



PNW FAMILY LAW

The Ultimate Divorce Guide for Washington State



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Introduction

Divorce is one of the most difficult things you will ever go through. You will have good days and bad days, and you will have plenty of questions along the way.

But if you take the time to learn about the process – how it works, what issues you will likely have to face, and what you can do to keep your divorce as simple as possible – you can make it a little easier on yourself and the rest of your family.

Just by reading this e-book, you are on your way to the best possible outcome. You are taking the time to learn about your options, what to expect, and how to deal with what lies ahead.

And we will be by your side every step of the way. If you have questions, just reach out. We will give you the answers you need and the peace of mind you deserve.

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Divorce: What it Is (and Is Not)

Divorce is a legal process – it dissolves the marriage contract between you and your spouse. Obviously, it does not dissolve relationships or obligations regarding children. **Divorce is also an emotional process, and it is one of the most difficult things you will ever go through.**

But with the right support and planning, your divorce will not cause permanent damage to your family. If you do it properly, it can be constructive; it can set up your whole family for a successful future.

During your divorce, you will have to make decisions on important issues, such as:

- Child custody
- Property division
- Spousal maintenance

In most areas, you and your spouse are free to negotiate a settlement that works best for you and your children.

What Divorce Doesn't Have to Be

Unfortunately, a lot of people approach divorce as if they are preparing for war – but it doesn't have to be that way. Divorce does dissolve your marriage contract, but it doesn't have to be contentious or damage your relationships.

It does not have to become completely destructive.

You hold the reins. You can make your divorce a positive experience – one that doesn't take decades to recover from – by working with the right legal team. When your attorney has only your best interests at heart, he or she will create a plan to help you make the right choices for your future. In many cases, that involves helping you negotiate with your spouse to reach fair, equitable agreements; in other cases, it requires going to court and fighting hard for what you deserve. In either case, following your legal team's plan will help you open the door to a brighter, more secure future.

The Divorce Process

Washington is a no-fault divorce state, which means you can get a divorce here without proving that one spouse did something that caused your marriage to end. If one party to the marriage, either you or your spouse, tells the court that the marriage is “irretrievably broken,” then the court will grant a divorce. This is true even if the other spouse disagrees. You and your spouse do not have to agree that you want a divorce; **you can get a divorce even if only one of you wants it.**

In Washington, a divorce takes at least 90 days. You do not have to be separated from your spouse for any length of time, but the law requires you to wait three months after your attorney files and serves your divorce petition. After those 90 days have passed, your attorney can file your divorce agreement with the court. The soonest the judge can possibly sign off on your divorce agreement is on the 91st day – but if you and your spouse haven’t reached an agreement, your divorce will take longer.

Uncontested Divorce

The term uncontested divorce simply means that **you and your spouse agree on all the major issues**, like child custody and property division. You can use the 90-day waiting period to resolve your differences and reach agreements. If you complete your settlement agreement during this time, you can ask the court to finalize your divorce as soon as the waiting period is over.

Contested Divorce

If you have a contested divorce, it means that **you and your spouse are not able to agree on the terms of the divorce decree**. You will have to go to court, where the judge will make decisions for you. You may have to wait several months before you get your day in court, which is one reason it is a good idea for you and your spouse to reach agreements on your own. If you suspect that you and your spouse will not be able to see eye-to-eye during your divorce, your attorney will likely recommend that you try mediation to reach an agreed resolution on some or all contested issues.

What About Mediation?



Mediation is a form of alternative dispute resolution, and in some cases, it is a good way for couples to reach agreements.

In some Washington counties, mediation is required by the court. However, you don't have to wait for the court to order it. You can find and work with a mediator on your own. You may be able to work with a religious leader, like a minister or pastor, or you can hire a professional mediator who has a strong background in divorce and family law. All mediators have strengths and weaknesses. Work with your attorney to find the best mediator for your circumstances. For example, if you have a business, work with a mediator that understands businesses and the difficulties inherent in splitting them in a divorce without destroying the business. If you have children and the plan for your children is the biggest source of disagreement, work with a mediator who is great at finding solutions to parenting and visitation disagreements.

The mediation process can take several hours or longer, but it is often worth it. In many cases, people who participate in mediation leave feeling as if they've reached an agreement they can live with. Rather than leaving a courtroom feeling as if they've lost something, many couples can walk away from mediation knowing that they reached a fair and equitable settlement.

Mediation is not right for every couple.

That's because mediation is difficult – or even impossible – when one of the parties isn't willing to give it a fair try. If one spouse refuses to communicate or use mediation as a negotiating tool, it is not going to succeed; then, the parties will end up in court asking the judge to decide on major issues. In counties that require mediation, the courts can sometimes waive the requirement (such as when abuse exists in the relationship).



A Word on Separation Agreements

You don't have to legally separate from your spouse before you can get a divorce, but some people choose to become legally separated instead of divorcing. A legal separation is a lot like a divorce – it can address all the same issues a divorce settlement would, such as child custody, property division and requirements for spousal maintenance. However, if you are legally separated, you are technically still married. Some couples find that legal separation is a better alternative to divorce, whether it is for cultural, religious, financial or personal reasons.



Child Custody and Child Support

When it comes to child custody, the courts always put the **children's best interests first**. That's true in every case. Parents are free to come up with their own parenting plans, which are simply child custody agreements that outline where the children live most of the time, as well as when the other parent will spend time with the kids. As long as the parenting plan serves the child's best interests, the judge will usually approve an agreed plan.

Child Custody

There are two types of child custody: legal and physical. Legal custody refers to a parent's right to make day-to-day decisions for a child, such as choices about education, healthcare and religious upbringing. Physical custody refers to where the children live on a regular basis. It is very common for parents to share both legal and physical custody, although sometimes one parent has physical custody while the other has visitation rights (the right to spend quality, significant time with the children, but not live with them).



Parenting Plans

You and your spouse can work together to create a parenting plan that's best for your family. The judge will look at whether the plan provides for each parent to maintain a loving, stable relationship with the children, as well as each parent's ability to:

- Provide for the children's basic needs
- Be involved with the children's educational needs
- Exercise good judgment
- Financially support the children

Your parenting plan should include information on where and with which parent your children will live, how you and your ex-spouse will make decisions about the children, and how you will resolve future issues and disputes that involve your kids.

If you and your spouse can't agree on a parenting plan, you will go to trial and the court will create a parenting plan for you. Remember, though, that you know your family best – and as parents, you are the best people to create a plan that works for your children.

Washington law also recognizes grandparents' rights to child visitation in some circumstances. And, if you and your soon to be ex-spouse agree, they can be included in the parenting plan. Otherwise, grandparents must either rely on you to provide some of your time for grandparents to spend with the children or they will need to file their own grandparent's visitation petition.



Child Support

The parent who has the children most of the time (the custodial parent) is typically the one who receives child support from the other parent (the non-custodial parent). The state has a specific formula to determine how much the non-custodial parent pays the custodial parent. The Washington State Child Support Schedule dictates the amounts based on each parent's share of their combined monthly net income (how much they bring home each month, after taxes) and how many children they share.

The courts recognize that **both parents have a duty to support their children**, no matter which parent the children live with most of the time or how often they see the other parent. The court will usually order the non-custodial parent – the one the children don't live with – to pay child support to the custodial parent. If you are not sure how much you will have to pay or how much you will receive, your attorney can help you figure it out.



Property Division

Property division – aside from child custody – is often one of the most contentious areas of divorce. Dividing your property may involve complicated paperwork, negotiations and tough decisions.

Washington is a community property state. That means that everything you and your spouse acquired during your marriage – money, your house, your cars and other assets – belong to both of you equally and is called community property. The things you and your spouse brought into the marriage, as well as some types of inheritances, are generally considered separate property.

Community property applies to assets and debts. If you and your spouse have acquired debt during your marriage, you are both responsible for it when you divorce.

Dividing Assets

Before you can divide your assets, you have to know how much they're worth. If you and your spouse can agree on how much your assets are worth, that's great – but if you can't, you may need to hire a valuation expert. **You must divide your property in a “just and equitable” way.** That doesn't mean equal. Usually, it simply means that the way you divide your property is fair under the circumstances.

You can divide your own property and submit your plan to the court for review. If it is not fair to both of you, or if you can't reach an agreement on your own, the court will look at your property's value and decide how to divide it for you.

Sometimes one spouse receives more property than the other does. That can happen when one spouse has a lower earning potential than the other, when one spouse was unemployed during the marriage because he or she was raising the couple's children, or when there are other special circumstances. In some rare cases, the courts can award one spouse's separate property to the other, as well, but that's not common.

The court doesn't usually consider fault in property division. However, it can consider the length of the marriage.

Short Marriages and Property Division

In short-term marriages, which are typically those lasting less than 5 years, the court may choose to divide property so that each spouse returns to a financial condition that's similar to the one they had before the marriage.

Spousal Maintenance

Sometimes the courts find that one party in a divorce should receive spousal maintenance – that’s the legal term for alimony. The courts often look at one spouse’s need and compare it to the other spouse’s ability to pay. Among other things, the judge will consider:

- The seeking party’s financial resources, including how much community and separate property he or she is being awarded
- How long it would take the seeking party to find employment (including getting an education or training to make him or her more employable)
- The standard of living the couple established during the marriage
- The age, physical and emotional condition of the spouse seeking spousal maintenance
- The seeking party’s financial obligations
- Whether the other spouse can afford to make spousal maintenance payments



Spousal Maintenance (cont'd)

Temporary Spousal Maintenance

During divorce, both parties still have a legal duty to support each other. That's because they're technically still married. Temporary spousal maintenance is there to make sure that a spouse who needs money to survive can get that money from his or her spouse. Even if the judge is unlikely to order spousal maintenance after the divorce, he or she may order it during the divorce.

Spousal Maintenance After a Short-Term Marriage

The courts consider a marriage of fewer than 5 years a short-term marriage. Spousal maintenance is less likely in a short-term marriage, particularly if both spouses are healthy and able to work.

Spousal Maintenance After a Longer-Term Marriage

When couples have been married 5 years or more, spousal maintenance is more likely than it is after shorter marriages, particularly if earning potential is considerably different. The court will look at the seeking spouse's need and the other spouse's ability to pay, as well as consider all other relevant factors, in order to determine whether to award spousal maintenance. The judge in your case will try to put you and your spouse on equal financial footing if one of you asks for spousal maintenance.

Remember that there are never any guarantees when it comes to spousal maintenance. Unless you and your spouse agree that one of you will pay the other, the judge in your case will review all the information and make a decision for you. Even if you and your spouse agree, the court's job is to ensure fairness – so if your spousal maintenance agreement is unfair to either of you, the court can overrule it.



You Can Have a Successful Divorce

With the right legal team on your side, you absolutely can have a successful divorce. You've already taken an important step – you've read this e-book and started to learn about the divorce process, what decisions you will have to make and how Washington law can affect your case.

No matter what stage of divorce you are going through, whether you are still thinking about filing or your spouse has already filed, you are on the right track. You will have ups and downs – everyone does. But you are going to come through this stronger, smarter and more resilient than you ever thought you could be.

We know because we've seen it happen to our own clients. It is going to happen for you, too. We're here to help you every step of the way, from filing your paperwork with the court to reaching a fair settlement agreement.

Call us any time – that's why we're here.

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