

ENFORCING YOUR DIVORCE DECREE: Financial and Property Issues

THIS INFORMATION IS A GENERAL OVERVIEW. AN ATTORNEY IS STILL YOUR BEST SOURCE OF ADVICE FOR YOUR SPECIFIC CASE.



After you have completed your dissolution (divorce), a final court order will be entered. In Washington this final order is called a Dissolution Decree (other states may call it something else). This final order may compel your former spouse to pay you specific money amounts or award you certain property.

Legal Information

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CHILD SUPPORT: Current Monthly Payments

If you are the primary residential parent of the children, the court will order the other parent to pay you child support. If your child support order is entered in Washington, the standard language requires that the child support be paid through the Washington State Support Registry (WSSR). When this language is used, the Division of Child Support (DCS) will automatically open a child support case for you. If your court order does not direct the payor to make payments to WSSR, you may still open a case with DCS by simply applying for services. Their services are free of charge. Call your local DCS office for an application.

If your child support order was entered in another state, you may still request services from DCS. Again, call your local DCS office for an application. You will be asked to provide a copy of your court order.

SPOUSAL MAINTENANCE: Current Monthly Payments

The Division of Child Support can also collect spousal maintenance (sometimes called alimony) for you if you currently have an open child support case with them. Spousal maintenance will automatically be included as part of your child support case if the language in your order requires that spousal maintenance be paid to WSSR. If other language is used you may still request this service from DCS. Contact your Support Enforcement Officer for information on how to proceed.

What can you do if the final order does not require the payor to pay child support but does require him to pay spousal maintenance? Under these circumstances, DCS will currently not open a case for you. If the other spouse's failure to pay is willful, you may seek your remedy through a contempt of court order process. Some Courthouse Facilitator offices have a packet on How to File A Contempt Motion. You may contact them or the Information and Referral line at Legal Voice for information.

BACK CHILD SUPPORT AND MAINTENANCE

DCS may be able to collect your back child support and maintenance as long as the debt is not so old that it is lost to the statute of limitations. DCS will not collect any unpaid interest for you. If you are owed a significant amount of back child support and/or maintenance, and you choose not to use DCS services, Legal Voice may be able to refer you to an attorney who will consider collecting on contingency—depending on the amount, the ability to locate the obligor, and the obligor's ability to pay. An attorney may also be willing to assist you in getting a judgment so that you can bring a collection action on your own.

PROPERTY AWARDS

A court may also order the other spouse in a dissolution to pay you money or certain property as a way to equitably divide the marital property. If the other spouse fails to do what the court orders, you have certain remedies found primarily in RCW (Revised Code of Washington) Chapters 6 and 7. These remedies are complex and it is recommended you seek the advice of an attorney regarding your specific set of circumstances. Some of the available remedies are described below.

- Garnishment- A garnishment may be used to enforce a money judgment. This is a process in which a 3rd party who has control of assets belonging to the debtor is ordered to turn them over to the creditor. For example, the debtor's employer can be ordered to turn over a portion of the debtor's wages to the creditor.
- Execution and lien foreclosure (against real estate)- This is a process which involves getting an order entered that compels the sheriff to 'execute' or collect on your money judgment. The sheriff will seize property belonging to the debtor and sell it to pay your judgment. The debtor is entitled to notice before this happens and certain types of property are exempt.

NOTE: The first page of your child support order and dissolution decree should include a judgment for any amounts owed at the time of the order. If you need a new judgment to reflect additional money due you, it is best to have an attorney draft the paperwork for you. You may call Legal Voice for referrals.

- Replevin- This remedy is used to recover a specific item of property (not real estate). If the judge specifically ordered you to receive a piece of property, you may be able to use the contempt process as well.
- Unlawful Detainer- If the former spouse refuses to leave real property that has been awarded to you, this remedy is available. The process compels him to leave the property and you also may be entitled to damages.
- Injunction- An injunction is an order from the court to stop certain conduct. It can be used to prevent a spouse who has control of jointly-owned property from harming or wasting that property.
- Receivership-A receiver can be appointed by the court to manage or dispose of certain property. The receiver does not act for either spouse but as an officer of the court. The receiver does not become the owner of the property, but merely the manager.

- Contempt- The remedy of contempt CAN NOT be used to force payment of a money judgment (however it can be used to compel payment of child support or spousal maintenance). In some limited circumstances the contempt remedy can be used if your former spouse fails to do something the judge specifically ordered him to do.
- Commissioner Signature- A court commissioner may execute a document when a party has been ordered to execute but refuses to comply. For example, this process can be used if your house has been ordered sold but your former spouse refuses to sign the necessary documents.

RETIREMENT BENEFITS

For information on dividing retirement benefits in a dissolution and collecting your share of the benefits after the dissolution decree is entered, request the NWLC memo "Retirement, Divorce, and You."

FOREIGN (OUT-OF-STATE) JUDGMENTS

If your dissolution decree was entered in another state, you can still enforce it in Washington against a party living here. You must first file your judgment in Washington. Once it is correctly filed, it becomes 'registered' in Washington and the above remedies are available to you. The King County Facilitator offices have a packet on Entering an Out of State Order for Enforcement.

THINGS TO CONSIDER

1) An Ounce Of Prevention

It is a good idea to think about potential collection problems before your dissolution decree is signed. Your spouse may have the best intentions but things can change over time. Educate yourself regarding your marital property. Remember as you participate in the drafting of your final order, that a person who had trouble paying bills before your dissolution is going to have just as much trouble or more afterwards.

Make sure you have the information that is often needed to take collection action should payment not occur. The following is a list of information you may need: your spouse's social security number, birthdate, address, work address, work phone, bank names and account numbers, vehicle numbers, and a recent clear photograph of your spouse. You will also need a copy of the original order or decree (this is the copy that is signed by a judge and has a file stamp on it). In some circumstances, you may even need a certified copy, which is a copy made by the clerk's office and verified as accurate.

Further, if the court awards you a money judgment, be sure you take the next step and get the judgment recorded as a judgment lien. A judgment lien attaches to the debtor's real property owned currently or acquired later. You may contact the Information and Referral line at Legal Voice for referral to an attorney to help you file a judgment lien.

2) Don't Procrastinate

It is important that you do not sit on your rights. Many of the remedies described earlier are only possible during the life of the judgment. A judgment is usually enforceable for 10 years; but you should check with an attorney if you don't know the statute of limitations for collecting in your case. There is a procedure in Washington for renewing the judgment for another 10 years, but this must be done before expiration of the first ten-year period. Once that statute of limitations has run, you will be unable to collect. If your former spouse fails to pay per the terms of your dissolution decree, you should seek legal advice right away. You should also seek immediate legal advice if you learn that your former spouse has filed for bankruptcy. There is now a provision in the bankruptcy code that allows a former spouse to challenge the dischargeability of a property judgment owed to that former spouse.

UNPAID DEBTS

If your ex-spouse has not paid debts as ordered in the decree, you may request the free memo "Community Debts" from Legal Voice.

ENFORCING YOUR PARENTING PLAN

If you want to enforce your visitation or custodial rights, contact your Family Law Courthouse Facilitator or the Information Line at Legal Voice.

RESOURCES

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| Division of Child Support – King County | (206) 341-7000 1-800-526-8658 | (206) 464-7851 TTY |
| Family Law Information Center, Kent Regional Justice Center | (206) 205-2526 | |
| Family Law Courthouse Facilitator, King Co. Superior Court – Seattle | (206) 296-9092 | |
| Legal Voice Information and Referral (Statewide) | (206) 621-7691 | (206) 521-4317 TTY |