



IT'S GOING TO GET BETTER

A Compassionate Guide for Your
Washington State Divorce



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It's Going to Get Better:
**A Compassionate Guide for Your Washington State
Divorce**

First Edition

By

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Table of Contents

Title Page	Page 1
Table of Contents	Page 3
Introduction	Page 4
Chapter 1: Washington Divorce 101	Page 6
Chapter 2: FAQs about Divorce	Page 12
Chapter 3: Divorce and Children	Page 24
Chapter 4: Divorce and Money	Page 29
Chapter 5: Collaborative Divorce	Page 32
Chapter 6: Getting Your Life Back Together	Page 37
Conclusion	Page 40
Disclaimer	Page 42

Introduction

Divorce can be one of life's most painful and profound experiences. Whether your husband of 25 years blindsided you at the dinner table with a request to go separate ways, or you've fallen out of love and you've been mulling the idea of splitting up, you probably feel lost, scared, frustrated, confused, or just plain angry. This guide will give you some ideas on what comes next and give you a better understanding of the divorce process.

Having information you can trust can give you the strength to get through your divorce, whether you're initiating it or picking up the pieces after a sudden desertion. By the time you're through with this ebook, you'll be armed with the knowledge you need to begin the process and make safe, healthy decisions. Here's what we'll cover:

Section 1: Washington Divorce 101

This overview will introduce you to the key terms and ideas that a divorcing person needs. You'll learn how the process works, what needs to be done, who's involved, what to consider, and how long the process could take. This quick primer can give you a sense of what's in store and what you'll be facing.

Section 2: FAQs about Divorce

We'll answer common questions people have when they're going through the divorce process.

Section 3: Divorce and Children

If you have children with your spouse -- or if there are stepchildren involved -- you want to protect them as much as possible. What rules and laws do you need to know when it comes to child support and visitation? How can you parent effectively during and after the divorce process? What if you suspect that the other parent has abused or neglected your child... or, conversely, if you stand falsely accused of such wrongdoing?

Section 4: Divorce and Money

Separations and divorces should be fair and equitable, but if you aren't careful, you could end up on the losing side financially. How can you protect your assets? How can you avoid getting stuck with unfair amounts of debt? What can you do to take back control of your budget and career in the wake of the divorce?

Section 5: Collaborative Divorce

In this section, you'll learn about an alternative to court, the collaborative divorce process, which can be used in divorces between trustworthy partners who want to avoid litigation. For instance, if you and your spouse have come to an agreement that you just aren't good as romantic partners -- but you feel no animosity towards one another -- you may want to consider a collaborative process, which can save you money and help discover win-win resolutions to divorce-related issues.

Section 6: Getting Your Life Back Together

Divorce can cause a diverse array of problems, including logistical, emotional and psychological issues. We'll go over tips and strategies to uncover and address these problems.

By the time you're finished with this book, you'll feel more calm, more focused, and more in control. Whether the divorce will be a relief to you -- or you're still feeling sick that your spouse has chosen to part ways -- you *can* get past divorce, recover from it and love your life again. Let's begin the journey...

Chapter 1: Washington Divorce 101

The only thing more unthinkable than leaving was staying; the only thing more impossible than staying was leaving. I didn't want to destroy anything or anybody. I just wanted to slip quietly out the back door, without causing any fuss or consequences, and then not stop running until I reached Greenland.

Elizabeth Gilbert, *Eat, Pray, Love*

The divorce process must abide by very specific rules and processes. Let's first review these critical ideas and terms.

The first thing you need to know is whether you're the petitioner or the respondent. If you're the one initiating the divorce, you're the **petitioner**, because you're making a **petition** to the court to grant you a divorce. Your spouse would be the **respondent**, because he or she is **responding** to your request for a divorce.

You may have heard a divorce referred to as a **dissolution of marriage** or simply as a **dissolution**. There's no difference, legally, between a divorce and a dissolution: the two terms are interchangeable.

Divorce can only be granted in locations that have jurisdiction over at least one of the parties. In Washington State, jurisdiction means that at least one of you resides in the state, or if you or your spouse is in the military, that one of you is stationed in the state. You should file in the Washington State county where you live. You may also file in Lincoln County, even if neither spouse resides there, as long as you both agree to all the terms of the divorce.

Washington State does not have jurisdiction over assets or wages earned in another state, so if your spouse resides in a different state, Washington cannot compel your spouse to comply with decisions regarding assets made by courts in Washington.

Your divorce can still be granted in Washington, and it will be legal in every state, but the state cannot force compliance with either temporary or permanent orders for child support, division of out-of-state assets or payment of debts. Your spouse can challenge Washington State's jurisdiction over assets, or they can waive the right to challenge jurisdiction.

Another term you might hear is ***no fault***. Like most states, Washington is a no-fault-divorce state. That means that the spouse seeking a divorce does not need to prove that the other spouse did something wrong in order to obtain a divorce. Instead, the petitioner need only state that the marriage is "irretrievably broken". That is enough to obtain a divorce. You don't need any type of proof as to *how* or *why* the breakdown of the marriage occurred. In fact, the court will generally not allow you to complain about the other spouse's violation of marriage vows, nor will the court allow your spouse to complain about your violation of marriage vows.

Another critical term to know is ***community property***, which refers to the assets that you and your spouse share. Washington is a community property state, which essentially means that the law assumes you each own an equal share of all the assets acquired by either spouse during the marriage.

Property or an asset that either of you owned before you got married is usually not considered community property. Neither is an inheritance that was left to only one of you.

Marital assets are most often divided on a 50/50 basis, unless that leaves one spouse with a much smaller share of total assets than the other. The court will want to see an equitable division of assets in that case.

Spousal maintenance is a modern term for alimony. The courts may or may not award spousal maintenance, depending on a variety of factors, most importantly the need of the receiving spouse balanced with the paying spouse's ability to pay. Considerations therefore include each party's financial resources, the educational background of the spouses and the ability of each spouse to earn a living through gainful employment. The

court may also consider a spouse's health, the length of the marriage and the established standard of living during the marriage.

The only legal ground for divorce in Washington State is the ***irretrievable breakdown of the marriage***. Irretrievable breakdown means that there is no hope of ever repairing the marriage. This is also known as "no fault," and it means that you don't have to prove that either of you did anything wrong in order to obtain the divorce.

Only one of you needs to claim that the marriage is irretrievably broken to have a no fault divorce, and you do not have to provide any proof or reason for the claim. It is enough to simply declare an irretrievable breakdown. If the petitioner alleges that the marriage is irretrievably broken, the court will accept that allegation as a fact even if the allegation is denied by the respondent. Logically, if one party to the marriage alleges that the marriage is irretrievably broken, it is, no matter what the other spouse believes or wishes.

After you file for divorce and your petition is served on the respondent, at least 90 days must go by before an uncontested divorce becomes final. This is called the ***waiting period***, and the purpose of the waiting period is to allow sufficient time for reconciliation in case that might be an option. An ***uncontested divorce*** means that the spouses have already agreed to every aspect of the dissolution petition.

A ***contested divorce*** simply means that there are still open issues that must be worked out. The waiting period can extend longer than 90 days if either spouse contests any aspect of the petition for divorce. If the petition is still under discussion, the court may grant temporary orders to cover living arrangements and child custody. During the period before your divorce is final, you may also need ***temporary orders*** to cover issues such as responsibility for paying specific bills and the use of the home or cars or bank accounts.

Temporary orders may be filed to define responsibilities for important aspects of your life, such as child support, child custody and spousal

maintenance. These may include residential arrangements for children as well as restraining orders, use of property and financial protections. Temporary orders should be filed in any contested divorce to prevent mismanagement of assets or disagreements over children while the permanent agreements are worked out.

Mediation is a method to help you and your spouse reach agreement on disposition of your assets and arrangements for children. A mediator is a neutral third party who can help you and your spouse come to a fair and equitable arrangement.

It is important to understand that the mediator's goal is a fair and equitable arrangement. The mediator can't make the total pool of assets any larger than it actually is or dictate that one spouse provide more money than they have available. The assets you have jointly and the income you earn are not affected by mediation. The only thing mediation can do is help you realize what is both possible and fair.

You cannot force your spouse to undergo mediation, and you may not be able to resolve every issue with mediation. Mediation is not the time to indulge the anger or hurt you feel toward your spouse, because it will only prolong the process and make it harder to reach an agreement. You may wish to join a support group or talk to a friend or a counselor to work out emotional issues. However, mediation may help you avoid a court process or at least narrow the scope of issues that the court must decide at trial, thus increasing predictability, speeding up the divorce, and reducing total costs.

If you cannot reach agreement with the help of a mediator or through another process we discuss in greater detail in a later chapter, called **collaborative divorce**, your dissolution may have to go to trial, where the court will decide how to divide assets and provide for child custody and support, and will impose its rulings on all parties. It is usually in everyone's best interest to resolve issues through one of the **alternative dispute resolution** methods rather than to go to trial.

Discovery is the process of learning about and defining all the assets and debts that each party to the marriage has available. Each spouse and the mediator or lawyer will see the discovery reports of the other. The purpose of discovery is to get a complete picture of the pool of available assets (and debts) to ensure an equitable disposition.

During discovery, your lawyer may send **interrogatories** (written questions that your spouse must answer in writing and under oath) and requests for production (which require your spouse to turn over documents and things) to your spouse. Your attorney may also send subpoenas (which require production by non-parties) to banks and financial institutions. You and your spouse may also be required to respond under oath to specific questions during depositions taken in front of a court reporter.

Sometimes, couples are not ready for divorce, or they may have religious or other reasons to avoid divorce. In those cases, the couple may file for **legal separation**. Legal separation requires the same financial, childcare, visitation and custody arrangements as divorce, except the marriage continues to exist legally, despite the fact that the parties involved have chosen to live apart.

Settlements are the final agreements that you, your spouse and your respective attorneys work out. In Washington, settlement agreements generally must be in writing and signed to be enforceable. Once the settlement is agreed upon, the attorneys will prepare **final orders**, which will include property settlements, child and spousal support agreements, and details of how you and your spouse will share the parenting of your children.

Washington State requires that you and your spouse attend an approved **mandatory parenting education seminar** before a court can grant a divorce, in any case in which children are involved. This seminar helps parents understand how children respond to the stress of a divorce, and it provides methods parents can use for helping children cope with and alleviate stress. You will need to provide proof that you and your spouse have completed the course prior to your divorce being finalized. Your attorney or your local

court can provide you with a list of approved courses.

Taking a divorce to trial can be expensive as well as emotionally wrenching. In addition, it may take a year or more before your case goes to trial. While Washington is a community property state, the court is not required to split everything 50/50. The law states that the division must be *equitable*, but not necessarily *equal*. The judge may decide that a different arrangement makes more sense, if there are children involved or if the spouse's individual circumstances after the divorce would result in extreme changes in one spouse's standard of living.

In order to finalize your dissolution, the court must have all the forms necessary to ensure that the legal requirements have been met. Those documents include the ***Decree of Dissolution***, the ***Findings of Fact and Conclusions of Law*** and the ***certificates of completion for the mandatory parenting education seminar***, along with the ***Final Parenting Plan*** and a ***Final Order of Child Support***, if children are involved. You may need to file other documents such as a ***Qualified Domestic Relations Order***, if you and your spouse are transferring ownership of retirement accounts. The divorce will become final when the judge signs the final orders, but in no case will this occur in less than 90 days after filing.

Chapter 2: FAQs about Divorce

Nice people don't necessarily fall in love with nice people.

Jonathan Franzen, *Freedom*

What do you need to do to get a divorce in Washington State?

Washington State is a “no fault” divorce state, so you do not need to prove that you or your spouse is guilty of wrongdoing in order to get a divorce. There are only a few conditions necessary to start a divorce:

- You must be a state resident (or stationed in the state if you or your spouse are in the military) to file; and
- The marriage must be irretrievably broken.

There are other steps and forms associated with these requirements, but you will need to meet these requirements to begin the divorce process.

What’s the first step in the process?

The first step is to prepare and file the Petition for Dissolution of Marriage. The petition must be filed in the proper place, known as “venue.” Generally, the proper venue is in the county where you reside or the county where your spouse resides. If there is more than one place where venue is proper, the first person to file (the “petitioner”) gets to select the venue for the case. You can also file in Lincoln County if you and your spouse agree to file there, even if neither party resides in Lincoln County.

The [Dissolution of Marriage](#) Petition form can be downloaded from the Internet, and you or you and your spouse can fill it out yourselves. However, although some of the form is easy to understand and may only require checking appropriate boxes, other sections are more complex. All of the

check boxes may have long term ramifications, and there are many issues the check box clauses do not cover. Consult an attorney to ensure you have an understanding of all the issues and how to best address those issues in the petition. The petition is important because it frames the issues in the case. If you do not ask for something in the petition, you may not be able to ask the court to grant it to you later during the divorce trial. You will also need to prepare a summons form and a confidential information sheet. These forms can also be downloaded. If children are involved, you should also download, prepare and file a Parenting Plan. Again, these documents are technical and there are many landmines for the unwary. Be careful! Although post-trial or post-settlement modifications of parenting plans is possible, the process can be difficult for parents and children. Important issues should be addressed during the initial case, not left for a later date.

How long is the divorce process?

After you file the Petition for Dissolution of Marriage and the summons, you must have the summons served on (delivered to) your spouse by someone (not you) who is 18 or older. The summons serves as notification to your spouse that you have filed for divorce and that a divorce case has been opened and is proceeding, the petition outlines the division of property and other relief requested from the court, and the parenting plan contains the parenting arrangements you have proposed. Your spouse may choose to join the petition, which means they agree and consent to entry of orders based on the petition, or your spouse may contest any aspect of these documents and even the jurisdiction of the court to act on the petition. There are specific timelines your spouse must adhere to for contesting the petition and related documents.

If the Petition for Dissolution is uncontested, and your spouse agrees to the final orders for distribution of assets liabilities and parenting responsibilities, the divorce will become final in 90 days, when the judge signs the orders.

The divorce may take a lot longer if any aspect of the petition or related documents is contested. In fact, depending on the workload of the court where your divorce case is filed, it can take more than a year for the court

to hear your trial in a contested divorce.

Must I hire a lawyer to represent me?

There is no legal requirement to have a lawyer represent you. You can represent yourself, which is known as “pro se.” However, you want to ensure that you have done due diligence, especially in the case of a contested divorce. A non-attorney proceeding pro se is required to know and follow all legal requirements, local and state court rules, rules of evidence and rules of civil procedure. A pro se party is also required to know the law. The court is not allowed to give you legal advice, and is required not to enter your desired orders unless you follow the law and the rules. So proceed on your own with caution.

Divorce can be a surprisingly complex, process, fraught with problems that may only surface months or years after the divorce is final. Even simple-seeming divorces sometimes have a way of suddenly expanding into complicated and acrimonious discussions. A qualified attorney will make the process easier and much less stressful.

For instance, your lawyer can help you smoothly navigate court rules and legal requirements, tricky phases, such as mediation and discovery, and can help you avoid hidden landmines. He or she can ensure that your spouse is not hiding assets, shirking a fair share of the debt, or engaging in unethical tactics to achieve outcomes with respect to child or spousal support or custody. An experienced family law attorney will help you avoid problems in the future by placing clauses in your decree and your parenting plan for your protection and to help avoid future disputes with your ex about parenting your children. An experienced lawyer who has been through hundreds of divorces can help you strategize, find win-win solutions, and help you understand what’s possible and reasonable so that you can make informed decisions instead of guessing on important issues about your family’s future.

How can I make the process go faster?

Fighting lengthens the process. Strive to reach an agreement with your spouse on as many aspects of the final orders as possible. For instance, if you and your spouse file an uncontested Petition for Dissolution, your divorce can be final in 90 days after the petition has been served. If the process of allocating assets and parenting responsibilities goes to trial, it can extend for a year or more... and the uncertainty and constant disruption can challenge your children and impede both your career and your emotional equanimity.

Also, remember: Washington may be a community property state, but that does not mean that everything will be split 50/50. If the divorce goes to trial, the judge will strive to find a fair and equitable solution, which may mean a lopsided distribution of the marital resources, debt and parenting responsibilities. At trial, the judge may issue a decision with which neither you nor your spouse agree.

Spend time identifying what you really need out of the final arrangement. Not all issues are equally important. Decide what is important to you. Don't fight about the things that are not important. What assets will you fight to keep? What kind of parenting arrangements might work for you? Begin by identifying your core needs – emotional, financial, logistical, etc. – and then brainstorm with your attorney different strategies to meet those needs. Your goal, after all, is not to make your spouse “lose” but rather to ensure that you “win.” Invest creative energy into finding solutions, while at the same time shielding yourself and your children against unfair outcomes. Even if the other spouse is untrustworthy, you can still make substantial progress by focusing on your own needs first... and by at least understanding your spouse's needs, if not outright striving to meet those needs.

Finally, as you enter the negotiation process, you might find the following term/concept quite useful: **BATNA**. Shorthand for “Best Alternative to Negotiated Agreement,” BATNA is a strategy that negotiators develop to avoid getting too little or giving up too much. Dr. David Venter explains this concept in more detail [here](#), but here's the gist (bold ours):

“In contrast to a bottom line, a BATNA is not interested in the objectives of a negotiation, but rather to determine the course of action if an agreement is not reached within a certain time frame. As a gauge against which an agreement is measured, **it prohibits a negotiator from accepting an unfavourable agreement or one that is not in their best interests** because it provides a better option outside the negotiation.”

What are some ways to save money on divorce?

If your spouse is in a rational, relatively positive state of mind, talk to him or her, and try to work out as many details as possible before you file for divorce. A few productive conversations can help you both save thousands of dollars and untold hours of misery and haggling as well as reduce your attorney’s fees and trial costs.

When you can’t reach an agreement on your own, a process like mediation or collaborative may be a good alternative. We’ll discuss these processes in more detail later in the book.

The more of the settlement and parenting issues you can work out on your own, the less money you will spend on your divorce. Unrealistic expectations will drive up the cost of your divorce. At the same time, do not be a shrinking violet. Again, identify what you are willing to fight for prior to negotiations so that you don’t fight about things that are not important to you, and so you *do* fight for the things that matter. Your attorney can help in this regard.

Think of your financial and parenting situation as a pie. You cannot change the size of the pie in a divorce. Cutting the pie in half doesn’t change the total amount of pie available, so you shouldn’t expect to come out of the divorce with a windfall, nor should you expect your spouse to assume all the burden of repaying debt or taking on parenting duties. Your share of the “pie” may be adjusted based on your potential future earnings or the nature and structure of your parental responsibilities.

That said, while your collective resources may be finite, your universe of

potential solutions is likely much greater than you realize. For instance, when it comes to negotiating over a child or a pet, you obviously have more options than the Solomon-like strategy of cutting the loved one in half! You can probably invent dozens of time-sharing solutions based on your and your spouse's logistical constraints, for instance. Likewise, you can invent many ways to meet your needs with finite resources. You may love your china set, while your husband is obsessed with the home entertainment system. Rather than splitting both those items apart (cleaving them in half and thus making them useless, per the Solomon parable), you can agree to allow each other get what you both want. The "pie size" doesn't change, but your *perception* of the arrangement does, and that's what really matters!

What should I do if my spouse abused me or my children?

If you have suffered, or if you suspect abuse or neglect, call the police right away, and then speak with your attorney as soon as possible once you and the children are safe. Failing to report that your spouse has injured your children can get you into legal trouble. If you and your children are safe and you are unsure whether to call the police, consult with your attorney.

Don't believe a spouse who promises "it will never happen again," because abuse often escalates over time unless the abuser gets help. Likewise, avoid rationalizing away an abusive or neglectful act. Yes, we're all human, and divorce can bring out terrible emotions that do not reflect a person's fundamental personality. But we live in a society of laws, and you need to watch out for your and your children's wellbeing.

Abusive and neglectful acts come in diverse forms. Obviously, hitting or using aggressive force constitutes wrongdoing, but so does shouting, intimidation, belittling, threats and abandonment.

Any time abuse occurs, your first step should be to get yourself and your children to a safe place. If you don't know where to go, ask the police or your attorney, who should know the locations of nearby shelters. Your attorney can help you file for a restraining order to keep your spouse away

from you. An attorney can also help you follow up on charges with law enforcement.

Next, take pictures of injuries, and save medical and hospital bills as documentation. Give your attorney copies of the documentation. An experienced attorney can help you obtain domestic violence protection orders to prevent future abuse.

Can the court compel my spouse to pay child support or alimony?

Yes. As long as your spouse is under the jurisdiction of the state, the court can compel him or her to pay child support or “spousal maintenance,” which is the term for alimony in Washington. This holds true for both temporary and final orders.

If your spouse lives out of state or lives in state but does not pay required sums on time, your attorney can help you bring the matter to the court’s attention for resolution. In-state residents will be subject to Washington State laws regarding bringing required payments up to date, which may include garnishment (taking or withholding) of wages.

Interstate child support and alimony orders are covered by the Uniform Interstate Family Support Act, which requires states to honor orders issued in other states. Your attorney can file in your spouse’s state of residency or ask the Washington State court to forward your petition to the state court for enforcement. Continued failure to pay could even result in a jail sentence for the spouse who withholds legally ordered support payments.

How can I get equal access to bank accounts and other assets?

You can ask the court for temporary orders to require temporary spousal maintenance and child support, as well as to obtain or control access to bank accounts and other assets. You can also ask for the court to require distribution of assets as part of the temporary orders, which you might want to do for accounts, such as the checking account you use for day-to-

day expenses. If children are involved, you will likely need to obtain a temporary parenting plan.

Can I ask for changes to child support or spousal maintenance?

Yes, you can. During your divorce proceeding, you may have temporary orders that require certain payments or levels of support. You are not required to stay with those levels of maintenance during the case (particularly if circumstances change) or at trial or when you file for final orders.

Once your divorce is final, you may petition the court for changes to child support every two years. You may file sooner if changes occur that affect the financial circumstances of either parent. Certain changes in the life of the child may also be grounds to request a change. The court maintains official guidelines that may be taken into account when determining the amount of child support. Unless there are significant reasons—which is rare--the amount of child support will rarely exceed 45 percent of either parent's net income. In general, the courts want to limit frequent renegotiations in the form of petitions for modification, which can unreasonably consume court time and also create instability that can stress children.

The regulations regarding the income that can be excluded in calculating net income are complicated; an experienced attorney can help you understand what's going on and strategize effectively.

You can file for changes to spousal maintenance any time, as long as nothing in the original divorce decree prohibits you from doing so and as long as there is a material change in the financial position of one of the parties.

The court will consider the same factors that it did when establishing the original award, including length of the marriage, lifestyle during the marriage, the health of both spouses and the ability of the petitioning spouse to earn a living. Spousal maintenance payments generally terminate

when the receiving spouse remarries or dies.

What are the advantages of mediation?

Mediation is almost always significantly less expensive than trial, and it is much less stressful, so having a mediator develop a settlement draft may save you money and stress. In addition, mediation helps to remove some of the negative emotions from the settlement process. Mediators are trained to be dispassionate and to come up with creative yet equitable solutions.

Working with a mediator can help you and your spouse arrive at an agreement faster than if you try to work out your issues on your own, and mediation tends to be a private process, unlike the court process.

Mediators help with negotiations. They have no power to force a resolution. You can say “yes” or “no” at any time. Usually, and always at your request, you will be in a separate room from your spouse during mediation. The mediator will go back and forth to discuss settlement ideas. Unlike TV, there is no across the table confrontation. At my firm, our practice is, absent unusual circumstances, to never have the parties meet at the mediation. If seeing your spouse at a mediation is an issue, ask your attorney to make sure that doesn’t happen.

How can I uncover assets my spouse is trying to keep hidden?

Your spouse is required to disclose all assets and financial obligations during discovery. Your attorney can send specific written questions called interrogatories to your spouse to force disclosure of hidden assets. The attorney can also request specific documents, such as bank statements, business records and tax returns, that will show a complete picture of the spouse’s financial situation. Your spouse must sign answers to these legal documents under penalty of perjury.

Unfortunately, some people are dishonest and lie, even under oath if they think they can get away with the lie. After your spouse answers the written questions, if you still suspect your spouse is hiding assets, your attorney can

send requests for documents (subpoenas) directly to non-parties such as banks and brokerages, your spouse's employer, or your spouse's accountant. You may also require that your spouse answer questions during a deposition, which will be done in front of you (only if you want to attend), your spouse's attorney, a court reporter and possibly other witnesses.

You and your attorney should create discovery plan to cover all the information you will need to obtain for a fair and equitable settlement or for trial.

How can I ensure I have access to my children?

The court really strives to keep families as intact as possible after a divorce, and it rarely cuts either parent out of a child's life. Exceptions typically involve cases of child abuse or neglect or situations in which one parent has consistently demonstrated reckless or criminal behavior. Even then, the court may allow visitation with supervision.

Washington State requires both parties to a divorce to take a parenting seminar that explores the impact of divorce on children. This course offers tips about how to help children deal with their feelings about the divorce and co-parent responsibly.

Parents must file a Parenting Plan, which covers visitation, custody, living arrangements and sometimes payments for items that are not specifically covered by a child support order. The Parenting Plan becomes a court order when signed by the judge. Usually, the judge will refuse to sign a Parenting Plan unless the parties have completed the parenting seminar. You and your spouse are legally required to comply with the court approved Parenting Plan.

What if one of us wants to move out of state?

Washington law requires the primary residential parent to notify the other parent if he or she wants to move a child out of state or even out of the

current school district. In Washington law, this is known as “relocation” of the child. The requirements for relocation are very strict, and a custodial parent must meet specific timelines and provide very specific notification in a very specific manner. The guidelines may vary depending on the situation, so consult an attorney, especially if you are the parent who wants to move.

If you have received such a notification -- or if you even suspect that your spouse is planning a move -- you have the right to file an objection in court to prevent the move. If you fail to file an objection within a very specific, limited time period, the Court will permit the move.

If you file the required notification and the other parent objects within the timeframe provided by statute, or if you are the objecting parent, the relocation cannot take place until approved by the court. Even if there is no objection, you should obtain a court order based on the lack of objection before relocating a child.

Failure to obtain an order before relocating can have very serious consequences.

If you have relocated and have not complied with the statute, all is not lost, but you must act quickly. Document the other parent’s agreement to the relocation as best as you can. Print emails, texts, Facebook messages and the like so that they are not lost. Then seek the advice of an experienced, dedicated family law attorney.

Is there a statute of limitations on non-payment of child support?

Yes, there is. In Washington State, the statute of limitations is ten years after the support becomes delinquent or the child becomes emancipated. In general, a child is considered *emancipated* when he or she turns 18 or graduates from high school, whichever comes later. If the divorce decree declares that child support must continue through post-secondary education, then “emancipation” does not occur until the end of the support period, and child support payments must continue, or they will be

considered delinquent.

If you are receiving child support payments, do not allow the statute of limitations to expire, because you cannot legally revive the request for payment once it has expired. If your spouse is consistently late or misses payments, consult an attorney to ensure that you file the correct documents and engage with the situation in a mindful, strategic way. Don't just let this go. Your child deserves support from both parents.

How will we divide our assets?

Washington is a community property state, which means a property distribution must be fair and equitable to both parties. Usually the court will consider any agreed distribution to be fair and equitable without proof other than the proof of an agreement. If the distribution is contested, the court will look at the parties' debts, assets, earning capability and future earning capacity, among other things.

There are many other factors that the Court will consider in deciding what is equitable. To maximize your satisfaction with the distribution of assets strive to reach an agreement with your spouse through negotiation, mediation or the collaborative process before your divorce goes to trial.

I have more questions. What should I do?

Write down your questions. By documenting your concerns and worries (and hopes) early in the process, you can more coherently and strategically think about your situation and work with your family law attorney, financial planner and other allies to obtain good outcomes.

Pay attention to your thoughts and inner monologue throughout the process. Important thoughts will tend to bubble up at inopportune times, such as when you're in the shower or when you're driving in traffic. Keep a writing implement nearby, so you can collate these questions (when it's safe and appropriate to do so!) to minimize distracting thoughts and needless worries and maximize results.

Section 3: Divorce and Children

Divorce isn't such a tragedy. A tragedy's staying in an unhappy marriage, teaching your children the wrong things about love. Nobody ever died of divorce.

Jennifer Weiner, *Fly Away Home*

Washington State family courts consider protecting the children in a divorce to be a primary responsibility. The courts will scrutinize all the documents in a dissolution to ensure the health, safety and wellbeing of children and step-children caught up in the divorce. You will likely hear the phrase “the best interests of the children,” which is the standard the court will use for most decisions involving children.

Children often wrongly assume that a divorce is somehow their fault, and as a result, they can suffer from guilt or shame. They may struggle with a welter of difficult, confusing and complex-to-manage emotions. For instance, they may feel abandoned by the non-custodial parent or feel anger at a parent they perceive is at fault. In addition, they may mourn the loss of the family life they once knew. This is normal. Be prepared to help your children through this process.

Children also wrongly assume that they can choose where and with whom they want to live. They cannot and should not be asked for a preference. This is too great a burden to place on a child. For the mental health of your child, keep your child out of the divorce process as much as possible. Let the adults handle things and let the adults keep your children safe.

The Parenting Plan, when signed by a judge, establishes **residential placement**, where the children will stay, when, and for how long and under what circumstances. The parent with whom the children spend more than 50 percent of their time is called the **Primary Residential Parent**.

The Parenting Plan spells out the details of residential arrangements and

visitation agreements. It also defines how parents must make decisions regarding details like who provides medical insurance and when drop off and pick up times for visitation occur.

Plan strategically for beneficial outcomes. Plan your divorce so that you can dance at your daughter's wedding. Remember always that your children did not choose a divorce, and that your children are not parties to the divorce. In other words, a child cannot (thankfully!) divorce a parent. Your ex will no longer be your spouse, but your ex will always be your child's parent and your grandchildren's grandparent. Try to conduct your divorce and subsequent coparenting in such a way that, when the time comes, your little boy or girl can invite both his or her parents to the wedding without fear of fighting or awkwardness. Choose to raise a healthy, well-adjusted child. NEVER USE YOUR CHILD AS A TOOL TO PUNISH THE OTHER PARENT.

Washington State courts rarely feel it is in the child's best interest to prevent a parent from having any physical or legal custody, except under extreme circumstances, such as:

- Physical, sexual or emotional abuse of the child or spouse;
- A history of sexual assault or sex crimes, especially those involving children;
- Long-term drug or alcohol abuse;
- Physical or emotional problems that prevent a parent from being able to care for a child;
- Previous refusal to care for a child or to perform parental responsibilities.

However, even in cases where these circumstances exist, the court may allow visitation under controlled circumstances, including proper supervision. If you feel that your spouse may be attempting to cut you out of your child's life, consult an attorney to protect your interests.

Do not try to deny the other parent visitation rights, unless you have court approval to do so. If you are afraid that your spouse will hurt your children, contact law enforcement, or ask your attorney to do so on your behalf.

Attempting to deny visitation on your own, or circumventing court ordered visitation rights, makes you look vengeful and may backfire. The court has your children's best interests in mind, so document the reasons why you believe your spouse should be denied visitation with photos, medical bills, police reports or other documents that support your assertions.

Washington State maintains predefined schedules that spell out recommended child support limits based on income and related factors. The court will consider these recommendations when it sets child support.

However, these guidelines are not hard and fast rules. The court may modify them based on things like a spouse's debt or the ability of the custodial parent to provide for the children on his or her own.

You can also petition the court for changes to child support, if your situation or your spouse's situation changes in a big way in the future (e.g. you or your spouse gets a huge promotion or gets fired, etc.)

Being the custodial or residential parent of your children may limit your ability to move out of state or even to move out of your current neighborhood in the future. The primary residential parent must notify the other parent, first, assuming that the non-custodial parent has court-ordered time with the child. The non-custodial parent may be able to block the move under certain circumstances. Failure to formally warn the other parent about an impending move can open you up to serious legal sanctions.

Residential parents do not have the right to limit or prevent the non-custodial parent from moving out of state. However, moving out of state does not eliminate the obligation to pay court ordered child support. As parents, you should work together to modify the parenting plan to provide for visits, including holiday visits and video-conferencing and telephone

calls, so that your child maintains a healthy relationship with both parents.

To parent effectively in the midst of this storm, pay close and constant attention both to your needs and to the needs and interests of your children. Likewise, strive to empathize with and understand what's going on with the other parent. Empathy does not require you to accept or even tolerate certain behaviors, but it can clue you in to fundamental issues and make you a stronger co-parent and negotiating partner.

No matter how angry you may be at your spouse, keep your attention focused on practical concerns and the best interests of your children, and operate mindfully. No matter what the circumstances, it will harm your child—and may harm you—if you criticize the other parent to or in front of the child. Remember the Golden Rule, and live by it. Pay any court ordered support payments in full and on time, for instance, not just to show the court that you are a responsible parent but also because it's the moral thing to do. Whenever possible, work with the other parent to raise a healthy, well-adjusted child.

Adhere strictly to the letter of your visitation orders by picking up and dropping off children according to the agreement. Be on time. Showing that you respect and follow the court's orders can ensure that you will have the visitation privileges you request in your permanent Parenting Plan.

Establish and maintain stable and loving relationships with your children. Don't move in with a new love interest during your divorce, quit your job, stop paying your bills or get in trouble with the law. Now is not the time to act out your anger and fall into the well of depression. If you need help managing your emotions, finances or the logistics of your life, seek that help. An experienced family law attorney can recommend professionals to help you constructively manage these facets of your divorce. Now IS the time to call in favors from friends, associates and family.

Unless you are afraid of your spouse, do not leave your home until you have consulted an attorney about your parental rights. If you are concerned about abuse or neglect, contact law enforcement.

Leaving your children at home with a potentially abusive parent makes you look selfish and unstable. You do not want to take any action that could jeopardize the safety of your children and your own parental rights in the future, so consider everything in the light of how it might affect your children.

What if your spouse unfairly accuses you of abuse or activities that suggest that you would make an unfit parent? Do not despair. The court will require proof of such allegations, and the lying spouse can be punished for engaging in parental alienation (trying to turn your children against you).

Be proactive if you suspect that your spouse is engaging (or might engage) in false accusations or alienating acts. Speak with your attorney, document the facts, and preserve potentially exonerating evidence.

Chapter 4: Divorce and Money

Divorce is expensive. I used to joke they were going to call it 'all the money,' but they changed it to 'alimony.' It's ripping your heart out through your wallet.

Robin Williams

No amount of mediation or negotiation can increase your established pot of money or multiply your marital assets, and the court can't do anything about your limited financial resources. All you can do is make the best possible arrangements for your children, yourself and your spouse.

As we discussed earlier, focus on your needs and interests as well as your spouse's needs and interests. Also, aim to get a crystal clear picture of what's going on regarding your marital assets, debts and overall finances. Finally, take time to develop a vision for an ideal settlement. If everything goes "your way," what does that mean? What does that look like? Envisioning positive scenarios will help you elucidate appropriate strategies and tactics; and this exercise will sharpen your focus about what you really need to obtain to move on from the divorce.

You and your spouse must provide a complete, truthful snapshot of your financial situation, including all assets, income, expenses and debts. Your attorney or your spouse's attorney may send specific questions to uncover suspected assets. These questions are called interrogatories. The attorneys may also send specific inquiries to banks, investment firms or other financial institutions.

Your financial disclosures will be filed with your petition for dissolution as a Financial Declaration. Your spouse must also file a Financial Declaration. If you and your spouse agree on all the details for dividing your debts and assets, your divorce is uncontested. If you follow through and file the necessary documents, it can become final 90 days after the papers have

been served to the respondent spouse.

If you and your spouse do *not* agree, and if you cannot find a way to settle your differences along the way through negotiation or mediation, your divorce will go to trial. A judge will then distribute debts and assets in a way that the judge thinks is equitable (not even), and will decide support, living and visitation arrangements for your children. The least expensive process to distribute assets and debts and a financial settlement is to work things out directly with your spouse. Often the hurt and anger of the divorce process makes this difficult or impossible, so the next best choice is to enter into a mediation or collaborative process with your spouse.

During mediation, an impartial mediator acts as a neutral go-between offering inventive solutions and proposals to each side that are equitable.

The goal is not simply to examine the value of individual assets (or debts) and divide things down the middle. Instead, stakeholders should look at the complete financial picture of both spouses. Will each party be able to earn a living and pursue passions? What lifestyle factors have been key... and will continue to be valuable? How will factors such as the welfare of children from the marriage and your health and education impact negotiations?

Clarify what you need (and what you believe your children need) early in the process. By establishing your priorities – and introspecting on WHY you have such priorities – you'll be in a much stronger bargaining position than if you're just guessing.

Likewise, get started ASAP with financial triage as well as long term planning. Can your monthly budget hold up over the next six months? If not, what can you do about it? Can you go back to work or add a shift? Can you arrange for additional training? If you work for yourself, can you increase production somehow, perhaps by hiring an associate or investing in marketing? Maybe you've never had to budget or engage in active financial planning before, because your spouse handled those tasks for both of you. Now is the time to take an active role. Understand what you need to do and why, and leverage the expertise of people like trusted financial

planners, debt counselors, bookkeepers, accountants and career coaches to eliminate uncertainties, even while you're negotiating the sensitive money issues of the divorce.

Finally, try this exercise, almost as a thought experiment. Imagine what would happen under a variety of "worse case scenario" outcomes. For instance, what if your spouse got to keep the house, and you had to move back in with your parents? Or what if you can't retool and find a new job for months after the separation? What if your spouse acts in a mean, irrational or spiteful manner and drags out the divorce for no reason? How would you survive? What money measures would you take? Who would be able to help you and with what?

Thinking through these possible outcomes can be both hard and scary, but by working out what strategies you might be able to use in advance, you'll probably find (perhaps to your surprise) that you'll be less anxious about them. What makes debates about money (and children and pets and etc.) so challenging is the stressful uncertainty they stimulate. But when you make contingency plans for some of those uncertainties, you know that you'll be okay no matter what, and that confidence will empower you to make better, less impulsive decisions about what to do.

Chapter 5: Collaborative Divorce

*There are things in my life that are hard to reconcile, like divorce.
Sometimes it is very difficult to make sense of how it could possibly happen.
Laying blame is so easy. I don't have time for hate or negativity in my life.
There's no room for it.*

Reese Witherspoon

Collaborative divorce is a relatively new process for divorce for couples who have realized that they no longer wish to be married to each other but who bear no ill-will. In a collaborative divorce, the parties work together in a structured way to resolve all financial, family and other dissolution issues without court intervention.

Collaborative divorce is a form of **Alternative Dispute Resolution** because it is an alternative to going to court and trial. One key element is that all parties agree up front not to go to trial but to continue working together to find solutions until all issues have been resolved. When all of the issues are worked out, the parties file agreed orders in court and a judge signs the final papers. In that way, collaborative divorce is a lot like mediation, but there are important differences.

One difference is that parties must sign a **Participation Agreement**. The Participation Agreement says that if any party decides to quit the collaborative process and take the divorce to litigation, the attorneys who are assisting in the collaborative process must withdraw from the proceedings, and both spouses will have to start over with new representation.

In addition, the collaborative divorce process has these differences from traditional divorce or mediation:

- **The negotiation style in collaborative divorce is called “interest based” negotiation.** Interest based negotiation focuses on achieving a win/win for the parties rather than the “winner take all” approach of

traditional negotiating techniques;

- **Parties may use neutral outside experts** to help resolve issues or provide opinions and to ensure accurate information sharing;
- **Both spouses agree to attempt to minimize the emotional trauma** to the other spouse and any children involved;
- **The communication process is outlined in detail** in a memorandum of communication before the process starts;
- **All marital assets, insurance, real estate, retirement funds and investments are “frozen”** to prevent either spouse from making preemptive changes without the consent of the other spouse.

The result is a divorce settlement process and agreement that protects the interests of all parties concerned. It helps to protect the interests of the children and to prevent the outbreak of hostilities fueled by fear, jealousy and greed that often characterize the traditional process. However, collaborative may not work in situations where there is fear or mistrust or violence on the part of either spouse. Past problems can ruin the process by creating a lack of trust, even if both parties agree to the process up front. If you are interested in keeping your divorce out of court and in working things out with the other party, even if you have concerns, speak with a trained collaborative attorney about the pros and cons of the process in your specific case.

Interest based negotiation tends to create more flexible and creative solutions than traditional position based negotiations. When parties to a negotiation focus on their own needs, it becomes a matter of pride not to back down. This is a primary reason why negotiations often devolve into painful and protracted fights. In interest based negotiations, the parties focus on solving each other's problems, so they can move onto the next point in settling the agreement.

There are eight important advantages to using the collaborative divorce process.

1. The parties have more control over the process and the progress of the negotiations.
2. The process avoids many problems associated with scheduling and fitting in court appointments.
3. Collaborative is generally less costly than traditional divorce, even when you factor in the cost of outside experts.
4. Collaborative is far less stressful than traditional negotiations.
5. The process is more private than bringing the discussions and negotiations into open court.
6. Collaborative may provide personal insight into what is most important to you in a relationship.
7. The process often leads to more creative solutions, which may make you more satisfied with your divorce process over the long term.
8. You and your spouse may learn a lot about how to proceed after the divorce from the experts you bring in to help collectively resolve issues.

One key advantage that often goes unrecognized is the process's ability to help you come to terms with your feelings about the loss of your marriage. The insight you will gain into your own motivations as you work with your spouse can help you through the mourning process. As a result, future relations with your spouse are likely to be less rancorous and more cordial. Children also tend to be beneficiaries of such cordial relationships.

Unlike traditional divorce negotiations, the collaborative divorce process does not pit spouses against one another in a "winner takes all" fight for

resources. Parents can work together for the best possible outcomes for their children, and their future interactions are usually less fraught with unresolved anger.

If you and your spouse are interested in attempting the collaborative divorce process, you should each work with an attorney who is trained and is familiar with the process. You must ask your prospective attorney if he or she has collaborative training. Most do not. All parties involved must commit to avoiding protracted arguments and litigation. Attorneys who are not familiar with this requirement may sometimes fall back to the process they know best: litigation. This approach is counter to the goals of collaborative divorce.

Besides formal collaborative training, attorneys need experience in the creative resolution process and interest based negotiation techniques. They should also have a team of experts who have been through the process with other couples that they can call on to help you work through specific issues with your spouse.

Collaborative divorce can be especially helpful in cases where there are assets or issues that cannot simply be divided in half – debates over homes, artwork or even a beloved pet. The process helps each spouse understand what the items in question mean to the other, so they can work out compassionate and caring compromises.

Before you agree to go the collaborative divorce route, take an honest look at your own feelings and your history with your spouse. Collaborative divorce may not be the right choice if you do not feel you can trust your spouse or if you have been mentally or physically abused. If your partner has a history of mental illness that may also be a red flag, as is passive/aggressive behavior -- such as skipping sessions -- that may indicate a lack of commitment to the process.

Even in these instances, a trained collaborative attorney may be able to recommend the collaborative process with safeguards in place to protect you and your interests. Again, if you are interested in this process, seek the

advice of a specially trained attorney on whether the process is right for you.

Chapter 6: Getting Your Life Back Together

Resilience is accepting your new reality, even if it's less good than the one you had before. You can fight it, you can do nothing but scream about what you've lost, or you can accept that and try to put together something that's good.

Elizabeth Edwards

While you're going through a divorce, it may not be apparent that there is any possible good that can come from a divorce. Over time, you may come to realize that perhaps the results of the divorce are not all bad. It may open you up to new directions that you will find rewarding and fulfilling.

Work with an experienced family law attorney and other professional advisors early in the divorce. Strategic early planning can provide for a better future.

Nonetheless, divorce is a difficult process for anyone to go through. You should take the time you need to mourn the loss of your marriage, just as you would mourn any other major loss in your life. Be good to yourself, and take care of your health and well-being. Don't dwell on the downsides and be careful not to engage in self-destructive behavior.

Always remind yourself that getting a divorce does not mean that you are a failure or that your life is a failure. It simply means that you have a chance for a new beginning. Sometimes, people get so caught up in thinking about the divorce that they can't focus on anything else. This is not good for you in the long run; so find healthy ways to break this cycle.

One way to break the cycle is to **focus on other, more healthy things**. Maybe now is the time to take up a new hobby, make new friends or learn a new skill. If you have lost touch with family or friends during your marriage, try to reconnect. Having the support of a strong social network will help you as you work on reconstructing your new life.

Exercise is another important way you can take care of yourself. Sign up for an exercise class or start training for a 5K race. Most races have many walkers, so don't be intimidated by the word "race." Focus on new accomplishments. Exercise will help you manage stress, and you will feel a sense of accomplishment as you achieve each new goal. If you've been out of shape, seeing the positive changes to your body that you get from exercise can help reinforce a positive self-image and improve your overall health.

Consider a yoga class to help you practice mindfulness or a strength training class to build muscle and tone. You can even join a bowling league if that sounds like fun! Just get your body moving.

While you're thinking about your health, it may also be time to **clean up your diet**. Throw out any junk food, and start focusing on eating lots of low sugar fruits, vegetables, fish and meats.

Try not to eat foods that come packaged in boxes or bags, because these are usually highly processed. Shop the outer aisles of the market, where the fresh, unprocessed foods are displayed, and avoid the center aisles where the processed foods are. Eliminate sugar, refined starches, sodas and sweets, since they can wreak havoc with both your mood and metabolism.

You may want to consider adopting a Paleo-inspired diet, which focuses on eating clean, non-GMO foods such as grass-fed beef, wild fish and lots of vegetables. Many [books](#), [websites](#) and magazines can help you understand how to eat clean, and your health will likely improve as your diet improves.

If you've been used to sharing household chores with your spouse, you may also be feeling overwhelmed by the responsibilities of running a household on your own. You may find it helpful to **make a list of tasks** or to keep a schedule of appointments and commitments. Crossing items off the list may give you a feeling of accomplishment and help you to see that you do have control over some aspects of your life.

Try not to rush into another serious relationship right away. The

temptation can be strong, especially if you were with your spouse for a long time. You owe it to yourself and any future partner to take the time to gain perspective about your life and your goals. . Once you are comfortable in your own skin, and you have taken the time to heal, you will be ready to share your life again. There is no set timeframe. Be honest with yourself and you will know. When the time is right, the right person to share your life with will appear, but in the meantime, don't sit around waiting. Get out and enjoy your life, so you will have a life to share with that new person.

Conclusion

We must accept finite disappointment, but never lose infinite hope.

Martin Luther King, Jr.

No divorce is easy, and you shouldn't expect yours to be. There are ways to cope with divorce, and you will find that you can emerge from the process stronger and more aware of your strengths than you have ever been before.

You will face many challenges as you navigate the divorce process—personal, financial, parental—but each challenge you overcome will make you stronger. Reading this book has hopefully helped prepare you for what will come ahead; we've discussed critical nuts and bolts as well as strategies to help you cope with challenges as they arise.

As you were growing up, you navigated various life phases with excitement as well as trepidation. The first day of school, high school graduation, leaving home for college or your first apartment—all represented exciting first steps in a new phase of life. Divorce likewise represents a big transition, albeit one that may be fraught with sadness.

Perhaps the most important task this book can accomplish is to help you see that divorce is not the end of your life. Yes, it represents the end of one phase of your life, but the next phase can be even more rewarding.

Having read this book, you now have a sense for what the next few months will likely bring. You understand the key legal terminology used in Washington State divorce law. You know many of your rights and obligations, and you understand how to protect and care for your children and yourself as you rebuild your life.

We've covered powerfully compassionate ways of managing the process, such as negotiation, mediation and collaborative divorce, as well as health, fitness and coping strategies. Hopefully, you will no longer think of divorce

as a personal failure or a war with your spouse. You now have tools to see it as a legal process that you must navigate, so you come out strong, whole and excited to undertake the challenges, adventures and rewards that come your way.

We wish you good healing and success. And we're here to answer any questions you have about the process – from the legally technical to the highly personal. Please call the Ashby Law team today at 509-572-3700 for a consultation with an experienced Washington divorce attorney, so you can get the insight and encouragement you need and deserve.

Disclaimer for "It's Going to Get Better: A Compassionate Guide for Your Washington State Divorce"

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