

What is the difference between a “divorce” and a “dissolution?”

A “divorce” means the same thing as a “dissolution” and regardless of whether the court is dissolving a marriage or a domestic partnership, the term “dissolution” is used to accomplish this goal.

How much does a dissolution cost?

A dissolution case has a filing fee. The facilitator or clerk can provide you with a fee schedule. If you can't afford the fee, you may ask the court to waive or defer the cost. You can get an Application for Waiver or Deferral of Fees from the facilitator, the court clerk, or by downloading one from the court's website.

How long does a dissolution take?

If the parties are in agreement with everything it can be a month or less, if there are children involved it can be as fast as it takes you to complete the Focus on Children class so long as you both agree. Many co-petition cases can be completed in one day. Most commonly it takes one to three months but if you cannot agree, it could take up to a year.

What if I don't know where my spouse/partner is?

You can still file for a dissolution even if you don't know where your spouse/partner is. After filing the dissolution petition you must make a reasonable effort to find your spouse/partner to have him/her served with dissolution papers using one of the standard methods of service. If you are unable to successfully find and serve your spouse/partner, you may ask a judge's permission to use an alternative method of service, most commonly, publishing the summons in the newspaper. You must pay the newspaper to do this which can be very expensive.

Does it matter who files first?

It does not generally matter who is the first to file dissolution papers. The court does not give any preference to the first person to file (the petitioner), or any disadvantage to the person who is the respondent. The filing fees are the same for both the petitioner and the respondent. Both parties can ask for temporary relief while the case is pending.

Where should I file my dissolution?

In almost all cases, either you or your spouse/partner must have lived in Oregon for six months before filing the dissolution. You must file in a county where you or your spouse/partner currently lives. If you are filing a dissolution of a registered domestic partnership (RDP), you must file in a county where either you or your partner lives. If neither of you live in Oregon but your RDP was registered here, you can file in the county in Oregon where either of you last lived.

What is a “no fault” dissolution?

Oregon is called a “no fault” state. This means the spouse/partner who is asking for dissolution does not have to prove the other spouse/partner did something wrong. The only reason needed for dissolution is that the spouses/partners cannot get along and there is no way to fix the problems. The law calls this “irreconcilable differences that have caused the irremediable breakdown of the marriage” and is the typical basis for the dissolution.

What if my spouse or domestic partner does not want to give me a dissolution?

In Oregon, it is not necessary for both spouses or domestic partners to agree to the dissolution. Either spouse or domestic partner can decide to end the marriage/partnership. It is not necessary for the other

spouse/partner to agree or “give you” a dissolution. The spouse or partner who does not want to get a dissolution cannot stop the process by refusing to participate in the case. He or she does not have to sign anything to agree to the dissolution. If your spouse or domestic partner does not participate in the dissolution case, you will still be able to get a default judgment and the dissolution will go through.

What if my spouse/partner does not respond to the dissolution petition?

Once the other spouse/partner has been served, he/she has 30 days to file an “appearance” (this means filing a document called a response or an answer). If he/she fails to file, you can take a "default" against him/her, which means a judge can grant what you requested in your petition. This doesn't happen automatically. You must prepare paperwork for a judge to sign. A Default Judgment is then entered against the other party.

What if my spouse/partner is spending all our money?

Once a dissolution is filed, a statutory restraining order regarding assets goes into effect which orders both spouses/partners to only spend money on normal daily life needs. If there is proof that a party is not obeying the order, you can obtain court assisted relief. To get this relief you may need to file for temporary orders. This process may be difficult and it may make sense for you to seek advice from a lawyer.

My spouse/partner controls all the money, is there anything I can do?

It is possible to obtain an Order requiring the spouse/partner to pay temporary support. You may need a lawyer to assist you with this request.

My spouse/partner has all the property or debt in his/her name?

Your right to property or obligation to pay on joint debt is not dependent upon whose name the property or debt is in. If the property was acquired or changed value during the marriage/partnership, you may have an interest in the property, or perhaps an obligation on the debt. If the property or debt was acquired prior to the marriage/partnership, it is up to the court to do what is just and equitable.

My spouse/partner threatens to take the kids?

There are temporary orders the court can put in place while your dissolution case is pending. If your spouse/partner is withholding the child/ren while the case is pending, it is possible to ask the court to establish a temporary parenting plan (called temporary access).

The permanent decision regarding custody and parenting time will be made by the court if you and your spouse/partner cannot reach agreement. The court looks at several factors in determining who should be awarded custody. Parenting time is the time that the children share with each parent and is designed to benefit the children. Your spouse/partner can threaten all he/she wants, but custody and parenting time is a decision for the court if an agreement can't be reached through mediation.

We have retirement accounts, how are they split up?

The court orders or the parties agree on how retirement accounts should be divided. Thereafter you must have a special order and judgment prepared called a Qualified Domestic Relations Order (QDRO) and submit it to the court. For example, if there is a 401(k) account and it is divided and each receives one half, the QDRO would essentially separate it into two accounts, one for each. Or if there is a pension, the QDRO separates the rights to the pension at a given moment in time.

Why is it a good idea to have a lawyer help me deal with my retirement account?

The Qualified Domestic Relations Order (QDRO) is a complicated document that addresses many facets of the distribution of retirement accounts and pension plans. There are various options in how these accounts can be divided and most account holders (employers) or pension plans will only accept very limited and direct language that has been approved by the court in a well-crafted QDRO.

Do I need a lawyer if I have property or own a home?

As with all things related to your dissolution, you may not need a lawyer, but it often depends on how straightforward your situation is. If you have anything of value, it is always a good idea to at least have a consultation with a lawyer. You may not need to hire a lawyer to represent you on your entire case. You may be able to address your concerns by hiring a lawyer to help you with just the property piece of your case.

How is child support determined?

Oregon has standardized guidelines for the calculation of child support. The guidelines take into consideration a number of factors including; income, parenting time percentage (how many overnights the children spend with each parent), health insurance and childcare costs. You can view the guidelines and calculate support by visiting the Division of Child Support's website at: www.oregonchildsupport.gov

How is spousal/partner support determined?

Whether or not spousal/partner support is appropriate in your case is determined by a number of factors that the court takes into consideration, such as length of marriage/partnership, income of the parties, health of the parties, age, lifestyle etc. Spousal/partner support may be transitional, compensatory, or maintenance support. Spousal/partner support is not appropriate in every case and the court has discretion in determining, if appropriate, the amount and for how long such support would be paid.

I'm not married to the other parent and paternity hasn't been established. Can I file for custody?

Courts cannot make orders about custody, parenting time, and child support unless the legal relationship (paternity) between a child and his or her biological father has been established. It may be appropriate that you file a case to initiate paternity together with any suit for custody and parenting time. You may need a lawyer to help you do this.

What is parenting time?

"Parenting time" is a term that courts use in place of "visitation" to outline the court-ordered contact between a parent and the child/ren.

What is a parenting plan?

A parenting plan is the part of a court order that deals with custody and parenting time. All orders about custody must include parenting plans. Parenting plans may have detailed terms or general terms but usually must establish a minimum amount of parenting time for the parent who does not have custody.

Why would the court reject my paperwork?

There are many reasons the court might reject your paperwork. If this happens, you may want to contact the Family Court Assistance Office or a lawyer for assistance. Some of the most common reasons are as follows:

- You are missing a required form.

- You forgot or missed a signature.
- Your forms are incomplete.
- The respondent wasn't served properly.
- Child support was ordered in the judgment and you didn't attach child support worksheets.
- The Judgment includes property, debts, or other issues that were not listed in your Petition.

Is there anything else I should do after I dissolve my marriage/partnership?

There are several follow up pieces you might consider after your dissolution. Such as, if your dissolution involved changing property titles such as automobiles, boats, trailers, etc. you should contact DMV to arrange a transfer of title. If you changed your name you will need to contact Oregon DMV, the social security administration, and any other government agencies that have your name. You may need to fill out change of address forms at the post office and file your new address with the Internal Revenue Service. Is it appropriate to notify your child's school and medical providers of the change of custody? Did your dissolution divide retirement accounts or pension plans that must be accomplished by filing a QDRO?

What should I do if I want to change the agreements I made about custody, visitation or child support but the Judgment is already final?

Circumstances change and what was right for your life and your child's life at the time of the dissolution may change. If it is appropriate to change the parenting plan or custody arrangement, you may seek an Order to Show Cause to Modify the Custody, parenting plan, or support issues. To determine if this is appropriate, you may want to seek the advice of an attorney. Just because you want to change things, does not mean that it is an option that is legally available to you or in the best interests of your child.

Can I change my name in the dissolution?

You can take back a former name if you ask for it in the dissolution. You cannot change your name to a name you have never used before. A husband may not change his wife's name back to her maiden name. The wife must ask for this herself which she can do by stipulation in the final judgment.

My spouse/partner and I have only been married for a few weeks. Can I file for an annulment?

Annulment is a unique way of ending a marriage. A lawyer can help you find out if you can get an annulment. Court costs for an annulment are about the same as for a dissolution.

What are the legal reasons for an annulment?

A marriage may be annulled when a party was incapable of entering into or consenting to marriage because he or she was not of legal age or lacked sufficient understanding or a party's consent to the marriage was obtained by force or fraud. A marriage that has been annulled for one of these reasons is void as of the time the judgment is signed and is treated as if it never happened.

I am a victim of domestic violence and want a dissolution. Is there anything I need to do before filing my case?

You may qualify for a Family Abuse Prevention Act restraining order. This order is designed to protect you and your child from future abuse. In order to qualify for an order you must have cohabited with the person at some point in the last two years and you must have been abused by the person within the last 180 days. Even if you don't qualify for a restraining order, but have been a victim of abuse, it is important that you think about an adequate safety plan to protect yourself and your children throughout the dissolution process.

There are resources available to you to devise a safety plan at these community based options:
Womenspace, CAFA, SASS, and Victim Services.

What is a legal separation and why would I want one?

A judgment of separation may be issued when irreconcilable differences between the parties have caused the temporary or unlimited breakdown of the marriage. The main difference between a legal separation and a dissolution is that spouses/partners are still married after a legal separation. Some reasons people may choose separation instead of dissolution are that a spouse/partner may be able to stay on the other spouse's/partner's insurance policy of the parties but this may vary depending on the insurance provider. Some parties may have moral objections to dissolution. Sometimes it is simply an issue that neither party has lived in Oregon for six months which is required for dissolution cases. It is possible to establish custody, divide assets and obtain a support order with a legal separation. A legal separation proceeding may be "converted" to a dissolution proceeding at a later date.