



Setting Expectations: 10 Things You Should Know About Divorce in Washington State

When a marriage ends, coping with feelings of anger, loss, and regret are only the beginning. You also have to make decisions about property division, child custody, spousal and child support and, of course, new living arrangements. This article clarifies 10 important things you should know when filing for divorce in Washington State, so that your expectations and the probable outcome are both realistic and fair.

1. Washington Is a Community Property State

Washington is one of nine states that uses the community property approach when dividing marital assets. All property is before the court at the time of the divorce, whether it is community property or separate property. For any property to be considered yours alone, the following conditions must apply:

- It must have been acquired prior to your marriage
- It must have been purchased and maintained using funds in your separate account

For example, if you bought a second home with money from your separate account but used marital funds to cover the costs of upkeep, it would likely be considered community property in a divorce action.

If you and your spouse cannot negotiate your own agreement, all property (including separate property) will be before the court and the court will divide it in as fair and equitable a manner as possible.

2. Debt Is Divided Equitably, Like Property

Marital debt is divided in a Washington divorce, just like property. If you and your spouse had joint credit cards, lines of credit, and other obligations, they can be split between the two of you, though not necessarily equally. Even debt that was brought into the relationship can be divided if one spouse voluntarily started helping the other pay it down. For example, if your husband owed money on student loans incurred before the date of marriage and you used your income to pay the monthly amount owed, you may be held partly responsible for the debt after divorce.

3. Washington Divorces Have a Mandatory Waiting Period

You may want your divorce to be over with quickly so that you can progress towards a happier future, but in Washington, there is a mandatory waiting period of 90 days from the moment you file the Petition for Dissolution of Marriage and serve it on your spouse until the divorce is finalized. This is the case even when the split is amicable and you and your spouse agree on all important areas. If any main issues are contested, however, such as child custody and support, the process could take even longer.

4. Washington Is a No-fault State for Divorce

Unlike some other states, Washington follows the no-fault rule when it comes to grounds for divorce. You don't have to prove spousal misconduct, abuse, or any other specific problem if you want to legally dissolve the marriage. As long as you truly believe that the marriage is defunct, you can file for divorce in Washington State.

5. Washington State Does Not Recognize Common Law Marriages

To file for divorce in Washington, you and your spouse must be legally married. If yours is a common law relationship, you cannot be divorced, no matter how long you have been together. However, the state does recognize what the law refers to as "committed intimate relationships," where the partners live together like a married couple. If the relationship ends, the court will divide property and determine custody and support using many of the same standards observed in divorce.

6. Infidelity Does Not Affect Property Division or Child Custody

Many spouses assume that if their husband or wife was unfaithful during the marriage, they will automatically receive custody of the children and a larger share of marital property than the errant spouse. This is not true. Marital misconduct is not treated as a deciding factor when the courts decide custody or divide property, unless (for example) the spouse who cheated dissipated marital funds to buy presents for their new partner. In this instance, the court may award you a bigger share of the marital estate to compensate you for the financial loss.

7. Spousal Support Is Not Awarded in All Divorces

It is not a given that the higher earning spouse will be ordered to pay support to the spouse who makes less. Support awards are decided on a case-by-case basis. When determining whether such an award is appropriate, the courts consider factors such as a length of the marriage, each spouse's current income and earning ability, and more.

8. Unemployed Parents Can Be Ordered to Pay Child Support

If you are worried that your spouse will intentionally remain unemployed or underemployed to get out of paying child support, be aware that a Washington court can impute income based on what they could be earning if they applied for jobs matching their work history and skill set. Imputing income in this manner ensures that your children are cared for financially even if one parent tries to dodge their responsibilities.

9. Custodial Parents Can't Simply Move Away With the Children

Many parents worry that if other parent gets custody, they can simply move away with the kids whenever and wherever they please. The truth is that non-custodial parents have rights too. If your former spouse only wants to move to a new address within the children's current school district they may do so freely, although they should provide you with notice. If the move is to another city and even out of state, Washington relocation law applies. You have the right to receive written notice of the proposed move and file an objection. A judge will then schedule a hearing to decide what outcome is in the children's best interests.

10. Military Divorces Have Special Conditions Attached

There are state and federal laws in place to protect active-duty members of the U.S. military from being held in default for failing to respond to a divorce action. Under the Servicemembers' Civil Relief Act, a divorce may be postponed for the entire time the military member is on duty and for up to 60 days afterwards, although this delay can be waived by the servicemember if they agree to the divorce.

Divorce laws can be complex in Washington, which is why Zafiro Law is here to guide you through the entire process. I will meet with you to discuss in detail your situation and potential legal options and solutions, and assist you in achieving the best possible outcome that meets your present and future needs. To schedule a consultation, contact me today.