

How to File for Divorce in Oregon

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

What do I need to do to start a divorce?

In almost all cases either you or your spouse must have lived in Oregon for at least six months before you file the divorce papers. If one of you has lived here that long, you need to do three things to start your divorce:

- 1) You must pay or be excused from paying the fees that are charged for filing a divorce petition. There might also be costs for having your spouse served. See [What are the costs for filing and serving the petition?](#) and [What if I can't afford the fees for filing and serving the petition?](#) for information about these costs.
- 2) You must fill out and file (turn in) a *Petition for Dissolution of Marriage* with the Circuit Court Clerk's office in the court of the county where either you or your spouse live. The petition tells the court and your spouse what you are asking for in the divorce.
- 3) You must have the petition served on (officially delivered to) your spouse. This lets your spouse know that a divorce action has been started and what you are asking for. See [How do I serve the divorce papers?](#) and [How do I serve the divorce papers if I cannot find my spouse?](#) for information about serving the petition. Other paperwork is also required.

Can I use Summary Dissolution forms to file for divorce?

A summary dissolution is a simple divorce. The forms and instructions are free and are available at county courthouses. To use the summary dissolution forms, you must meet all of the following requirements:

- 1) **Residency** – You or your spouse are a resident of Oregon and one of you has been living here for the last six months;
- 2) **Length of Marriage** – You have not been married for more than ten years;
- 3) **Children** – You have no minor children (or children 18-20 years old attending school), born to or adopted by you and your spouse, either before or during the marriage. The wife is not pregnant now;
- 4) **Real Property** – Neither you nor your spouse owns any real property (land, houses, or buildings) anywhere;
- 5) **Personal Property** – The combined net value of the personal property owned by you and your spouse is not more than \$30,000;
- 6) **Debts** – The combined unpaid debts of you and your spouse during your marriage are not more than \$15,000;
- 7) **Spousal Support (Alimony)** – Neither spouse is asking for spousal support;

- 8) **Temporary Orders** – Neither spouse is asking for any temporary orders (except a restraining order in a separate Family Abuse Prevention Act case); and
- 9) **Other Divorce Actions** – You are not aware of any other divorce or annulment proceedings involving this marriage filed in any court and not yet decided.

If you don't meet all of the requirements for summary dissolution, you will have to use other forms available through the court or the website noted above, or contact an attorney.

The summary dissolution forms and other self-help forms are intended to help get you a divorce without an attorney. But you have the right to be represented or helped by an attorney if you can obtain one. It may be helpful to see an attorney before you file the forms, to make sure you have filled them out correctly. You may have questions about the procedure or want advice about your individual rights and responsibilities. If your spouse contests the divorce by filing papers with the court, you should try to get legal advice.

How do I fill out the divorce petition?

The petition tells the judge and your spouse what you are asking for in the divorce. If a lawyer is representing you, he or she will write the petition after talking to you about what you want. If you are using “do-it-yourself” forms, the class you go to or the instructions you receive will give you information about the kinds of things you can ask for in a divorce.

After the petition is written, it is filed (turned in) at the courthouse. Other legal paperwork is required, too. A few courthouses have a staff person (a “court facilitator”) to help with family law paperwork and procedures.

How do I serve the divorce papers?

If a lawyer is handling your divorce, he or she will have the divorce papers served on (officially given to) your spouse. If you are using “do-it-yourself” forms, the instructions should tell you what you need to do. Your spouse can agree to sign papers that say he or she has been served. Otherwise, your spouse must be served by either the sheriff or another adult (not you).

If you are getting cash assistance or certain other public benefits, the Division of Child Support (DCS) will also have to be served with the divorce petition. If you do not have a lawyer or if the divorce forms you are using do not have instructions about this, you can call DCS to find out how to serve them with the papers.

How do I serve the divorce papers if I cannot find my spouse?

If you cannot find your spouse, you will need to serve your spouse by either publishing or posting a notice that you have filed for divorce. You **MUST** have an order signed by a judge that gives you permission to serve your spouse by publishing or posting notice. To get the order, you will have to show the judge that you have tried in many ways to find your spouse. If notice is published in the newspaper, there will be a fee of about

\$100. Posting the notice in the courthouse is free. You can find out more about these kinds of service from a lawyer or the instructions in the self-help forms that you are using. An alternative form of service packet is available on the OJD Family Law website*.

What are the costs for filing and serving the petition?

When you file the petition with the court clerk, you will be charged a filing fee of approximately \$400. Each county charges its own fees based on services offered there; call the Circuit Court Clerk's office at your local courthouse to find out the cost and fees in your county.

If you have a county sheriff in Oregon serve the divorce papers on your spouse, you will be charged a service fee of approximately \$25.

What if I can't afford the fees for filing and serving the petition?

Before you file the petition, you can ask the judge to waive or defer these fees. If fees are "waived," they do not ever have to be paid. If fees are "deferred," they must be paid at some later date. To get your fees waived or deferred, you must fill out a form called an "Application for Waiver or Deferral of Fees" that gives the court information about your income. The form and instructions can be found on the OJD Family Law website*.

Also, as part of your divorce paperwork, you can ask your spouse to pay all or part of your deferred court costs. If you do not pay fees that are deferred, they will become a debt you owe to the state and may be taken out of your state tax

refund or collected by the state in some other way.

What happens after the divorce papers are filed and served?

After you have filed for divorce and served your spouse with the papers, your spouse has thirty days to file papers to contest (disagree with) the divorce. If your spouse does not file papers to contest the divorce by thirty days after service, you will be able to get a final divorce judgment in approximately two months. You might be able to get the judgment sooner if a judge decides that you have a very good reason, such as an emergency or when you and your spouse have both signed the divorce papers and agree to the terms of the divorce. If a lawyer is handling the divorce, the lawyer will file the papers so that you can get the final judgment. If you are handling your own divorce, the instructions will tell you what papers you need to file and when you need to file them.

If you are filing for temporary orders, such as custody and child support, or if your spouse files a response to fight about issues in the divorce, you may need to have court hearings. If this happens, it could take much longer than three months to get the final divorce judgment, and you may need the help of an attorney. If your spouse gets an attorney, you will probably need one, too.

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