

# Legal Separation

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## What is a legal separation?

A court case that can give you everything a divorce does, but does **not** end the marriage. You are still married.

## Why file for separation instead of divorce?

You do not want to end the marriage.

**Example:** your religion keeps you from getting a divorce. You do want the other relief available. **Examples:** parenting plan, property and debt division.

## How do I file for legal separation?

The procedure is like and uses many of the same forms as divorce. You start by filing FL Divorce Form 203, Petition for Legal Separation. Get it at

<http://www.courts.wa.gov/forms/index.cfm?fa=forms.static&staticID=14>.

We have no packet on filing for legal separation. Talk to the family law facilitator, if your county has one, or court clerk.

## Do I need to file for separation before filing for divorce?

No.

## I filed for legal separation. The court has not entered a final decree yet. I have changed my mind. I want a divorce. What should I do?

You must file and serve a new petition for divorce.

## I have a final legal separation decree. I changed my mind. I want a divorce. What can I do?

You can change a legal separation decree to a divorce order. Once six months have passed after entry of the legal separation decree, **either** spouse can file a motion to change it. The court must grant the request. The rest of your legal separation orders, such as any parenting plan and child support order, will stay in effect.

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❖ [Legal Separations: What if I Want a Divorce or to Get Back Together](#) has forms and instructions.

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## I want a separation. My spouse wants a divorce. What will the court do?

If you file for legal separation, but your spouse counter-petitions for divorce, the court will probably grant the divorce. To get a divorce, one spouse only needs to show you have *irreconcilable differences*. This means there is no hope of you getting back together.

## I do not want to be responsible for debts my spouse takes on after we separate. What should I do?

File for divorce and a motion for Temporary Family Law Orders.

## Can I get an annulment?

**Sort of.** You can file a Petition to Invalidate Marriage, FL Divorce Form 205, available at <http://www.courts.wa.gov/forms/index.cfm?fa=forms.static&staticID=14>. If the court

finds reasons to, it will grant you a **Declaration of Invalidity of Marriage**. This declares the marriage was void (could not legally exist) from the day it started. Only a very few cases will fit the definition. See the next section.

### Who can get a declaration of invalidity?

You must be able to prove at least one of these:

- One or both of you were under 17.
- You were under 18 when you married. You did not have parental or court approval.
- One or both of you were married to someone else when the marriage took place.
- You are too closely related by blood.

- One of you could not consent to the marriage, because of mental incapacity or alcohol or drugs.
- One of you used force, threats, or fraud to make the other marry you.
- You have not chosen to keep living together as spouses after turning 18, getting the ability to consent, or after the force or threat stopped or discovery of the fraud.

### Can either spouse file for a declaration of invalidity?

It depends. In the case of marriage by fraud or duress, only the spouse who was the victim of force or fraud can ask the court for a declaration of invalidity. Talk to a lawyer if you want to file this kind of case, or have been served with such a petition.

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