



Divorce: The Basics

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- ❖ Read this only if you live in Washington State.
 - ❖ You can find all the fact sheets we link to here at [WashingtonLawHelp.org](https://www.washingtonlawhelp.org).
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Can I get a divorce?

Yes, if all of these are true:

- You are married legally or you are married 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 cannot be fixed (is broken).
- You start (file) and serve (have delivered to your spouse) the Summons and divorce petition properly.
- At least 90 days have passed since you had the petition and summons filed and served.

My spouse does not want a divorce. Does it matter?

No. If all of the above are true, the judge will grant the divorce. But your spouse could still argue about how the judge should rule about things listed in *What can a decree of divorce, separation, or invalidity do*, below.

What is “legal separation”?

In a legal separation case, 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:**

- People often choose it if their religious faith discourages divorce.
- Your marriage does not end.
- You can only legally remarry if you change (convert) the separation decree to a divorce decree.
- The Social Security Administration does not recognize legal separation in figuring out benefits.

Read [Legal Separation: General Info](#) to learn more.

How do I convert a separation to a divorce?

Our [Changing Your Legal Separation to a Divorce](#) packet has forms and instructions for doing this.

What is an annulment?

Also called **invalidity**, this court action 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.

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 a reason for invalidity listed at [RCW 26.09.040\(4\)\(b\)](#) (apps.leg.wa.gov/RCW/default.aspx?cite=26.09.040)

The reasons you can invalidate or annul your marriage include:

- One spouse was too young to marry
- The spouses are related by blood
- One spouse was already married to someone else

- One spouse could not consent at the time of marriage because of mental incapacity or use of alcohol or drugs

❖ The spouses cannot have lived together after the conditions listed above went away. **Example:** A spouse was only fifteen when she got married. She kept living with her spouse after turning 18. The court will not declare the marriage invalid.

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

The judge rules that the relationship is over. A court 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
- 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 under age 18
- Order a spouse to pay child support

Does a Washington court have jurisdiction to hear my case?

It depends. It is simple if you and your spouse both live in Washington now. The court can decide all issues in your case. Even if your spouse does not 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 court can rule on some financial matters.

❖ The court will not 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. Read [Which Court Can Enter Custody Orders? Questions and Answers about Jurisdiction](#) to learn more.

Can I get a divorce without a lawyer?

Yes, but it is usually best to at least talk to one, if you can. You may have rights you do not 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 is probably worth paying for this. Some lawyers have reduced rates for this kind of work.

What other help can I get?

- You can use our do-it-yourself interview program, [Washington Forms Online](#), to complete the divorce forms at WashingtonLawHelp.org.
- Our packets at WashingtonLawHelp.org have forms and instructions to help you get your own divorce or separation.
- The Legal Voice in Seattle ([legalvoice.org](#)) has more on divorce issues.
- The court clerk or facilitator may have other packets you can or must use.
- Some local volunteer lawyer programs 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, cannot 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. 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](#) to learn more.

Where can I learn more?

Read [Divorce and Other Options for Ending Your Marriage with Children in Washington State](#) or [Divorce and Other Options for Ending Your Marriage without Children in Washington State](#) to learn more.

Get Legal Help

- **Apply online** with [CLEAR*Online](https://nwjustice.org/apply-online) - nwjustice.org/apply-online
- **Facing a legal issue in King County** (other than Eviction or Foreclosure)? Call 2-1-1 (or toll-free 1-877-211-9274) weekdays 8:00 am - 6:00 pm. They will refer you to a legal aid provider.
- **Facing a legal issue outside of King County** (other than Eviction or Foreclosure)? Call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm or apply online at nwjustice.org/apply-online.
- **Facing Eviction?** Call 1-855-657-8387.
- **Facing Foreclosure?** Call 1-800-606-4819.
- **Seniors (age 60 and over)** with a legal issue outside of King County can also call CLEAR*Sr at 1-888-387-7111.

Deaf, hard of hearing or speech impaired callers can call any of these numbers using the relay service of your choice.

Interpreters provided.

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