

Legal Process for Divorce

The most frequently asked question in divorce is “what is the legal process and how long does it take?”

From the time that you meet with the attorney, and decide to go forward, it generally takes about 10 days to two weeks to draft a petition for dissolution, the certificate of residency, Vital Statistics information, and if necessary, a Temporary Protective Order. The person who files the Petition is called the Petitioner. After the Petition is filed, the opposing party -- your spouse, called the Respondent -- is then served by a process server, or voluntarily accepts service.

From this point, how long it takes depends upon the circumstances and which county that you are located in. If the parties have agreed upon the terms of the divorce, and there are no children, the parties can enter a Stipulated Decree after thirty days have passed, and the marriage is dissolved thirty days from the court’s signature.

If there are children involved, both parties must take a parenting class. In Washington County, it is a six week class and you may or may not be able to get into the first available class. In Multnomah and Clackamas County, it is a four hour class, and classes are usually available within two to three weeks.

After the parenting classes are completed, or during the process, the parties can enter a Stipulated Decree in which both parties sign the Decree that they have agreed to the terms. If a Stipulated Decree is signed, the court will waive the ninety-day waiting period.

If the parties do not agree, then the Respondent files a Response, and the matter is set for trial. In Washington County, the matter will be set for trial in about 8 months, with a significant chance that the matter will be reset by the court the day before the trial, and reset for another 8 months. In Multnomah and Clackamas Counties, the trial will be set for about 5 months from the date of filing, with a possibility that the trial will be reset by the court in two to three weeks.

If the opposing party does not take any action within thirty days, the filing party can take a default judgment against the nonresponsive party, and ask the court for terms consistent with those terms set out in the Petition. There is a ninety day waiting period from the time of service before the court has the jurisdiction by statute to sign a Decree of Dissolution, although the court can waive the ninety day waiting period if the court determines that there is sufficient emergency circumstances or cause to waive the ninety day waiting period.

If a Response is filed, the following things occur before trial: you can file a motion with the court to grant exclusive use of the marital residence, temporary support, custody and parenting time. These motions can be heard by the court in about four weeks in Clackamas and Multnomah County, and in about eight weeks in Washington County.

There will also be an exchange of financial information between the parties, called “discovery”. There is a minimum of financial information which is statutorily required, in addition to other information which the other side might request. Gathering the financial information and reviewing the financial information is as simple or complex as your individual finances and assets.

In summary, the time frame for a divorce can be anywhere from thirty days if the parties agree and there are not children involved, to a year to eighteen months if the matter becomes more complicated, or there are difficulties getting judge time to hear your matter. The legal fees, in total, depend entirely upon the issues involved, the difficulty of working with the other party and the other attorney, and whether or not the parties are able to negotiate a settlement and avoid court.