

Divorce procedures in Japan

By: The Base Legal Office

Looking to get a divorce while stationed here in Japan? It can be a complicated process, but the Misawa Legal Office is here to help. You can schedule a legal assistance appointment with one of our attorneys M-F between 1330-1500, or walk-in M-F between 0900-1000. Here is some helpful information to get you started.

It's important to understand that you can't just file for divorce anywhere. A valid and legal divorce can only be granted in the "home state" or domicile of either the husband or the wife. This means the true legal home of one of the marriage partners. It is the place where a partner can vote, pays income taxes and qualifies for in-state college tuition. It does not necessarily mean the same thing as a military "home of record." You will usually have to hire a lawyer in that place (state or country) to start the divorce proceedings. We don't recommend that our clients try to get a "quickie divorce" in places such as the Dominican Republic, Mexico or Nevada because they're usually not legal residents of any of these places, and all they get is an expensive piece of paper that's worthless!

What if you want to get a divorce without having to hire a lawyer? In some states there's a simplified procedure for "pro se divorce" (which basically means "do-it-yourself"). In such cases, there are standard forms in which in which you can fill in the blanks, or sometimes there are examples you can use (but which you'll have to re-type) in order to start your divorce case. Then you would need to serve these papers on the other side, usually by certified mail, by sheriff or by a "process-server" (that is, a person who delivers court papers). If the other side doesn't respond within a certain period of time, the court will either grant your divorce then and there, or else may allow a hearing to be held which should result in an uncontested divorce. Having said all of this, it still should be noted that there's no way of telling which states allow this simplified procedure, which ones make it easier or more difficult for you to get your own divorce without a lawyer. Once again, you should ask for the help of a legal assistance attorney to check on this for you.

But how does the process actually work? In all states, you may file for divorce only if you have been a resident for at least some period of time, often six months, prior to the date of filing. You may also file

for divorce in the state where your spouse is a legal resident. The term “legal resident” means your home state or your “domicile” (see above question, “WHERE CAN I GET DIVORCED?”). In addition, a court order for child custody usually requires that you file in the state where the child has been living for the six months immediately preceding the filing of the lawsuit.

After filing your divorce paperwork at the courthouse, your lawyer will serve a copy of the summons and complaint on your spouse. If your spouse consents or does not file an answer within the time allowed, usually a few weeks after being served, the judge may then grant your divorce, or it may be held up till all of your issues have been resolved.

If your spouse files an answer contesting the divorce, then a trial date will be set. At the trial, both of you will be allowed to testify, and then the judge will decide whether to grant the divorce. In some states the judge will also decide how to split up your property and debts, and all the other issues involved in your case. It would be very unusual for the judge not to grant a divorce, but the property and custody arrangements may not be what you asked for.

Lastly, if you’re looking to get divorced here in Japan, here are some of your options:

Divorce: A “mutual consent divorce” is available if one party is Japanese. It is the easiest and least expensive type of divorce. It is recommended that both parties be present and they must be in complete agreement on the terms of the divorce. An application for divorce by mutual agreement may be filed at any Japanese city hall. The documents are transmitted to the city hall where the Japanese citizen's family register is maintained. Once properly filed with the family register, the divorce is final. There is no charge for the divorce, but there is a charge of 300-350 yen (\$2-3) per copy of the certificate.

Family Court Divorce Procedure: An informal procedure may be used to obtain a divorce if neither party is Japanese. This procedure requires both parties to be in agreement on all terms of the divorce, and both parties to be present. An interpreter, fluent in Japanese and English, must accompany the parties. Only one party needs to sign the petition, but both parties must appear for the hearing. The parties will be notified by the court of the hearing date (usually from two weeks to one month from filing the petition). If there are no unresolved issues at the hearing, the divorce will be granted on the spot. Copies of the decree can be obtained at the

same time. The cost is about 2,000 yen (\$18) to file the petition. There is a charge of 150-300 yen per copy of divorce decree (150 yen per page). When neither party is Japanese, it is a good idea to get several copies of the divorce document from the city hall or family court. In any Japanese divorce action, the parties should get certified translations from Japanese to English of their divorce document or decree prior to leaving Japan. They should file both the Japanese and English version at the county recorder's office or with the clerk of court in the county of their legal residence.

If you need more information, please contact the Misawa Legal Office at 226-4022 to set up an appointment with a legal assistance attorney.