

Divorce

- **Divorce ends a marriage.** The court rules on such issues as the division of property, maintenance (spousal support), and if necessary, arrangements for child support, legal custody, and physical placement.
- There is a 120-day waiting period to get divorced.
- Once the divorce is granted, the parties cannot remarry anywhere in the world for at least six months.
- Spouses do not have to give reasons for wanting a divorce. Wisconsin is a "no fault" divorce state, which means neither spouse must prove that the other has done anything wrong, and only one spouse must testify under oath that he or she believes that the marriage is irretrievably broken.
- A marriage is irretrievably broken when there is no chance for reconciliation.

Legal Separation

- **Legal separation does not end a marriage.** The court rules on the same issues as for divorce.
- The forms, instructions, procedural information, and waiting period (120 days) for obtaining a legal separation are also the same as those for divorce.
- Spouses are free to reconcile at any time.
- Spouses cannot marry another person while they are legally separated.

Converting a Legal Separation to a Divorce

- If the spouses agree, they may convert the legal separation to a divorce at any time.
- If they do not agree, either spouse may convert the legal separation into a divorce by filing a motion to do so after one year from the date the legal separation was granted.
- The parties may not remarry anywhere in the world for at least six months from the day the legal separation is converted to a divorce.
- Spouses do have to give a reason why they are requesting a legal separation and not a divorce.
- Both of the spouses will have to give testimony under oath that the marital relationship is broken

Annulment

- An annulment is a **court procedure that declares that a marriage never existed.** However, a court may annul a marriage only under limited circumstances.

- A short term marriage IS NOT a legal reason for annulment. See Wisconsin Statute 767.313* for the acceptable reasons to request an annulment.
- The forms, instructions, and procedural information provided by the Wisconsin Court System are not designed to be used to request an annulment. You should seek legal assistance if you feel you qualify and would like to file an annulment.
- WI Stat 767.313:

767.313 Annulment.

(1) GROUNDS; WHEN SUIT MAY BE BROUGHT. A court may annul a marriage upon any of the following grounds:

(a) A party lacked capacity to consent to the marriage at the time the marriage was solemnized, either because of age, because of mental incapacity or infirmity or because of the influence of alcohol, drugs, or other incapacitating substances, or a party was induced to enter into a marriage by force or duress, or by fraud involving the essentials of marriage. Suit may be brought by either party, or by the legal representative of a party lacking the capacity to consent, no later than one year after the petitioner obtained knowledge of the described condition.

(b) A party lacks the physical capacity to consummate the marriage by sexual intercourse, and at the time the marriage was solemnized the other party did not know of the incapacity. Suit may be brought by either party no later than one year after the petitioner obtained knowledge of the incapacity.

(c) A party was 16 or 17 years of age and did not have the consent of his or her parent or guardian or judicial approval, or a party was under 16 years of age. Suit may be brought by the underaged party or a parent or guardian at any time prior to the party's attaining the age of 18 years, but a parent or guardian must bring suit within one year of obtaining knowledge of the marriage.

(d) The marriage is prohibited by the laws of this state. Suit may be brought by either party within 10 years of the marriage, except that the 10-year limitation shall not apply where the marriage is prohibited because either party has another spouse living at the time of the marriage and the impediment has not been removed under s. [765.24](#).

[767.313\(2\)](#)(2) JUDICIAL PROCEEDING REQUIRED; NO ANNULMENT AFTER DEATH. A judicial proceeding is required to annul a marriage. A marriage may not be annulled after the death of a party to the marriage.