

Divorce basics

Author

Northwest Justice Project

Last Review Date

January 2, 2025

General information about getting divorced in Washington state.

When can I get a divorce in Washington state?

You can get a divorce when all of these are true:

- You're married legally or you're married through common law marriage in another state or country. (Washington doesn't have common law marriage.)
- You or your spouse live here and plan to stay here, **or** you're in the military and will be stationed here for at least **90 days** after you start your divorce in court (file a court case).
- At least one spouse believes the marriage can't be fixed (is broken).
- You or your spouse properly filed and served the summons and petition for divorce.
- At least 90 days have passed since the summons and petition was filed and served.

If you're in a registered domestic partnership, you file to end your partnership, instead of for divorce. Some of the court forms are different, but the process is the same.

My spouse doesn't want a divorce. Does it matter?

No. If all the above are true, the judge will grant the divorce. But your spouse could still argue about how the judge should rule about any issues in your divorce.

What is legal separation?

In a legal separation case, the judge makes orders for all the same issues as a divorce, including parenting plan, child support, and property and debt division.

Here's how legal separation is different:

- Your marriage doesn't end.
- Social Security (<https://secure.ssa.gov/poms.nsf/lnx/0500501150>) still treats you as married when figuring out benefits.
- People often choose it if their religious faith discourages divorce.
- You can only legally remarry if you change (convert) the separation order to a divorce order.

What is annulment?

Also called **invalidity**, an annulment is a court case that makes it as if your marriage never happened in the first place. Either spouse can file for this. 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 this.

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

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

- Divide any property and debts you had during the marriage
- Order any appropriate maintenance for a spouse
- Change a spouse's name, if they want
- Enter court orders needed to keep a spouse and/or any children safe from the other spouse
- Order custody and visitation (a parenting plan) for any of your children who are under age 18
- Order a spouse to pay child support

Does a Washington court have jurisdiction to hear my case?

It depends. It's simple if you and your spouse both live in Washington now. The judge can decide all issues in your case. Even if your spouse doesn't live here now, if they lived in Washington during the marriage and you had them personally served (you had your court papers hand delivered to them), the judge can give you a divorce and decide the financial issues.

The judge won't have jurisdiction over property in another state or country.

Can the divorce court decide who gets custody of our kids?

Maybe. It depends, in part, on how long your children have lived in Washington.

Can I get a divorce without a lawyer?

Yes, but it's usually best to at least try to talk to one, if you can. You may have rights you don't know about. **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's probably worth paying for this. Some lawyers have reduced rates for this kind of work.

What other help can I get?

- You can use Washington Forms Online to fill out the forms to file for divorce. It's free and simple. We ask you questions and use your answers to complete your forms.
- The Legal Voice (<http://legalvoice.org/>) in Seattle has more on divorce issues.
- The court clerk (https://www.courts.wa.gov/court_dir/?fa=court_dir.county) or facilitator (https://www.courts.wa.gov/court_dir/?fa=court_dir.facils) may have other packets you can or must use.
- Some local volunteer lawyer programs (<https://www.probonocouncil.org/get-legal-aid>) and legal services offices offer classes to help you with the forms and explain how to file a case.
- If you and your spouse have children, can't 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.

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