

Divorce and Other Options for Ending Your Marriage without Children in Washington State



Northwest Justice Project

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Part 1. Ending the Relationship

A. Do I need a reason to get a divorce?

No. Washington is a “no-fault” divorce state. You do not need to prove a spouse was “at fault.” You must only prove *irreconcilable differences*. You no longer get along.

B. What does a divorce do?

It legally ends your marriage. The court can also divide your property and debts, award one of you maintenance (alimony), limit one spouse’s contact with the other, and change a spouse’s name.

C. What is a legal separation?

The court may give you everything a divorce does, but does **not** end the marriage. You are still married. Read [Legal Separation](#).

D. Can I get an annulment instead?

No. There is no legal “annulment” action in Washington. Read [Legal Separation](#).

E. I am in a domestic partnership. Do I file for divorce?

No. If you are in a registered domestic partnership, you file to end your partnership. Use our [Filing to End Your Domestic Partnership](#) packet.



Part 2. Where to file

A. Can I file in Washington?

Yes, IF one of these is true:

- You live in Washington.
- Your spouse lives in Washington.
- You are in the military and stationed in Washington.

- Your military spouse will be stationed in Washington for at least 90 days after you file and serve the divorce.

B. What if my spouse has never lived in Washington?

Washington must have *personal jurisdiction* over your spouse to be able to make certain types of orders. Washington generally will have personal jurisdiction over your spouse if one of these is true:

1. Your spouse lives in Washington.
2. Your spouse lived in Washington at some point during your marriage.
3. You still live, or are stationed in the armed forces, in Washington.

C. What if I cannot find my spouse?

You may still be able to file for divorce and serve your spouse by *publication*. You can still ask the court to end your marriage and divide any property and debts located in Washington. Read [Service by Certified Mail or Publication](#).

D. My spouse is a Native American who lives on an Indian reservation. Where do I file?

You may have to file in tribal court. Talk to a lawyer with expertise in Indian law.



Part 3. How long will it take?

You must wait at least 90 days after filing and serving the petition before entering final orders. If you and your spouse have an agreement, you can enter final orders right after the 90-day period. If you cannot agree, it will take longer. Your case will go to trial.

How long it takes also depends on your county and how complicated your case is. It is best to try to come to an agreement if you can. Trials can be complicated. You may need a lawyer.



Part 4. I want a court order now. What do I do?

You may want *Temporary Family Law Orders*. The court enters these quickly. They can last until trial or the end of your case. **Example:** You want an order keeping your spouse from cleaning out the bank accounts or selling things before trial.

A. Do I need temporary family law orders?

It depends:

- Are you happy with how things are right now without them?
- Do you need an order making your spouse do (or stop doing) something?

Temporary orders can include:

- Restraining orders to keep one spouse from harassing or coming near the other.
- Restraining orders keeping a spouse from getting rid of property, taking out loans in both your names, or taking your name off insurance policies.
- Orders for maintenance (alimony), attorney's fees, or use of your house or car.
- Order that one spouse can live in the house and the other cannot.

B. Do I need Immediate Restraining Orders?

If there is an emergency, you may need an Immediate Restraining Order right away. The judge can enter this without giving your spouse notice. (Your spouse later can have a hearing. The judge decides there if the order will continue.)

You may need this order if you cannot wait one to three weeks for a hearing to get help from the court. **Examples:** Your spouse

- Is harassing/harming you.
- Is taking a lot out of your accounts or selling/hiding property.

If you file for Immediate Restraining Orders, you do not need to file for Temporary Orders.

C. Can I change my temporary family law order?

Yes, any time before your divorce is final. To ask the court to change a temporary order, you file another Motion for Temporary Family Law Orders.

D. What if my spouse has hurt me?

If you are afraid that your spouse may hurt/threaten you, the court can issue special orders to help protect you. If you have been a domestic violence victim, or your spouse has threatened you, you can ask for a Domestic Violence Protection Order anytime. You can also ask for a permanent protection order as part of the final divorce orders.

A Domestic Violence Protection Order can:

- Keep your spouse out of the family home and away from your home, work, or school.

- Order your spouse not to threaten/assault/harass/stalk you.
- Order your spouse to get domestic violence and/or alcohol/drug treatment.
- Order your spouse to turn their gun in to law enforcement.

For more about Protection Orders, contact your court's protection order advocates or local domestic violence program, or call the National Domestic Violence Hotline at 1.800.799.7233.



Part 5. Dividing Property & Debts

A. What is community property?

You must tell the court about **all** your property and debts. Washington is a *community property* state. Generally, all property (house, other real estate, car) either spouse gets during the marriage is community property. It belongs to both spouses, even if only one is on the title. Each spouse's earnings during the marriage is community property.

Your Divorce Petition proposes how the court should divide property and debts. The court in the Final Divorce Order decides who gets what.

Separate property belongs to only one spouse. Generally, it is property you got before the marriage through inheritance or as a gift (before or during the marriage), or after separation.

❖ If you lived together before your marriage, property and earnings you had while living together might be community property. Talk to a lawyer.

Generally, all debts either spouse incurred during the marriage are community debts. Both spouses are equally responsible for them. You incur separate debts **before** the marriage **or after** separation.

Division of property in divorces can be complicated. Talk to a lawyer.

B. Will the court divide everything 50/50?

It depends. **The court can make any *just and equitable* division**, after considering:

- The nature and extent of the community property.
- The nature and extent of the separate property.
- How long the marriage lasted.
- Each spouse's economic circumstances at the time the property division will become effective.

C. What is a “just and equitable division”?

It will depend. The court considers what condition property and debt division will leave you each in after the divorce. It generally does not want one spouse very wealthy and the other poor. It will consider your

- Age.
- Health.
- Education.
- Work prospects.

Example 1: You had a long marriage. You have not worked much outside the home. The court may award you more community property (or long-term maintenance) so you do not end up much poorer than your spouse is.

Example 2: You have a disability. You cannot work. The court may award you more community property.

Example 3: The court can consider which spouse can afford to pay the debts when deciding who must pay them.

In most cases, the court will award each spouse their separate property and order each to pay their separate debts. It rarely awards one spouse’s separate property and debts to the other.

D. I have a Prenuptial Contract, Domestic Partnership Agreement, or Community Property Agreement. What will happen?

You may have signed a written agreement before marrying stating how you would divide your property and debts if you divorced. We often call this a **prenuptial agreement**.

You may have signed an agreement during the marriage stating which of your property is community and separate. We call this a **Community Property Agreement**. Couples sometimes do these as part of an estate plan.

You might have signed an agreement **after** separation dividing property and debts. We call this a **Property Settlement Agreement** or **Separation Contract**.

If you have any written agreement about your property and debts, have a lawyer look at it. This **might** determine how the court divides property and debts in your case.

E. I bought our car and most other property with my income. Should the court award me those things?

It depends. Property you bought with money earned during the marriage is community property. Your income during the marriage is community property. Anything you buy with

your income belongs to you both. The judge will divide the car and other property according to what they decide is just.

F. My spouse owned our house before our marriage. We both paid the mortgage. Should I get part of the house?

Maybe. The court might award you an interest in the house.

The house is your spouse's separate property. They bought it before your marriage. It remains separate after you marry UNLESS your spouse gives it as a gift to the community. This could happen if, for example, you refinance it in both names.

You may be entitled to an interest in any increase in the house's value from improvements you made to the house (such as a remodel or new deck) during the marriage, plus the community payments on the mortgage. The court would subtract the house's reasonable rental value from your community interest because you benefited from living there during the marriage. It could rule you have no community interest in the house because of the value you got from living there.

❖ This issue is complicated. Talk to a lawyer.

G. What should we do with our home?

Look at

- Its value.
- What you still owe on it.
- Your post-divorce incomes.

Example: can just one of you pay the mortgage? If not, awarding one of you the home may lead to foreclosure and damage your credit. It might be safer to sell it.

Do not create a post-divorce situation where title is in one name, the debt in another.

Example: The divorce court awards you title to the home. No one takes action to make this official. Your spouse's name stays on the mortgage. Your spouse falls behind on payments. It will then be very hard to get the lender to give you a modification with your spouse's name still on the mortgage. **To avoid problems, you must refinance the property in one spouse's name at or near the time of the divorce.**

❖ These are important, often complex, considerations. Talk to an experienced lawyer.

H. I think we should sell our house. My spouse disagrees. Can the court order us to sell it?

Yes, even if one spouse objects. The court will most likely do this if one of these is true:

- You must sell it to divide the property fairly.
- You are behind on payments.

I. Do I have any right to my spouse's pension?

It depends:

- **Retirement/pension benefits**, including 401(k) plans, earned during the marriage are community property. **Both** spouses have a legal interest in them.
- **Pensions earned both before and during the marriage:** the portion earned during the marriage (and the increase in value of that portion) is community property.
- **Disability benefits** substituting for pension benefits might be community property.

If you believe that your spouse has a pension, 401(k), IRA, or other retirement or disability plan, talk with a lawyer about your rights. You may be able to get a Qualified Domestic Relations Order (QDRO) ordering the pension plan to pay you benefits directly after your spouse retires. The Pension Rights Center publishes *Your Pension Rights at Divorce: What Women Need to Know*. Read pensionrights.org/publications/book/your-pension-rights-divorce-what-women-need-know or call them at (202) 296-3776.

J. My spouse had an affair. I filed for divorce. Should the court give me more of the property?

No. Washington has “no-fault” divorce. The court cannot consider which spouse “caused” the divorce when dividing property. The court **may** consider if your spouse wasted marital assets without your consent OR tried to hide assets from the court.

K. I am not working. Can I get alimony?

Maybe. Maintenance (alimony) is a payment one spouse makes to the other for financial support. The court does not always award maintenance. It must look at things such as:

- How long you have been married.
- Both your financial situations, given the division of property and debts and your spouse's ability to pay maintenance.
- Time it will take for you to get education or training.
- Standard of living during the marriage.

- Your age and health.

If you have not worked in a long time (**example:** you stayed home to raise the children), you are more likely to get maintenance than if you are temporarily laid off. On the other hand, you can get maintenance even if you are working, if the court decides you should enjoy the same standard of living you had during the marriage. You are more likely to get maintenance if both of these are true:

- You were married many years.
- You have a disability and/or stayed home to care for the children while your spouse worked. You are less likely to get a good job now.

Maintenance payments generally end when you remarry or die. The Final Divorce Order may say otherwise.

❖ Maintenance is complicated. Talk to a lawyer.

L. The divorce court ordered my spouse to pay our community debts. She did not. What can I do?

You must pay the debt and sue your spouse to pay you back. Even if the court orders your spouse to pay a debt, the creditor (person owed) may still come after you. You cannot stop the creditor by telling the creditor the debt is your ex's responsibility.

If you think this might happen, check the "hold harmless" box in the Final Divorce Order form. It is the second box in section 12. Then, if you must sue your ex- to make them pay you back for debts you paid, they must also pay your attorney's fees and costs.

M. Can my ex get out of paying community debts through bankruptcy?

Maybe. If your spouse files for bankruptcy, you should get notice of it. Talk immediately with a lawyer who knows bankruptcy law. You may need to take part in the bankruptcy case to protect yourself.



Part 6. Our Do-it-Yourself Resources

A. How do I get the forms I need?

We have printable packets with blank forms for you to print and fill out on your own, with how-to instructions for completing and filing. In some cases, we also have online interviews to help you complete the forms. Check the list below to see what is available. This list should help you decide which you need. You may need more than one. Get only what you need when you need them.

- [File for Divorce](#) – to start your divorce. Or use our do-it-yourself interview program, [Washington Forms Online](#), to complete the forms at WashingtonLawHelp.org.
- It has you answer a series of questions and then produces the completed forms for you to print out and file.
- [Ask the Court to Waive Your Filing Fee](#) –you cannot afford to pay the filing fee. Use this to ask the court to waive (not ask for) the filing fee required to file court papers in a civil case because you cannot afford to pay it. Or use our do-it-yourself interview program, [Washington Forms Online](#), to complete the forms at WashingtonLawHelp.org.
- [Service by Certified Mail or Publication](#) –you have tried to serve your spouse in person, but could not. You can ask for court permission to serve by other methods.
- [Filing for Temporary Family Law Orders: Divorce Cases and Petition to Change Parenting Plan Cases](#) – to ask for an order covering any period between the filing of the case and the date it is final.
- [Filing for Immediate Restraining Orders: Divorce Cases and Petition to Change Parenting Plan Cases](#) – to ask for an emergency order to take effect immediately.
- [Respond to Motions for Temporary Family Law Orders or Immediate Restraining Orders: Divorce Cases and Petition to Change Parenting Plan Cases](#) - Your spouse has filed a Motion for Temporary Family Law Orders or Motion for Immediate Restraining Order.
- [Finalize Your Divorce by Default or Finalizing Your Petition to End Domestic Partnership by Default](#) –You are ready to finalize. Your spouse has not responded.
- [Finalize Your Divorce \(without children\) by Agreement](#) –You are ready to finalize. You and your spouse have an agreement (settlement).
- [Dismiss Your Petition for Divorce or to End Domestic Partnership](#)- You do not want to end your marriage after all.
- Other:** [Local Do-it-Yourself packets](#): Local court rules may require you to use their forms/packets. Ask the court clerk or facilitator.

Hire a lawyer to represent you. If you can afford to, talk to one about your case and consider hiring them to file for you. If you cannot afford a lawyer, contact your local legal services office. Some legal services offices, county bar associations, and pro bono programs handle divorces. They usually can directly represent only a very few people. If you have a low income and live outside King County, call CLEAR for a referral at 1-888-201-1014. If you have a low income and live in King County, call the King County Bar Association at (206) 623-2551. Ask for a referral for low-income representation in family law.

Take a “Self-Help” class. Some counties have classes on how to file your own divorce. It may cost more than this packet, but help more with forms and local procedures. Take a class if you can. To find out if your county has a self-help class, contact your local family law facilitator, if there is one.

Where available, **use the local family law facilitator’s Do-It-Yourself packets.** Some counties have family law facilitators who can help you file your own divorce. They are not lawyers. They cannot give legal advice. They do often have do-it-yourself packets designed for that county.

B. Where do I get more info about the law?

We have other publications and packets on WashingtonLawHelp.org, and links for legal research. If you need more info, or do not have internet access, visit your local law library (usually in your county’s Superior Court building). The library staff may be able to help you find the resources you need.