

The following paragraphs provide general information about the dissolution process. This is general information, and, as each case is different, not all of these paragraphs may apply to your case.

## THE PETITION

A dissolution action is commenced by filing a Summons and Petition for Dissolution with the court and serving copies on the other party. The Petition simply requests that the Court dissolve the marriage, divide the property and debts and establish a parenting plan and support as necessary. It's not necessary to describe every detail of what the petitioning spouse wants, although that's sometimes done, especially in cases where the other party is expected to default.

## THE DECREE

A Decree of Dissolution is the final document granting a dissolution of the marriage and stating the final terms for all the issues in the marriage; like property, debts, residence with the children, etc. A Decree can only be obtained after 90 days has expired following filing of the Petition, and:

- a. A default is entered against a party who has failed to respond to service of the Summons; or
- b. The parties reach an agreement and sign the final papers; or
- c. The parties go to trial where a judge makes a ruling and enters a Decree. A judge's ruling is much less detailed or thought-out than an agreement between the parties. That works to both parties' disadvantage, but it's inevitable if there's no agreement on settlement terms.

## THE 90-DAY WAITING PERIOD

There is a minimum 90 day waiting period which must elapse before your Decree of Dissolution can be entered and your marriage dissolved. The 90 days is measured from the day the Summons is served on the other party. You will not automatically be divorced on the 91st day. Before any Decree can be entered, either the parties must reach an agreement and sign papers, a default must be entered, or the parties must go to trial and have a judge decide the issues. Finalizing the divorce will require your appearance in court with your attorney, even if it's by agreement.

## PRELIMINARY RELIEF

Prior to your dissolution being finalized, you may request temporary relief from the court such as a temporary parenting plan, child support, spousal maintenance, control of the home, restraining orders and attorney fees. Temporary restraining orders may include restraints against transferring, encumbering, concealing or disposing of assets; molesting or disturbing the peace of the other party or the children; entering the residence of the other party; removing the children from the jurisdiction of the Court; and incurring any community debts.

## SPOUSAL MAINTENANCE

Maintenance (also called alimony) may be ordered where there is a real need for it on the part of one party and the ability to pay on the part of the other. Marital misconduct is not considered in setting maintenance. Maintenance is sometimes awarded temporarily pending trial, but the Court is usually reluctant to award post-divorce maintenance except in the most needy circumstances. The law requires a Court to consider the following factors in determining whether to award maintenance:

- a. Length of marriage;
- b. Education level of the parties;
- c. Employment histories of the parties;
- d. Age of the parties;
- e. Physical and emotional condition of the parties;
- f. Whether or not the party seeking maintenance is also receiving child support; and
- g. The standard of living established during the marriage.

## DIVISION OF PROPERTY AND DEBTS

As part of the dissolution, the Court makes a disposition of the property and liabilities of the parties, either community or separate, as it appears "just and equitable" to the Court after considering all relevant factors. This means there's no basis to assume property and debts will automatically be split 50/50. There is also no basis to assume that property over which there is disagreement will be sold -- that's very rarely done. The factors considered by the Court in dividing property include:

- a. The nature and extent of the community property;
- b. The nature and extent of the separate property;
- c. The duration of the marriage; and
- d. The economic circumstances of each party at the time the division of property is to become effective including 1) awarding the family home to the party providing primary residence for the children or 2) awarding more property to a party who lost income producing potential during the marriage or who simply has noticeably less income producing potential than the other party

## ATTORNEY FEES

A court has the discretion in appropriate cases (where one party has the financial ability to pay and the other party has the financial need) to award attorney fees. Again, Washington courts are reluctant to award attorneys fees except in the most needy circumstances.