

Divorce: General Info

When can I get a divorce?

All these must be true:

- 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 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 the filing and serving of the petition.

What if my spouse does not want a divorce?

It does not matter. If all of the above are true, the judge will grant the divorce anyway.

Your spouse can still argue about such issues 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.
- Neither of you can legally remarry unless you convert the separation decree to a divorce decree.
- The Social Security Administration does not recognize a legal separation decree in figuring out benefits.

❖ There are more differences between legal separation and divorce. Talk to a lawyer.

❖ If either of you wants divorce instead of separation, the court will grant the divorce.

How do you convert a separation to a divorce?

Either spouse can convert a decree of legal separation to a divorce decree after waiting six months after the judge has entered the decree of legal separation.

What is an annulment?

Also called **invalidity**, it is a court action to make it 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 at the same time, a child of the later marriage or any other legal spouse may file a petition 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 one 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 was unable to consent at the time of marriage because of mental incapacity or the 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. The court will not grant a Decree of Invalidity if she kept living with her spouse after turning 18.)

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

The judge rules that the relationship is over. In a decree of divorce or separation, a court that has jurisdiction (authority) to do so will also:

- Divide any property and debts
- Order any appropriate maintenance (alimony)
- Change a party's name
- Enter restraining orders or an Order for Protection as needed
- Order custody and visitation (parenting plan) for any minor children
- Order child support

*Whether a court has **jurisdiction** can be complicated. It is simple if you and your spouse both live in Washington now. The court will have jurisdiction to decide all issues in your case. Even if your spouse does not live here now, if they lived in Washington during the marriage and is personally served, the court will have jurisdiction over some financial matters.

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

Can the divorce court rule on custody too?

It depends, in part, on how long your children have lived in Washington. The court will have jurisdiction to issue a parenting plan (custody order) **if both of these are true:**

- your children have been living in Washington for at least six months
- another state or country has not entered custody orders

Talk to a lawyer before filing for anything if:

- your children have not been here for six months.
- your spouse lives elsewhere.
- A court in another state has entered custody or visitation orders (including as part of a domestic violence protection or restraining order) about your children.
- Your situation is more complicated.

Can I get a divorce decree without a lawyer?

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

Even if you cannot afford to have one represent you, a lawyer can review your divorce papers after you fill them out. It is probably worth paying for an hour or two of a lawyer's time to protect yourself. Some lawyers have reduced rates for consultations.

What other help can I get?

- Use our do-it-yourself interview program, [Washington Forms Online](#), to

complete the forms at [WashingtonLawHelp.org](#).

- Our packets at [WashingtonLawHelp.org](#) have forms and instructions to help you get your own divorce, separation, or declaration of invalidity.
- The Legal Voice in Seattle ([legalvoice.org](#)) has more on specific divorce issues.
- The court clerk or facilitator may have other packets.
- Some volunteer lawyer programs and legal services offices hold 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 even though you and your spouse do not agree, 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](#).

❖ **GUARDIAN AD LITEMS ARE "MANDATED REPORTERS:"** A guardian ad litem must report a family to law enforcement or CPS when they have reason to believe a child in a family they are investigating has been abused or neglected.

Where can I get more information?

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

What if I need legal help?

- Apply online with CLEAR*Online - [nwjustice.org/get-legal-help](#) or
- Call CLEAR at 1-888-201-1014

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays from 9:15 a.m. until 12:15 p.m.
- **King County:** Call 211 for information and referral to an appropriate legal services provider Monday through

Friday from 8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274). You can also get information on legal service providers in King County through 211's website at [www.resourcehouse.com/win211/](#).

- **Persons 60 and Over:** Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 (or toll-free 1-877-211-9274) using the relay service of their choice.

211 and CLEAR will conference in interpreters when needed at no cost to callers.

Free legal education publications, videos and self-help packets covering many legal issues are available at [WashingtonLawHelp.org](#).

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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