

Colorado Legal Services

Legal help for low-income Coloradans seeking assistance with civil legal needs



www.coloradolegalservices.org

Divorce in Colorado (called "Dissolution of Marriage")

What is a Dissolution of Marriage?

Colorado laws use different terms than what you may be familiar with. A "Dissolution of Marriage" (DOM) is the term Colorado law and courts use to mean "divorce". Similarly, what you may be familiar with as custody is called "Allocation of Parental Responsibility" (APR) under Colorado law.

How can I get my marriage annulled (and what is "annulment")?

[Click here](#) for information about annulment on this website.

What's the difference between a legal separation and a divorce?

If you are legally separated, you are not divorced and are not legally able to marry another person. You are married but separated. Divorced means your marriage has been legally dissolved by the court.

What is the process to get a divorce?

You can only get a divorce in Colorado by going through the courts to legally dissolve your marriage. The process varies depending on whether you have minor children of the marriage or not. The Colorado Judicial Branch provides step-by-step directions on how to file for a divorce with or without children. Directions and all of the court forms required for a divorce case are available free to download from the Colorado Judicial Branch website by [clicking here](#). (Read through the options.)

You can also obtain copies of the forms from a court clerk but may be asked to pay a small fee.

To start a divorce case, the following documents must be completed and filed with the courts by one party (person):

1. Petition for Dissolution of Marriage
2. Case Information Sheet, and
3. Summons to serve the other party if you are not filing the case together.

There is a filing fee to file for divorce, but you can file a motion to ask the court to waive the fee if you are low-income. You can find more information and the forms needed (JDF 205) [by clicking here](#).

You'll have to go to court for at least one initial appearance (called a status conference), and, depending on how complicated your case is and how much you and your spouse agree on, you may have other more formal court hearings in front of a judge.

I have been served with divorce papers. What should I do?

1st - if possible, get legal advice to find out what your rights and responsibilities are.

2nd - DO NOT ignore your divorce! If you don't at least respond to being "served paperwork", the court has the right to make decisions for you without your input. If you live far away you can still participate in your case by asking the court for permission to appear at hearings over the phone.

3rd - if you feel safe communicating with your spouse, you should try to work out how you're going to divide the property and debts of your marriage. If you have minor children, you and your spouse should try to work out how you're going to provide for and spend time with them after your divorce. The court can make these decisions for you, but it is usually better to try to work out as many of these issues on your own since you and your spouse know your situation and family better than the judge will.

4th - if your spouse has hired an attorney, it is best to communicate through the attorney.

5th - if you don't feel safe communicating with your spouse because of domestic violence in your relationship, get legal advice immediately.

Resources are available for domestic violence survivors, [click here](#).

Do I have to have a reason to file for divorce?

No. Colorado is a "no fault" divorce state. This means the court won't try to assign blame to either spouse for the failure of the marriage. There doesn't need to be a specific reason to get a divorce. One spouse just needs to state that the marriage is "irretrievably broken" to file for divorce. You don't have to personally agree that your marriage is "irretrievably broken", but you can't legally object to your spouse filing for divorce or prevent a divorce petition from being filed.

I'm not working. Will my spouse have to pay me alimony?

Colorado uses the term "maintenance" instead of alimony to refer to spousal financial support. An award of maintenance is decided by the judge based on a number of factors, so there is no set answer to this question.

Maintenance is not child support. If you do get an Order for maintenance, it is usually temporary, and rarely for a long period of time. If you're not working because you're caring for your infant, or because you were a homemaker during the marriage, you may get an Order for maintenance. But, if you don't have a valid reason for not working, you probably won't get maintenance. Courts also take into consideration the length of the marriage when making a determination of

maintenance.

Maintenance can also be awarded on a temporary basis while the divorce case is pending. This may be appropriate if you separated from your spouse, and due to this separation your financial standing suddenly changed significantly, and your spouse says they will no longer pay for basic necessities s/he paid for while you were together.

How long does it take to get a divorce?

You and your spouse must wait at least 90 days from the time the divorce petition is filed to the time it will become final. Even if you agree to everything and file for divorce together, a decree dissolving your marriage can not be entered by the judge until at least 90 days have passed since the date of filing and service (service = when papers are served from one party to another) on the other party.

Ninety days is the minimum amount of time a divorce case will last. It usually takes at least several months depending on several things:

- 1 - how many things you and your spouse agree on,
- 2 - how busy your court is,
- 3 - whether or not you try mediation,
- 4 - whether attorneys are involved, and
- 5 - whether you need to have a final court hearing (called "permanent orders") to resolve any remaining issues.

I'm worried about what my spouse may do when s/he sees I'm asking for a divorce. Is there any legal protection for me?

When you file your divorce petition and serve it on your spouse, an automatic temporary injunction is in effect that will prohibit both you and your spouse from taking certain actions while your divorce case is pending in court. This will prevent both of you from the following:

- 1 - harassing the other party,
- 2 - transferring property that may be considered marital property,
- 3 - discontinuing insurance coverage without notice, or
- 4 - taking your children out of the state or out of the country without permission

If you feel that your safety is at risk due to domestic abuse or threats by your spouse, you may need a Protection Order. You could get a Permanent Protection Order or pursue a Temporary Protection Order just to last while your divorce case is pending in the court. [Click here](#) to go to the Colorado Judicial Branch website for more information. To learn more about how the courts work with domestic violence victims and resources available to those who have survived domestic violence [go to this website](#).

Can I divorce my spouse if I don't know where s/he is?

Yes. Where your spouse lives doesn't affect your ability to file for divorce, although it could affect the distribution of your property, or the relationship with your children. If you don't know where your spouse is, it's a good idea to try to find out before you file for divorce because you must serve him or her with a copy of the divorce petition and a Summons to appear in court. The court will not move forward with your divorce case until it has proof that your spouse knows you have filed for divorce and has been served with a copy of the petition.

To find your spouse, you may try contacting mutual friends or family members, your spouse's last place of employment, or using social media or the Internet.

If you have made a reasonable effort to try to serve your spouse but have been unsuccessful, you may request that the court authorize Service by Publication of a Summons in a local newspaper. There is a fee you will have to pay for the cost of publication in a local newspaper.

I just moved to Colorado. Can I file for divorce?

Not until you've lived in Colorado for at least 91 days. Also, you have to live in Colorado with the intent of staying in Colorado permanently. For example, you can't just stay at a Colorado hotel for 91 days, and then try to get divorced under Colorado law.

I have been served with divorce papers from another state. What should I do?

Get legal advice if at all possible. There are a number of things that go into deciding which state's law applies to your divorce.

DO NOT ignore the divorce papers! If you do, a court you've never been to would have the right to determine your divorce, distribute your property, and even decide your relationship with your child. You may be able to find resources and information from by clicking on that state [here](#).

Is Colorado a community property state?

No, Colorado is considered a marital property state, which means the court will look at any property you get during your marriage as also being owned by your spouse.

For example, if you buy a car with your own money during your marriage, your spouse likely owns it too, even if only your name is on the title and you are the one to drive it. Under Colorado's marital property system, spouses have claim to more things, such as the difference in the value of separate property that became more valuable during the marriage.

Colorado law requires the court to enter an Order that equitably (fairly) divides all property of the marriage. Equitably does not mean all property will be divided 50-50. When the Court divides property, it may look at the contribution each spouse made to be able to acquire property; the value of the marital property; the financial situation of each person and their ability to earn after the divorce, and how Custody/Appropriation of Parental Responsibility has been decided.

There is some property that you may not think of as marital property to consider in dividing your

marital assets. For example, limited partnerships, business interests, investments, and the cash value of life insurance and retirement benefits are all considered marital property to be divided upon divorce. If you have a lot of marital assets, get legal advice before you file for divorce.

Who is responsible for the outstanding debts that we have from the marriage?

Just like all marital property is divided between you, so are marital debts. Debts acquired during the marriage are usually considered to be marital property such as credit card debts and car loans even if only one spouse's name is on the debt. Colorado law requires the court to enter an Order that equitably (fairly) divides all debts of the marriage. Equitably does not mean all debts will be divided 50-50. Responsibility for payment of some of the marital debt by you will be based upon your income, the income of your spouse, the property you will keep from the marriage, and the reasons the debt was built up in the first place.

We own a house and other property. How will the court divide the property?

If you own a home with your spouse, get legal advice before you file for divorce. The court will divide your marital property in a manner "that is fair and equitable" to both parties under the circumstances. What is "fair and equitable" is up to a judge after considering evidence and testimony presented by you and your spouse. Judges in Colorado have a lot of power to divide property in a divorce case.

If you and your spouse can agree on how to divide your property, the judge will probably agree, too. If you and your spouse can't agree, the judge will look at the following - where is your child going to live, which spouse needs the property more, who used the property more during the marriage, and if one party contributed more financially to the property (for example, if one spouse put initial money down to finance a home or made the monthly mortgage payments). The judge is not allowed to look at who's at fault for the marriage breaking up, so don't think you'll get more property just because your spouse is the one responsible for the divorce.

I have gotten a Divorce, but my ex-spouse refuses to transfer title for property that I was awarded in the divorce. What do I do?

A party in a divorce can still get property that she or he was awarded in the decree (decree = court order) even if the other party does not or refuses to sign it over. The clerk of the court can be authorized to sign this document. To do this, you must file a written Motion with the court and ask that the clerk of the court be authorized to sign the document in question, as provided in Colorado Rules of Civil Procedure, Rule 70. [Click here](#) for more instructions and the forms you will need.

Was this resource useful? [Click here](#) and let us know - thanks.

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If you need advice on this or any other legal problem, consult an attorney of your own choosing. If you cannot afford an attorney, talk to Colorado Legal Services, 303.837.1313. If you think you may qualify for Colorado Legal Services, go to applyonlinecls.org to complete your application online.

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<http://www.coloradolegalservices.org/node/35/divorce-colorado-called-dissolution-marriage>

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