

# Japanese Family Court Divorce

Foreign citizens can get a divorce in Japan. To do so they must show evidence that they are able to be divorced in their country of nationality and that the procedures used in Japan are compatible with the home country's.

A couple that wants to get a divorce in Japanese family court will register with the Family Court and will be required to complete one or more mediation, or conciliation, meetings. The purpose of the conciliation meeting is to attempt to provide amicable terms for a divorce.

In order to obtain a Family Court divorce, at least one of the parties must be a legal resident of Japan. Legal residency in Japan requires a party to physically reside in Japan; however, SOFA status does qualify as a basis for legal residence.

If one of the parties to the divorce is Japanese, Japanese law will apply. If both parties to the divorce are not Japanese, the court will apply the divorce laws of the home state of the parties (generally the laws of the state where the couple resided together if the spouses have different home states).

While both spouses need not be present for the entire divorce process, generally, the Family Court will require both parties to attend at least one joint hearing.

Most family courts will have a consultant on call to assist visitors with questions about the Court's services. Consultants will go through the required procedures for an individual's case and will help with the filing procedure.

## OTHER RESOURCES:

- Handout on Divorce in Japan  
Children's Right Network of Japan:

<http://www.crnjapan.com/forms/en/DivorceByMutualConsent.html>

- Handout on Divorce and Retirement Pay
- List of Translators and English-speaking Attorneys

### Guide to the Family Court of Japan:

[http://www.courts.go.jp/english/vcms\\_lf/2015guide-to-the-family-court-of-japan.pdf](http://www.courts.go.jp/english/vcms_lf/2015guide-to-the-family-court-of-japan.pdf)

**Legal Assistance Hours:**  
By Appointment Only  
**Notary Hours:**  
Monday-Friday 0900-1500



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# Japanese Family Court

## This Brochure Includes:

- Mediated Divorce: "Chotei Rikon"
- Court Adjudicated Divorce: "Shimpan Rikon"
- Required Documents
- Fees
- U.S. Recognition of Family Court Proceedings



The information in this brochure is of a general nature and is not intended as a substitute for legal counsel.

Last updated January 2018.

## **MEDIATED DIVORCE: “CHOTEI RIKON”**

Divorces that go through the Family Court system begin with mediation proceedings. These are presided over by a team of three mediators: a judge, a female mediator, and a male mediator. The mediators are laypeople. The process is designed to facilitate the parties in resolving the divorce amicably and voluntarily in mutual concession

## **COURT ADJUDICATED DIVORCE: “SHIMPAN RIKON”**

Only if mediation fails, will the divorce go to a judge for a decision. This is not a litigation based process. Rather, a judge in charge of domestic relations cases makes a determination based on the documents submitted upon the filing of the divorce petition, the investigation results of the family court probation officer, and the results of the hearing he/she has held.

Step 1: Either party files a petition in the family court where a party is domiciled. Petition forms are available in Japanese only at <http://www.courts.go.jp/>.

Step 2: Get a translator to translate the documents and attend subsequent hearings.

Step 3: If both parties are U.S. citizens, include a certified translated copy of the divorce law of the state of your residency (available at the National Diet Library).

Step 4: Submit the forms and supporting documents (see Required Documents to the right).

Step 5: A mediation date will be scheduled and mailed to the applicant and opposing party (mediation may take more than one session – it can last anywhere from 1-6 months).

Step Six: Interview with the Judge. A decision will be mailed to the applicant and opposing party.

If a party is dissatisfied with the judge’s adjudication, he/she may seek proceedings at the high court by filing an appeal within two weeks.

Parties to a divorce may wish to bring with them their own translators. The Family Court will provide neither language interpretation nor English text. There is no need to report your divorce to the Embassy or a Consulate and no requirement or procedure to do so. If divorce cannot be established by the family court, then an application can be made to the district court for a decision.

Of note, Japanese courts generally do not grant “joint physical custody” of children. Rather, one parent is usually found to be the primary physical custodian, while the other becomes the non-custodial (part-time) parent. A foreign child custody agreement cannot be automatically enforced in Japan, although the court can order enforcement.

## **REQUIRED DOCUMENTS**

To obtain a Divorce at the Japanese Family Court, the following documents must be submitted for translation:

- Marriage Certificate
- Husband’s Birth Certificate
- Wife’s Birth Certificate
- Dependent Children’s Birth Certificate
- Husband’s Military/Dependent ID card
- Wife’s Military/Dependent ID card
- Dependent Children’s Military ID card
- Property Settlement(s) and/or Separation Agreement(s)
- State Divorce Law of Petitioner (translated)
- Notarized Letter Stating Legal Residence of Petitioner (see below)

Original documents are not necessary; the court will accept copies.

## **FILING FEES**

Court costs may vary depending on the complexity of the case. The following fees are minimums:

-Case Filing Fee: 1200 yen (must use revenue stamps).

-Mail Stamp Fee: 800 yen (use 1,080 yen stamps).

-Translation Fee: varies (see translator handout).

You can get revenue stamps at the local Japanese post office.

## **PROVISIONAL REMEDY SYSTEM**

The provisional remedy system is analogous to an injunction. A party prevents an adverse party from taking steps which would thwart or undermine the enforcement of a final determination during the course of the divorce’s hearings. This is best used if you are concerned that your spouse may dispose of property before the divorce is finalized.

## **U.S. RECOGNITION OF JAPANESE FAMILY COURT PROCEEDINGS**

U.S. state courts usually recognize the validity of a foreign divorce but they are not required to do so, and some do not. In addition, state courts retain continuing jurisdiction over issues such as child support and child custody. Further, it is extremely difficult to modify or enforce provisions of a Japanese divorce decree outside of Japan. If the parties will have to work with each other after the divorce on continuing issues such as child support, alimony, child custody, or division of military retirement pay, you should NOT get a Japanese divorce.

## **NEAREST FAMILY COURT TO MISAWA AB**

Towada Family Court: 14-8 Nishi-niban-cho, Towada City, Aomori, Towada, Aomori Japan

## **WARD DIVORCE**

Family Courts may offer an expedited divorce process called, “ward” or “mutual consent” divorce. The United States Embassy in Tokyo specifically warns American citizens that the legality this procedure in the United States is *uncertain*. US courts may not recognize these particular divorces.

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Before filing for a divorce in a Japanese Family Court, you should speak with a Japanese attorney and understand the advantages/disadvantages of your options.

For more specific details on any of the issues discussed in this pamphlet, please make an appointment with the legal office to discuss your specific situation with an attorney.