

Divorce in Oregon

An excerpt from the Community Education booklet *Family Law in Oregon**

What is a divorce? What gets decided in a divorce?

A divorce is a way of legally ending (dissolving) a marriage. After you have gone through all the steps in a divorce, you will get a “General Judgment of Dissolution of Marriage,” which is a court order that ends your marriage. The divorce judgment will usually state:

- The date your marriage ends (this is the date the judge signs the judgment);
- Who gets custody of the children and when the other parent sees them;
- Who pays child support and how much;
- If health insurance for the children will be provided and who will pay for it;
- Who should pay past bills;
- How property (including retirement benefits) will be divided;
- If one spouse must pay spousal support to the other.

Do I need a legal reason to get a divorce?

Oregon has “no fault” divorce. The only reason you need is that you and your spouse cannot get along, and you see no way of settling your problems. The law calls this “irreconcilable differences.”

Can my spouse keep me from getting a divorce?

No. Your spouse cannot stop you from getting a divorce. But your spouse can contest issues in the divorce, such as child custody and support, spousal support, and property division. This can delay the divorce because the court will set a trial date to decide the contested issues in the case. In some counties, your spouse can ask the judge to postpone your divorce and order both of you to see a mediator to try and come to an agreement.

Will I be able to get a divorce if I don’t know where my spouse is?

Yes, but you will have to prove to a judge that you have tried in many ways to find your spouse before a judge will let you go ahead with the divorce. See Question 35 of the [*Family Law in Oregon**](#) booklet. If your spouse can’t be found for personal delivery of the divorce papers, you will be able to end your marriage and (usually) get custody decided, but you will probably not get child support or any divorce terms which require your spouse to pay money or do something (such as transferring title to property).

Can I get a divorce in Oregon now if I just moved here?

Probably not, unless your spouse is living here. In almost all cases, either you or your spouse must have lived in Oregon for six months before filing for divorce.

Will it take me long to get a divorce?

An uncontested divorce (where you and your spouse agree about the terms of the divorce) can be final about three months after the divorce petition is filed and delivered to your spouse. You may be able to reduce this time if the judge thinks you have a very good reason. If you and your spouse have agreed on the divorce terms and both of you sign the proposed final judgment, the judge can waive the waiting period.

A contested divorce (where you and your spouse are arguing about the terms of the divorce), could take much longer than three months because court hearings may be needed.

Will I have to go through a trial to get a divorce?

If the divorce is uncontested (if you and your spouse agree about all the terms of the divorce), you can probably get divorced without a trial. But if the divorce is contested, you will probably need a trial.

Will I need a lawyer to get a divorce?

If you and your spouse agree about all the terms of the divorce, or if neither you

nor your spouse wants to disagree about what the other is asking for, you won't need a trial, and you may be able to do the divorce paperwork yourself. You still may want a lawyer to look it over.

Divorce paperwork is available online at the [OJD Family Law website](#)** . Once at this website, look for "Family Law Forms." Print the appropriate forms and instructions for your circumstances.

Your courthouse may also have printed versions of these forms for a modest copying fee.

If you meet all the rules for a Summary Dissolution (see Question 36 of the [Family Law in Oregon*](#) booklet), you can get the forms at the county courthouse. Also, the legal aid office serving your county may give classes and materials so that you can handle your own divorce. Court facilitators are available in many county courthouses to help with divorce paperwork. You may want to have a lawyer look over the divorce papers you prepare. This will cost less than having a lawyer do the whole divorce.

If you and your spouse cannot agree and one of you contests issues in the divorce in court, a judge will have to make a decision about the issues. This will probably require court hearings, and it may be best to have a lawyer. If one spouse gets a lawyer, the other spouse often needs one too.

What if I cannot afford a lawyer?

If your spouse has an income that is much higher than yours, the judge may order your spouse to pay your lawyer. If you have an income that would allow you to make monthly payments to a

lawyer, talk to different lawyers to see if they will help you. Some legal aid offices do not handle divorces directly, but they may offer classes and materials to help you do your own divorce. See the Resource Section of [*Family Law in Oregon*](#)* booklet for the legal aid office nearest you.

Will there be problems getting a divorce if the wife is pregnant?

No, but your divorce petition (request) should say that the wife is pregnant and whether or not the husband is the father. The judge will want to know if the husband is the father, so that issues such as child custody and support can be handled as part of the divorce.

If the husband is not the father, the divorce petition and the final divorce judgment should state that he is not the father. Otherwise, the law will assume that he is and will treat him as the father.

* The [*Family Law in Oregon*](#) booklet is available at: www.oregonlawhelp.org.

** The OJD Family Law website address is:
<http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/index.page?>

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