

General Information about Divorce

When can I get a divorce?

In Washington State, a divorce is called a "dissolution of marriage." The court will grant a dissolution if you meet all the following:

- You are married either legally or through common law marriage in another state or country. Washington does not have common law marriage.
- You or your spouse are a resident of Washington, meaning you or your spouse live here and intend to remain here, or you are in the military and will be stationed here for at least 90 days after you file and serve the Petition for Dissolution.
- One spouse in the marriage believes that the marriage is irretrievably broken (the relationship can't be fixed).
- You file and serve the Summons and Petition for dissolution properly.
- At least 90 days have passed since the Petition for Dissolution was filed and served.

What if my spouse will fight the dissolution?

As long as you meet the above requirements, the court will grant a dissolution whether your spouse agrees or not. However, your spouse can argue about other issues, such as how the court divides property and debts, whether one spouse gets maintenance (alimony), custody and visitation (parenting plan) of your children, and child support. If there is argument about any of these issues, it will take longer to get a dissolution.

What about legal separation?

Legal separation is very similar to a dissolution. The court will enter orders for all the same issues as it would in a dissolution, including parenting plan, child support, property/debt division. There are some differences, however. Most people choose a legal separation as opposed to a dissolution for religious reasons. With a decree of legal separation, your marriage is not dissolved, so neither party can legally remarry unless the decree is first converted to a decree of dissolution. Also, the Social Security Administration does not recognize a decree of legal separation in figuring out benefits.

If either spouse wants to convert a decree of legal separation to a decree of dissolution, he or she can do so after waiting six months after the decree of legal separation is signed by the judge. This publication does not discuss all of the differences between legal separation and dissolution; you should consult a lawyer with specific questions about the differences. If either spouse wants a dissolution instead of separation, the court will grant a dissolution.

What about having the marriage declared invalid?

When a court finds a marriage to be invalid (the legal term for an annulment), it is as if the marriage never happened. Either spouse, or the guardian of an incompetent spouse, can file for invalidity. If a spouse is married to more than one person, a child of the later marriage or any other legal spouse may also file a petition for invalidity.

You can have your marriage declared invalid instead of getting a dissolution if both spouses are alive and at least one spouse is a resident of Washington (or in the military

and stationed here). In addition, you must prove one of the reasons for invalidity listed in the Revised Code of Washington [\(RCW\) 26.09.040\(4\)\(b\)](#), which can be found at your library. The reasons include one spouse being too young to marry, the spouses being related by blood, one spouse being married to someone else, or one spouse not being able to consent at the time of marriage because of mental incapacity or the influence of alcohol or other drugs. Also, the spouses cannot have lived together after the conditions above went away (for example, the court would not grant a Decree of Invalidity if the wife was only 15 when she got married, but continued to live with the husband after turning 18).

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

In a decree of dissolution, separation, or invalidity, the judge will rule on the status of the relationship. In a decree of dissolution or separation, if there is jurisdiction to do so, the judge will also divide the property and debts, order any appropriate maintenance (alimony), change the name of either party, enter restraining orders or an Order for Protection as needed, set custody and visitation (parenting plan) for any minor children of the spouses, and set child support.

*Whether there is **jurisdiction** can be a complicated issue. If you and your spouse both live in Washington now, it is simple: the court will have jurisdiction to decide all of the issues in your case. Even if your spouse does not live here now, if he or she lived in Washington during the marriage and is personally served, the court will have jurisdiction over some of the financial matters. The court will not have jurisdiction over property located in another state or country. Whether the court has jurisdiction to enter a parenting plan regarding custody and visitation depends, in part, on how long your children have lived in Washington. If your children have been living in Washington for at least six months and there have not been custody orders entered in another state or country, the court will have jurisdiction. If your situation is more complicated because your children have not been here for six months, your spouse lives elsewhere, or there have been custody/visitation orders entered regarding your children in another state (including as part of a domestic violence protection or restraining order) it is a good idea to consult with an attorney before filing for dissolution, separation or a declaration of invalidity.

How can I get the decree?

You do not have to have a lawyer to get a dissolution. However, it is usually best to hire a lawyer if you can afford to do so. If you and your spouse agree about everything, it can be fairly easy for you to file the case and get a decree without a lawyer. If there are any issues you and your spouse disagree about, the case may get complicated. When there are disagreements, it may be hard to get a decree which protects your rights unless you have a lawyer. Even if you do agree, you may have rights that you don't know about and would lose if you did not get expert advice. For example, you may have an interest in your spouse's pension plan.

Even if you cannot afford to have a lawyer represent you, you should at least have a lawyer review your dissolution papers after you fill them out. It would probably be worth paying for an hour or two of a lawyer's time to protect yourself, and some lawyers have reduced rates for consultation sessions.

There are several packets available with the forms and instructions needed to get your own dissolution, separation, or declaration of invalidity, whether the spouses agree or not. You can find these packets on the Northwest Justice Project web site at www.washingtonlawhelp.org. The Northwest Women's Law Center in Seattle also has many packets on specific dissolution issues, such as how to respond to a motion for temporary orders. Check with your court clerk or court facilitator for other packets. Some volunteer lawyer programs and legal services offices sponsor classes that help you fill out the forms you will need and tell you how to file your case.

If you and your spouse have children, cannot afford a lawyer and you plan to file on your own even though you and your spouse don't agree, you can ask the court to appoint a guardian ad litem (GAL) to investigate the situation and make a 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, the parents must pay for the services. For more information, see our publication [How to Request a Guardian Ad Litem in Divorce Cases](#).

How do I get more information?

In addition to the packets of forms and instructions for various matters related to a dissolution case, Northwest Justice Project has many informational and self-help publications available. For detailed information about divorce, see our publications "[Ending Your Marriage in Washington with Children: The Basics](#)" and "[Ending Your Marriage in Washington without Children: The Basics](#)". For a list of publications, call your local NJP office or visit the Washington LawHelp web site at www.washingtonlawhelp.org.

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