



Dissolution in Washington

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Real partners. Real possibilities.™

Breaking up is hard to do



What constitutes a Marriage

RCW [26.04.010](#)

(1) Marriage is a civil contract between two persons who have each attained the age of eighteen years, and who are otherwise capable.

Divorce Rate in the United States

Almost **50 percent** of all **marriages** in the United States will **end in divorce** or separation. Researchers estimate that **41 percent** of all first **marriages end in divorce**.

The History of Same Sex Marriage in Washington

Same-sex marriage has been legally recognized in Washington state since December 6, 2012. Voters approved Referendum 74. This referendum allowed same-sex couples to legally marry in Washington.

Domestic Partners

For a period prior to 2012 the means by which same sex partners received some of the same rights as married partners was to Register as a Domestic Partners. Referendum 74 changed this option as well.

Domestic Partners

As of June 30, 2014, you can register as domestic partners in Washington State only if:

You or your partner are at least 62 years old;

The other partner is at least 18 years old;

You are both legally capable of consenting to the domestic partnership;

Neither of you is already married or in a domestic partnership;

Domestic Partners

On June 30, 2014 If you were a same-sex registered Domestic couple and both of you were under 62, your domestic partnership converted to a marriage.

Only Washington State filed domestic partnerships converted.

Domestic Partners

As of **Thursday, September 5, 2019** at **8:20 AM**, there are:

3,788 **active** Domestic Partnership registrations

3,341 **married** Domestic Partnership registrations

3,290 **converted to marriage** Domestic Partnership registrations

1,415 **terminated** Domestic Partnership registrations

58 **pending termination** Domestic Partnership registrations

Domestic Partnerships

When searching the Secretary of States Domestic Partnership Web Site, the status will appear as either, Active Converted, Marriage or terminated. The status will dictate how to reflect the vesting.

,registered domestic partners.

,a married couple.

Filing for Dissolution in Washington

Domestic partnership termination in the state of Washington follows the same procedure as a divorce, and that the partnership meet one of the following residency requirements:

The filing partner lives in Washington

The non-filing partner lives in Washington

The non-filing partner is a member of the armed services stationed in Washington

Washington State is a “no fault” state,

meaning the only legal grounds for **divorce** is the “irretrievable breakdown” of the marriage. The language we most often see is “irreconcilable differences” Anyone seeking a **divorce** in the **state** will be granted one as long as they were legally married, meet the **state** residency requirements, and correctly follow the dissolution procedure.

Washington Dissolution

After filing for divorce there is a 90 day waiting period before a final Decree can be issued.

Washington has two counties where you can file for divorce without the requirement to appear before the court. These counties are Lincoln and Wahkiakum. The requirements are that the divorce is uncontested and that it does not involve children.

The majority of divorces are settled through mediation. This option is less expensive than going to court and having a judge determine the division of assets.

Legal Separation

A **legal separation** in **Washington State** allows a couple to formalize a separation while remaining legally married. It is accomplished through a court order and is a legally binding consent decree. Legal separation is not a requirement before filing for divorce and many couples are able to reconcile during this time.

(2)(a) No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage or domestic partnership.

Legal separation



Dividing and Purchasing Property when legally separated

The court can order the distribution of certain property and debt.

The Decree will have a separation date after which the parties will live separate lives, acquire separate assets and incurring separate liabilities.

The requirement for a quit claim Deed from the non-purchasing spouse is unnecessary to insure, a married person as their separate estate.

Legal Separation

Provided both spouses agree, a legal separation can be undone. If the legal separation has already been approved by the court, and both spouses wish to reconcile and revive the marriage without having to formally remarry, then a Motion to Vacate Decree of Legal Separation can be filled. Once the court approves same, it is as if the legal separation never occurred.

Terms preserved in Decree

Donald J. *****, as his separate estate, and the Trust created pursuant to Decree for Dissolution issued under ***** County Superior Court Case No. 05-3-*****-4, as their interests may appear of record

REAL PROPERTY. The parties own real property located at Avenue, _____, _____. The family home is to retained by Respondent/Husband, subject to the condition that one-half of the property shall be placed into a Trust with the parties' minor child being the sole beneficiary of said trust. Respondent/Husband may act as Trustee of said trust and if as trustee he elects to sell the real property, the proceeds associated with one-half of the property held in trust for the minor child shall continue to be held in Trust for the minor child and Petitioner/Wife shall be added as a co-trustee to the Trust for said proceeds. The proceeds held in Trust for the child shall be used solely for the benefit of said child. If the child should predecease either party, Mother shall be named as the contingent beneficiary of said proceeds.

Terms preserved in Decree

EXHIBIT A In re Marriage of BERGMAN, Cause No. _____

COMMUNITY ASSETS	FAIR MARKET VALUE	Title	DEBT OWED	NET TO HUSBAND	NET TO WIFE
1. Family Home 1702 Ohio Ave.	219,000	C	0	50%	50% of (in Trust for Minor Child)
2. Vehicle 1 – 2002 BMW	35000	H	28045.94	6954.06	0

Resolution For Terms preserved in Decree

Title was amended to vest in both parties each as their separate estate. By joining in on the Deed and signing the Escrow instructions as to the distribution of proceeds, we as the Title insurer have assurance that the intent of the Decree will not come into question.

Insuring a purchase while a pending dissolution is open

Making a requirement that the Legal council for the non-purchasing spouse provide a letter to Title. The points that they need to address are,

That they counseled their client as to their rights.

They agree that quit claiming any interest that they would have in the property is in their clients best interest.

They will make no future claim to the property.

Insuring a sale while a pending dissolution is open

Check the filings for an order barring the parties from disposing of assets or property.

If only one spouse is in title, talk to the non-owners legal council. Have they signed their separation agreement? Are the parties mediating their divorce or are they going to court. If they are mediating, it might be possible to accept a letter from their council. It should state that

They have counseled their client as to their rights.

They recognize the subject property as being the separate property of their spouse.

That they will make no future claim to the property.

Insuring a sale while a pending dissolution is open

If the parties are in disagreement and will rely on the court to rule on the division of assets, closing should not take place until such time that the final Decree is filed. The court will have full discretion as to the equitable division of assets.

Division of Assets

What is a “just and equitable division”?

The court will consider, what type of financial condition the property and debt division will leave the parties in after the divorce. The court generally does not want one spouse very wealthy and the other poor. It will consider your

Age

Health

Education

Work prospects

Future earning potential

Division of assets

The court has the ability to overturn prior inter spousal Deeds. The court also has the ability to convey property to a spouse that previously had no record interest in the property.

Rely on what the parties legal council is telling you and not that of the individuals. Divorce can be extremely stressful and can bring out the worst in people. Always remember, when it comes to title insurance anything done under duress is voidable.

Title Transferred by Decree

The Court has the ability to transfer title to real property by Decree or uphold the terms of the property settlement agreement by stating so in the Decree.

Review the Decree for the specific language. Is there strong language stating who the owner is ?

Are there any conditions, such as a statement that one party will Deed to the other ?

If the Decree refers to the settlement agreement, you may have to request a copy if it's not filed.

Terms of Decree

Liens can be created in the terms of the Decree or by separately filed judgment.

Is the lien created in the Decree secured by the property or is it an unsecured debt ?

Escrow will need to know what the terms of the distribution of proceeds are and will need the parties to agree to those terms.

Terms of Decree

The Decree can assign prior debt to either party including liability for prior liens or judgments.

The statement as to who is responsible for debt does not remove the lien(s) from the property. Even if the responsible party is removed from title per the terms of the Decree.

Terms of Decree

Although the Decree can transfer title. The county will not catch it to change the parties referenced on the Tax rolls. This is something that the party will need to discuss with treasurers office to have corrected.

In Closing

Questions ?

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