



Legal Assistance Office
Office of the Staff Judge Advocate

Lewis Main Post
Building 2027
Liggett Avenue and North 8th Street
253-477-1875

McChord Airfield
Suite 1096
100 Col Joe Jackson Blvd
253-982-5513

Divorce in Washington State

1. What is dissolution of marriage?

Dissolution of marriage is the legal name for a divorce in Washington State. Dissolution of marriage is a court case filed to end a marriage, divide up property and debts, and, if there are children of the marriage, to determine child custody and visitation. “Dissolution” and “divorce” are used interchangeably in this document.

2. What is an annulment of marriage?

Annulment of marriage is a legal filing asking a court to declare that the marriage is invalid. Most clients will not qualify for an annulment. Washington has very specific factors which might qualify a couple to have their marriage annulled. Some examples include: one spouse is too young to legally marry, the spouses are too closely related by blood, one spouse is married to someone else, the marriage was obtained through duress or force, or one spouse was mentally incapable of consent or was too intoxicated to consent. If you believe you might qualify under one of these factors please schedule an appointment with a legal assistance attorney.

3. What is a legal separation?

In a legal separation, the court may grant all of the relief that is available in dissolution, but the court does not actually end the marriage or domestic partnership. The married couple is not divorced at the end.

Some people will choose to file for a legal separation instead of dissolution because they do not want to end the marriage or domestic partnership, but they want the other reliefs (such as a parenting plan, or property and debt division) that are available through a formal legal separation. This may be the case, for example, where a person's religious beliefs discourage him from filing for dissolution.

If the court enters a legal separation decree, the legal separation can be easily changed to a dissolution. Once the court enters a decree of legal separation, the other party can turn it into a dissolution without your consent. Any time after six months have



passed after entry of the decree of legal separation, either party may file a motion with the court to change the decree of legal separation to a decree of dissolution.

4. My spouse cheated on me, how will that affect the divorce?

Washington is a no fault divorce state. That means that neither party must prove fault. A divorce will be granted so long as one of the parties desires a divorce. The court will not consider the reasons for the divorce, such as cheating by one spouse.

5. How long will dissolution take?

The court is unable to dissolve a marriage unless at least ninety days have passed since filing. This does not mean that every case will take ninety days from filling to dissolution. Various factors can affect the amount of time dissolution will take including: complexity of the case, assets and liabilities of the marriage, motions, whether or not the case is uncontested, and the court's schedule.

6. How much will dissolution cost?

In most counties (including King, Pierce, and Thurston) the total filing fee for dissolution is \$290. There can be some minor variances in other counties. You should contact the county clerk to determine the exact fee for the county.

7. What is the court doing in a dissolution case?

The court is potentially doing several things in a dissolution case. The court will have the power to end the marriage, divide property and debts, order post marriage spousal support (alimony), change the name of either party, enter restraining or protection orders, set custody and visitation of minor children of the marriage, and order child support.

8. What is an uncontested divorce?

An uncontested divorce is a divorce in which the parties agree to every aspect of the divorce and can settle the divorce with minimal court intervention. An uncontested divorce is sometimes called "signing papers" or divorce by agreement. There cannot be any portion of the divorce, including child custody and support that is being debated. In most cases an uncontested divorce will be cheaper, easier, and faster.

9. What is a contested divorce?

A contested divorce is a divorce in which the parties cannot agree to some portion of the divorce. It could be the division of the property and debts, child custody or support, or some other factor. In a contested divorce you will be asking a judge to decide on the contested portions. These types of divorces take longer than uncontested divorces.



10. What is post dissolution spousal support (alimony)?

Post dissolution spousal support (alimony) is a payment that one party makes to the other to provide financial support. Maintenance is not automatically awarded to either party and is intended to help the less financially secure party have time to secure a job or go through job training. The court looks at several factors, including: length of the marriage or domestic partnership; financial situation of both parties given the division of property and debts; the other party's ability to pay maintenance; time it will take for the party asking for maintenance to get education or training; standard of living during the marriage or domestic partnership; and age and health of the party asking for maintenance.

11. What are community property and separate property/debts?

Generally, in Washington, all property that either party gets during the marriage or domestic partnership is community property and belongs to both parties. If property, such as a house, other real estate or a car, is purchased during the marriage or domestic partnership, the property is probably community property even if only one party is on the title. Each party's earnings made during the marriage or domestic partnership is community property.

Separate property belongs to only one party. Generally it is property that the party got before the marriage or domestic partnership, or which was given to that person by inheritance or gift, or which the party got after the parties stopped living together.

Generally, all debts created by either party during the marriage or domestic partnership are community debts, which both parties are equally responsible for paying. Separate debts are those that are made before the marriage or domestic partnership or after the parties stopped living together.

12. What about military retirement?

Military retirement can be considered a community asset and is therefore subject to division. Please see our informational paper on the Uniform Services Former Spouses Protection Act for more information on military retirement.

13. What is a parenting plan?

A parenting plan is a custody document laying out the detailed visitation schedule for children of the marriage as well as designating custodians of the children.

14. Will I have to pay child support?

Child Support is money paid by a parent to a party taking care of the children (usually, the other parent) to help support the children. The parent usually must pay



child support monthly. The amount is based on the Washington State Support Schedule. It is set by taking into consideration the children's needs and both parents' incomes. The parties cannot agree that there will be no child support, nor can they set the amount that will be ordered.

The Schedule works somewhat like an income tax table. The court figures out each parent's income, adds it together, and finds the amount of support on the Schedule that applies to the number and ages of children that you have.

15. What is jurisdiction and why is it important?

For a court to take action the court must have power over the people and property involved in the dispute. If the court does not have jurisdiction it cannot act. Jurisdiction is a complicated issue and cannot be adequately addressed in an informational paper. A good rule of thumb is that if you and your spouse are physically present in Washington State the court can grant you a divorce. If you have children and the children have been in Washington State for at least six months and there are no other court orders from other states regarding the children than it is likely the court has jurisdiction. Please schedule an appointment with a legal assistance attorney if you have questions about jurisdiction.

16. What forms do I need to file to start a dissolution case?

Please see a legal assistance attorney in determining what paperwork is necessary to start a dissolution case. A legal assistance attorney will also help you determine the best and easiest way to obtain dissolution of your marriage.

17. What is service of process?

Service is the physical delivery of the forms to the other party by a disinterested third party accompanied by a sworn statement attesting to the physical service of the documents. The forms must be personally served on your spouse.

18. What if I cannot find my spouse?

You may still be able to file for dissolution and serve the other party by publication. If you serve the other party by publication, you may ask the court to end your marriage or domestic partnership, divide any property and debts that are located in Washington, and (if Washington has jurisdiction over your children) enter a parenting plan.

Think carefully before relying on service by publication. If you serve the other party by publication, you must follow the rules for service very carefully. If you do not, your court orders could be set aside years later. Service by publication does not give the court personal jurisdiction over the other party unless you can prove that the other party is hiding either inside or outside Washington in order to avoid being served or to avoid



paying debts. If the court does not have personal jurisdiction over the other party, you will not be able to ask the court to set child support, order maintenance, or enter restraining orders.

19. Where do I file my dissolution forms?

You file your dissolution forms in the superior court in the county in Washington where you live or the county in Washington where your spouse lives.

20. What can a legal assistance attorney do to help me in dissolution of marriage case?

Legal assistance attorneys can assist you in understanding the law, understanding the forms needed to file, and assist you in filling out the forms. In some circumstances, a paralegal may be available to complete the dissolution on behalf of a client. A legal assistance attorney can inform you when it would be best to hire a private divorce attorney to handle your case.

It is important to note what the legal assistance attorney cannot do. A legal assistance attorney cannot mediate your divorce. A legal assistance attorney cannot appear in court on your behalf. A legal assistance attorney cannot advise your spouse.