violence-programs?field\\_county\\_value=All&field\\_program\\_catagory\\_tid=1](https://www.domesticviolenceinforeferral.org/domestic-violence-programs?field_county_value=All&field_program_catagory_tid=1)) or Tribal programs (<https://www.domesticviolenceinforeferral.org/domestic-violence->

[programs?field\\_county\\_value=All&field\\_program\\_catagory\\_tid=2\).](#)

You can call, text, or chat online with advocates 24/7 at any of these:

- [National Domestic Violence Hotline](#)  
(<https://www.thehotline.org/>), 1-800-799-7233
- [National Sexual Assault Hotline](#) (<https://rainn.org/resources>),  
1-800-656-4673
- [StrongHearts Native Helpline](#)  
(<https://strongheartshelpline.org/>) (a peer support service of  
the National DV Hotline), 1-844-762-8483

## What is a Protection Order?

A **Protection Order** is a civil court order (an order you request), issued by a judge, meant to protect you from another person. Violating a protection order is a crime. Your spouse could go to jail.

You can [ask for a protection order](#) if you're experiencing domestic violence, harassment, sexual assault, stalking, or for the abuse or neglect of a vulnerable adult.

You can ask for a protection order at any time – before, during, or after a divorce. You can also ask for a permanent protection order as part of your final divorce orders.

The law allows you to file for a protection order against your spouse as part of your divorce case. But many courts prefer to keep those types of cases separate.

A protection order can:

- Give you temporary custody or set up temporary visitation. (This may be changed by new orders in your divorce case, especially if a different judge gave you a protection order.)
- Order your spouse to have no contact with you and/or the children.
- Keep your spouse out of the home and away from your home, work, or school, and/or the children's daycare or school.
- Order your spouse not to threaten, assault, harass, or stalk you and/or the children.
- Order your spouse to turn their guns in to law enforcement.
- Order your spouse to get domestic violence or alcohol or drug treatment.
- Order your spouse to stop sharing intimate images of you.
- Protect your pets.

This isn't a complete list. [Learn more about protection orders.](#)

## **What is a Restraining Order?**

Another option is to get a Restraining Order. Restraining Orders are like protection orders that are issued as part of your family law case. They don't have all the same safety protections as protection orders, and may not be as well recognized by the police as protection orders are. But they can be useful to keep the peace during your divorce.

You can ask for an immediate restraining order at any time during your divorce case. You can also ask for a permanent restraining order as part of your final divorce orders.

An immediate restraining order can:

- Give you temporary custody or set up temporary visitation.
- Order your spouse not to move the children out of Washington.
- Keep your spouse out of the home and away from your home, work, or school, and/or the children's daycare or school.
- Order your spouse not to hurt, threaten, or disturb your peace.
- Order your spouse to turn their guns in to law enforcement.
- Order your spouse not to take money or property, and not to change insurance.

Not all violations of an immediate restraining order are crimes.

You usually don't need both a protection order and a restraining order. Ask a lawyer () for advice about which order is right for you.

## 12. Military spouse

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Service members who are divorcing have extra protection under the law. Generally, the law protects someone being sued in any civil case, including divorce, **who is or will soon be on active military duty**. This includes reservists and National Guard members on active duty. The court can put off (postpone) or stop (suspend) hearings until the service member can take part.

The law aims to help service members give full attention to their duties. It may limit the judge's ability to make orders that permanently harm the service member's rights.

If the service member's military service "materially affects" their ability to take part in a court case, the judge must wait until the service member is available. If a spouse cannot get to a hearing due to military service, and the outcome of the hearing depends on their participation, the judge can postpone the hearing. Usually, the judge will still make temporary decisions about parental rights and responsibilities, and child support, without the service member, to protect the children's best interest.

Even if you and your spouse separated a long time ago and are out of touch, you must still try to find out if your spouse is on active duty before you file for divorce. If you don't know about the other party's military status, you can look them up

(<https://scra.dmdc.osd.mil/scra/#/home><https://scra.dmdc.osd.mil/scra/>) and get a report from the Defense Manpower Data Center (DMDC). You must create an account on that website to run a search. (They call it a "record request".)

If you have your military spouse served with divorce papers, and your spouse hasn't filed anything by the deadline to respond, you can seek a "default judgment." **Before a judge can enter a default judgment against a Respondent on active duty**, the judge must appoint a lawyer to represent Respondent's interests. Often the judge will delay granting final divorce orders until the service member can get leave and come to court.



**If you're the military spouse**, and you agree on all the issues in the divorce, you can give up (waive) your rights to delays in the case by signing a written waiver in front of a notary public. You must have the waiver form filed with the court. If you sign the waiver form, you're giving up legal protections. If you think you want this, visit Military OneSource to find a lawyer specializing in military law or a JAG attorney (<https://www.militaryonesource.mil/financial-legal/legal/%20%20>).

## 13. Written agreements

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You might have signed a written agreement before or during your marriage that talked about your property:

- You might have signed a **prenuptial agreement** before marrying stating how you would divide your property and debts if you divorce.
- You may have signed a **Community Property Agreement** during the marriage stating which of your property is community and separate. Couples sometimes do these as part of an estate plan.
- You might have signed a **Settlement Agreement** or **Separation Contract after** separation dividing property and debts.

If you think you have any written agreement about your property and debts, try to have a lawyer look at it. This could determine how the court will divide property and debts in your case.

## 14. Help filing for divorce

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**Hire a lawyer to represent you.** If you can afford to, you should talk to a lawyer about your case and consider hiring them to file for you. If you cannot afford a lawyer, contact your local legal services office (). Some legal services offices, county bar associations (<https://www.wsba.org/connect-serve/other-bars/county-bar-associations>), and pro bono programs handle divorces. They can fully represent only a very few people. They often help many more with paperwork and advice.

**Take a “Self-Help” class.** Some counties have classes on how to file your own divorce. They may charge you to take a class, but you might get more help with forms and local procedures. If you can go to a class, you should. To find out if your county has a self-help class, contact your local family law facilitator, if there is one.

Where available, **use the local family law facilitator’s Do-It-Yourself packets.** Some counties have family law facilitators who can help you file your own divorce. They are not lawyers. They cannot give legal advice. They do often have do-it-yourself packets designed for that county.

**If you don’t have a local packet,** use Washington Forms Online to fill out the forms to file for divorce

(<https://lawhelpinteractive.org/Interview/InterviewHome?templateId=7067>).

It’s free and simple. We ask you questions and use your answers to complete your forms.

If you don't want to fill out the forms online, you can answer a few questions on [Get family law forms](#) to get the right forms for your situation.

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