

Family Law Issues

Dissolution & Legal Separation

Dissolution (Divorce)

- Washington is a “No fault” divorce state, which means that people can get divorced without having to prove wrongdoing on the part of the other spouse
- It takes a minimum of 90 days to finalize a dissolution
- What a dissolution can do:
 - Divide marital property & debt
 - Set up a parenting plan & child support if there are children in common
 - May set up spousal maintenance (sometimes known as “alimony”)
 - May impose personal or property “restraining orders”
- Legal separation
 - Does everything but dissolve the marriage
 - 6 months to convert to dissolution

See www.washingtonlawhelp.org for more information.

Parenting Plans

- In WA, both parents have equal rights to residential placement until a court order is in place
- A parenting plan establishes:
 - Where children will live
 - Who will make decisions for children
 - How disputes about the plan will be resolved
- The court considers:
 - Parenting skills, who's been taking care of the children
 - Parental conduct & impact on children (drug use, DV, child abuse)
 - Recommendations by parenting evaluators
 - Compatibility w/ parents; preferences of kids who are 13 years old or older
 - **If the court makes a finding of DV, the court must limit abuser's contact with the children**

See www.washingtonlawhelp.org for more information.

Parenting Plans

- Child support
 - The non-custodial parent typically pays the other parent
 - Non-custodial parent can have visitation even if child support is not paid
- If a parent is not obeying the parenting plan
 - The other parent can file a motion for contempt
 - Either parent can request a modification
 - Minor changes are easier to make
 - Hard to make major changes to the plan (for example, changing who is the custodial parent)

See www.washingtonlawhelp.org for more information

See our online training course [“Child Support and Domestic Violence”](#)
for more information.

Paternity & Parentage actions

- [Check out the YouTube video establishing paternity in WA State](#)
- See www.washingtonlawhelp.org for more information.

Evaluators

- Professionals who evaluate circumstances & make recommendations to the family law court about:
 - Which parent should have custody
 - How much visitation the other parent should have
 - If parents should be required to do other things (parenting class, treatment, counseling)
- Types of professionals
 - Family court services
 - GAL (Guardian ad litem)
 - CASA (Court Appointed Special Advocate)
 - Privately hired “expert witness” parenting evaluators
- May have to pay fees
- There may be a grievance procedure if survivor has concerns about the evaluation process and recommendations report

Custodial Interference

- Police may not be able to help if there is no court order in place
 - Safety plan with survivors to deter the possibility of abuser taking the children
 - Communicate with schools, daycares, etc.
 - Seek limitations on visitation, incl. supervised visitation
 - Safety plan with survivors who are considering moving, so they aren't accused of custodial interference
 - The laws related to moving with children are very complex
 - Refer to an attorney
- For the legal definition see [RCW 9A.40.060](#); [RCW 9A.40.070](#) & [RCW 9A.40.080](#).

Family Law Cases: Role of Advocates

- Provide general information about options and processes
- Provide realistic information about timeframes
- Connect survivor with legal resources

Other Civil Legal Issues

Immigration Options

- Yes, immigrant & refugee survivors have some options
 - VAWA Self-Petition, I-751 Battered Spouse Waiver, U-Visa, + many more
- Always try to connect survivor to an immigration attorney
- People who are immigrant, refugees and migrants have the right
 - To seek a protection orders
 - To ask for police assistance if they are the victim of a crime
 - To seek emergency medical care & emergency shelter
 - To ask the courts to order a parenting plan & child support
- Discuss how immigration issues relate to criminal and civil cases
 - Is calling 911 an okay option? What is the risk of police contacting immigration enforcement? What is the risk of abuser and/or survivor being deported?
 - Asking for abuser to return important immigration related documents as part of civil case court order

See our online training course [“Immigration Options”](#)
for more information.

Interpreters & Language Access

Interpreters - Civil and Criminal Court System

- The court is required to provide interpreters for non-English speakers for most court proceedings. For court hearings where the person is summoned or compelled to attend (like a witness or for a criminal proceeding), or in cases where the non-English speaker is indigent, the government must pay for the interpreter. Prosecutors and police have to provide interpreters for investigations. [RCW 2.43.040](#)
- The court is required to provide interpreters for speech impaired, hard of hearing, Deaf, and deaf blind persons who are a party or witness to any court proceeding. Prosecutors and police have to provide interpreters for investigations. [RCW 2.42.120 \(1-6\)](#)

See our online training course [“Advocacy for Language Access”](#)
for more information.

CPS & APS

- Always let survivors know you are a mandated reporter as soon as possible
- Always discuss with a supervisor before making a report
- Mandated reporting to CPS
 - Reasonable cause to believe that a child has suffered abuse or neglect
 - Report or cause a report to be made
 - To law enforcement OR CPS
- Mandated reporting to APS
 - Reasonable cause to believe abandonment, abuse, financial exploitation or neglect of vulnerable adult – report to APS
 - Reasonable cause to believe sexual or physical assault occurred – report to law enforcement AND to APS

[Review our publication, “Making a Mandatory Child Abuse Report: Best Practices” for more information \(available at \[wscadv.org\]\(http://wscadv.org\)\)](#)

Housing issues

- In WA state, landlords cannot:
 - Terminate lease
 - Refuse to renew lease
 - Evict
 - Refuse to rentsolely on the basis of tenant being a DV victim
- DV survivors can break their lease if they:
 - Have a valid Protection Order or record of reporting the DV to a qualified 3rd party
 - Notify landlord in writing and attach copy of above
 - Inform landlord of intent to move out within 90 days of incident
- DV survivors can ask landlord to change the locks (at DV survivor's expense)
- Survivors should be able to “port” their Section 8 vouchers to a new location if they must relocate because of DV

[See our online training course “Home Sweet/Safe Home”
for more information.](#)

Employment Issues

- DV survivors can take reasonable, intermittent leave to address domestic violence issues
 - May be unpaid leave
 - Survivor must give notice (unless it's an emergency)
 - Employer may ask for verification
 - Employer cannot fire, demote employee for taking leave
- DV survivors can apply for unemployment
 - if DV was reason for quitting the job

[See our online training course “Making Work Work” for more information.](#)

Public Assistance Issues

- Generally, persons who receive cash assistance from TANF must
 - participate in WorkFirst program
 - cooperate with efforts to obtain child support
- Family Violence Option
 - Requires DSHS to screen TANF applicants for DV, maintain confidentiality & refer to supportive services
 - Allows workers to waive WorkFirst requirements that
 - Make it more difficult to escape DV
 - Unfairly penalize DV survivors
 - Place survivors at further risk of experiencing DV
 - Examples of waived requirements:
 - Participation in WorkFirst activities
 - Cooperation with child support collection
 - 60-month limit on receiving TANF

[See our online training courses “Public Benefits 101” and “Public Benefits for Immigrant & Refugee Survivors” for more information.](#)

Confidential Identity Issues

- WA State Address Confidentiality Program
 - Substitute mailing address
 - Mail goes to central PO Box & is forwarded to survivor's actual address
 - State & local governments must accept this address
 - Private companies not required to
 - Enroll through DV program (certified Application Assistant)
 - NOT a witness protection/secret underground program
- [More information here!](#)
- Confidential Identity Change
 - Involves changing Social Security Number + getting a sealed name change
 - Very difficult, takes a long time, requires lots of evidence, survivor gives up past identity (incl. work & education history, birth certificate)
 - Very difficult to do if you have children with abuser

You made it!

Only 2 more slides to go!

Well done!

- You just read through a TON of information.
- Congratulations on making it this far!
- Come back later and re-read these slides – they'll make even more sense after you've done advocacy for a while.

The Legal Advocacy Clearinghouse

- If you work or volunteer at a victim advocacy program, and legal advocacy is a big part of your job, please contact mette@wscadv.org to find out how to enroll in the Legal Advocacy Clearinghouse.
- The Legal Advocacy Clearinghouse is a private, online course that contains tons of in-depth information, tools, publications and discussion forums just for legal advocates.