



**LEGAL ASSISTANCE
PROGRAM
PREVENTIVE LAW SERIES**



DIVORCE AND SEPARATION IN JAPAN

Common Questions & Answers

**OFFICE OF THE STAFF JUDGE ADVOCATE
KADENA AIR BASE, OKINAWA, JAPAN**

DSN: 634-3300

For additional information and useful links, please visit

<https://aflegalassistance.law.af.mil>

The material in this handout represents general legal principles. The law evolves continuously; although the information in this handout is current as of the date of drafting, provisions in this pamphlet may have changed. It is best practice to consult an attorney at the base legal office about your legal rights and responsibilities for your particular case.

Q. Can I get a divorce at the Legal Assistance Office?

A. No. You must go to a court to get a divorce, and you may need to consult a private attorney at your own expense. Although you are not legally required to have an attorney to make the applicable divorce filings, it is often difficult to get a divorce without one. Even though a legal assistance attorney cannot go to court for you, he or she may still advise about the issues and procedures in your case.

Q. Can I get a divorce in Japan?

A. Yes, but it is only recommended if one spouse is a Japanese citizen. If both of you are U.S. citizens, the best option might be to get a divorce in the state where you are domiciled or meet the residency standards.

Q. How long does a divorce take?

A. In Japan, it will normally take at least 2 months. [A civilian Japanese attorney/court] takes approximately 3 weeks to get the separation agreement completed, 2 weeks to get the translations, and 4 weeks to get a court date. To obtain a judgment of divorce in the United States, the timeline depends entirely on the law of the place where you are filing for a divorce. Furthermore, in some states the timeline varies drastically from county to county or even from city to city in the same county. You also have the option to obtain a divorce in Guam. This process can be as short as 7-10 days.

Q. My spouse is a Japanese citizen. How do we get a divorce in Japan?

A. Japanese law governs divorce proceedings. A divorce in Japan may be either consensual or judicial. American citizens **cannot** get a judicial divorce. Consensual divorce is obtained by submitting a separation agreement to the Family Register Record. No formalities are required unless a dispute arises as to the custody of children or division of property. American citizens can get a consensual divorce but **all** legal issues surrounding a divorce (*i.e.*, child custody, child support, property division) must be resolved before the divorce filing. The general practice in Japan is to award custody to the mother unless there is an overriding reason to award custody to the father. Although alimony is not recognized under Japanese law, lump sum settlements from one party to the other may be ordered by the court.

American citizens must show evidence that they are able to get a divorce in their state and that the procedures in Japan are compatible with the laws of their home state. American citizens can only get a divorce in Japan if both parties consent to jurisdiction. If division of military retirement is an issue, a Japanese divorce is not a viable option.

If there are no children from the marriage or if those children still wish to move forward with a Japanese divorce, you must be able to meet requirements. You and your spouse must be able to agree on all matters such as property division, child custody, or child support. You must be willing to sign a separation agreement that addresses all these matters. You will be responsible for drafting your own separation agreement. The agreement must be translated into Japanese. The legal office offers a list of local translators, but these individuals are not connected with the Kadena legal office and we do not endorse their services.

After documents are translated, either party may file with the local family court. Both parties are required to appear in the court hearing. After your court appearance, the court will send a certificate in Japanese granting the divorce. You should translate the certificate into English for use by the Military Personnel Flight and Account and Finance, but the Japanese divorce certificate is the only official copy you will receive. A divorce legally granted in one country is generally recognized in the United States as long as the parties were present for the proceeding; therefore, you should not have to file anything in the United States.

Q. How do we file for divorce in Family Court?

A. Both parties go to the Family Court to register. Following this, conciliation meetings will be held before a mediator and a judge. The aim of these consultations is to effectuate a reconciliation, or, failing that, to negotiate mutually agreeable terms for the dissolution of the marriage. The Naha Family Court is located at 1-14-10 Higawa, Naha-shi 900-8603 at (098) 855-1000.

Q. What documents do we need to get a divorce in Japan?

A. You must submit some or all of the following, translated into Japanese:

- Both birth certificates (dependent children, if applicable)
- Separation agreement
- (For U.S. Citizens) An abstract of the divorce laws of the person's state of legal residence
- (For Japanese Citizens) A copy of their family registry and a certificate of residence (juminhyo)
- A copy of certificate of alien registration for non-Japanese parties

- Military ID cards of both parties (dependent children, if applicable)
- Marriage certificate
- Revenue stamps
- Postage stamps

DO NOT give original documents to the court. If you need certified copies of documents, you must go through the custodian of that document such as the state office of Vital Statistics for birth certificates.

**Many of mediators and judges have English ability. However, the court advises non-Japanese speakers to bring with them a person who can read and write Japanese to assist.*

Q. My spouse is not a Japanese citizen. How do we get divorced?

A. You can't just file for divorce anywhere. A valid and legal divorce can only be granted in the 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." Many states will also have a law that will allow a military member or spouse currently stationed in the state to get a divorce if they meet certain requirements. On Guam an uncontested divorce may be granted to non-residents of Guam, if both husband and wife agree to all terms and if one of the parties visits Guam for 7 days immediately preceding the filing of petition.

Q. Do I need a separation agreement to get a divorce?

A. No, you do not need a separation agreement to obtain a divorce. While a separation agreement may make the divorce simpler, cheaper, and sometimes faster to get, it is not a requirement for divorce. Some states have very simple requirements for a divorce and do not use separation agreements. In those states, a property settlement agreement may be used to resolve the same issues that are addressed in a separation agreement. Consider an agreement if you think you and your spouse can agree on its terms, since this means a full resolution of all your issues and it leaves fewer items to negotiate.

Q. Since my spouse and I agree to a divorce, can we do so without a lawyer?

A. In some states there is a simplified procedure for *pro se* divorce (basically "do-it-yourself"). In such cases, there are standard forms in which you fill in the blanks, or sometimes there are examples you can follow to start your divorce. Then you would need to serve these papers on your spouse, usually by certified mail, by sheriff or by a "process-server" (that is, a person who delivers court papers). If your spouse does not respond within a certain period of time, the court may enter into a judgment of divorce or may conduct a hearing. If your spouse is in the military service, the Servicemembers Civil Relief Act (SCRA) may require additional steps before the court may enter a judgment of absolute divorce. Please note that there is no easy way of knowing which states allow this simplified procedure or which ones make it easier or more difficult for you to get your own divorce without a lawyer. Ask a legal assistance attorney to advise you.

Q. What should I know about attorney's fees?

A. Be sure to ask early and often about attorney's fees. Here are some suggestions:

- Find out from your lawyer if you are eligible for fee-shifting of your attorney's fees in the home state (in other words, if your soon-to-be-ex can be made to pay your lawyer's bill).

- Be sure you ask your lawyer how much he or she charges. Get this written down in the retainer agreement that both you and your lawyer sign. Read the agreement closely before signing; you might even want to take it home with you before signing to read it closely and to allow yourself to think about it before you commit yourself to what might be thousands of dollars of legal expenses. Be sure to ask any questions you have before you sign it. Also, make sure you keep a copy of the contract.

- Ask for an estimate of the total charges and ask what services are included in this estimate. Ask what steps your attorney expects to take and how much time (or expense) they might involve -- if you hire an experienced lawyer, he or she should be able to at least "outline" the process for you with a fair degree of accuracy.

- At the same time, be aware that it's impossible to predict with any degree of accuracy what will happen in a divorce case. While many of these are resolved as standard uncontested divorces with no alimony, property or child-related issues involved, there are a great many cases that are completely unpredictable, so don't expect a specific dollar amount to be quoted to you as "the entire fee" in anything but a standard uncontested divorce. In fact, be wary of attorneys who promise to handle your entire case for a fixed sum, since it is impossible at the outset to tell what will occur in all except the most routine of uncontested divorce cases -- one in which both parties want to get divorced, there are no issues of alimony, property division, custody or child support, and there is no problem serving the other party with the divorce papers.

- Be sure you understand the hourly rate of your lawyer, how the billing takes place, when you're expected to replenish the retainer with more fund and so on.

- Be sure to ask questions if you want answers and you want to know how you will be charged in your case -- after all, it's your money.

Q. Does it matter who files for the divorce?

A. Not really, although some jurisdictions may charge less if a military member files.

Q. What if my spouse won't give me a divorce?

A. The judge grants a divorce, not your spouse. If your spouse won't cooperate with you, it will take longer and will probably cost more to get your divorce, but you can still get one.

Q. How does divorce work in court?

A. 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, before the date of filing your divorce petition. You may also file for divorce in the state where your spouse is a legal resident. In addition, if there is any dispute about child custody, you may have to 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 fails to file an answer within the time allowed, usually a few weeks after being served, the judge may then grant your divorce. If your spouse is in the military service, the Servicemembers Civil Relief Act may require additional steps before the court may grant such a "default" judgment. 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 go as expected.

Q. Is my divorce final when the judge signs the decree?

A. Not always. In some states there is a waiting period after entry of judgment before the divorce becomes final. In other states, it's final when signed by the judge. When in doubt, ask your divorce attorney or check the divorce judgment itself -- the decree may state its effective date.

Q. Can my spouse and I retain the same lawyer?

A. Usually no. You and your spouse are adversaries in a divorce proceeding and each may want legal advice independent of the other. Sometimes you may see the same lawyer: to receive general information on local divorce law and procedures (e.g., you'll need to go to court in State X.), but not for specific legal advice in the case. You may also see the same lawyer to mediate your separation from your spouse. Here, if you and your spouse are likely to agree on all of the important issues in your situation, a mediating lawyer is not an advocate for either party but an impartial neutral individual who provides information to both parties and discusses possible solutions to the issues involved in the divorce or separation. Spouses who cooperate with each other to resolve these issues fairly and amicably can often get a separation agreement faster and easier through mediation than through traditional legal counsel. Outside of these specific instance, you may not use the same lawyer if the two of you disagree on substantial issues, because it would be a "conflict of interest" for the lawyer to try to represent both of you.

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US Embassy Japan Web Page

<https://jp.usembassy.gov/services/divorce> (as of 24 March 2023)

Americans can get divorced in Japan.

There is no need to report your divorce to the Embassy or one of our Consulates and no requirement or procedure to do so.

Types of Divorce in Japan

There are four types of divorce in Japan:

- Divorce by agreement (kyogi rikon), based on mutual agreement.
- Divorce by mediation in a family court (chotei rikon), completed by applying for mediation by the family court (for cases in which divorce by mutual agreement cannot be reached).
- Divorce by decision of the family court (shimpan rikon), which is divorce completed by family court decision when divorce cannot be established by mediation.
- Divorce by judgment of a district court (saiban rikon). If divorce cannot be established by the family court, then application is made to the district court for a decision (application for arbitration is a prerequisite). Once the case is decided, the court will issue a certified copy and certificate of settlement, to be attached to the Divorce Registration.

Divorce with Children

If a U.S. citizen parent is concerned that a current or former Japanese spouse may surreptitiously file a notification of divorce or declaration naming themselves as the sole custodian of the children, the U.S. citizen parent can file a Petition for Non-Acceptance of Notification of Divorce (*rikon fujuri moshidesho*) at the municipal office where the Japanese parent resides and/or where the Japanese parent's permanent address (*honsekichi*) is located. The Ministry of Foreign Affairs tells the Embassy that this action will halt any submission of a divorce petition or recognition by Japanese authorities of a sole custody petition by of the Japanese parent.

The Limitations of U.S. Custody Orders in Japan

It's important that a U.S. citizen parent divorcing locally understands that U.S. child custody court orders are not immediately effective in Japan. There are conditions that must be met before a foreign court judgment can be recognized in Japan. Sole custody orders from the United States are generally recognized in Japanese law as "formative judgments" (*keisei hanketsu*) that merely define a relationship and are not considered "judgments ordering performance" (*kyufu hanketsu*) that require performance or enforcement, such as requiring the return of

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a child to a U.S. parent's custody. U.S. citizen parents may benefit from the assistance of a Japanese attorney in trying to get their U.S. court orders validated in Japan, though this is just the first step in a long process and does not guarantee a positive outcome.

FAQ Concerning Divorce and the Family Court System in Japan

This information has been prepared to assist American citizens who are considering divorce in Japan. This guidance is based upon an informal review of Japanese law and procedure. Those seriously considering divorce should consult an attorney or the nearest Family Court.

Check [the Supreme Court of Japan website](#) for information on the jurisdiction of the Japanese Family Court and its proceedings (provided by the Supreme Court of Japan).

Q: Can foreign citizens be divorced in Japan?

A: Yes. However, foreign citizens 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 those of their home country.

Q: What is a "Ward Office" divorce?

A: Japanese law allows for divorce either through the family court system or through a simple registration procedure at the ward office. Known in Japanese as "mutual consent divorce" (kyogi rikon), this ward office procedure can be faster and less expensive than going through the Family Court.

Q: Can Americans get a "Ward Office" divorce?

A: Since January 1, 1990 Japanese law has allowed "mutual consent divorce" in cases where at least one spouse is a Japanese national. Thus, "mutual consent divorces" between American citizens and their Japanese citizen spouses are now **legal in Japan**.

As with marriage registration, the American spouse need not be physically present at the ward office to register the divorce providing that the registration documents have been properly signed and sealed beforehand by both parties.

Be warned, however, that the United States has no procedure for extra-judicial divorce and the legality of this procedure in various states in the U.S. is uncertain.

Q: What is the main function of the Family Court?

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A: Protect the welfare of minors, conciliate in marital difficulties, approve the dissolution of marriages, handle estates and inheritance.

Q: How do Americans file for divorce in Family Court?

A: The couple goes to the Family Court to register. Following this, one or more conciliation meeting will be held before a mediator and a judge. The aim of these consultations is to effect a reconciliation or, failing that, to arrange mutually agreeable terms for the dissolution of the marriage.

Q: What are the residency requirements for filing?

A: At least one of the parties must be a legal resident of Japan. The court will not accept cases from couples who have traveled to Japan for the sole purpose of obtaining a divorce.

Q: Can a divorce be granted in absentia?

A: While both parties do not need to be present to file and begin the procedures leading to a divorce, because of the nature of the conciliation process, the court will require the appearance by both parties for at least one joint hearing.

Q: Do the personnel of the Family Court speak English?

A: Many of the mediators and judges have English language ability. However, the court advises non-Japanese speakers to bring with them a person who can read and write Japanese to assist them in completing the registration forms. Parties may wish to bring their own translator to the hearings.

Q: Is a divorce granted by the Family Court valid in the U.S.?

A: A divorce legally granted in one country is generally recognized in the United States as long as the parties were present for the proceeding, at least one party was resident in the country of forum, and recognizing the divorce will not violate a strong public policy of the United States.

Q: How is the custody of children determined?

A: The general practice is to award custody to the mother unless there is an overriding reason to award custody to the father. Nationality of the child is not considered crucial in the determination of which parent will assume custody.

Q: What about enforcing child custody agreements?

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A: A foreign child custody agreement cannot be automatically enforced in Japan, although the court can order enforcement. In the case of parental kidnapping from the U.S. to Japan, the custodial parent can apply through the court in Japan to require the return of the child to the United States.

Q: What documents are required to make an application for divorce?

A: The application form (available gratis from the Family Court) and the following supplementary documents. All English language documents must be translated into Japanese.

- Copy of marriage certificate.
- Abstract of United States state law pertaining to divorce. (The Martindale-Hubble Law Digest, available at [Japan's National Diet Library](#) provide an abstract of each United States state divorce law. A copy of the page of that volume pertaining to the U.S. citizen's particular state, with a translation, meets this requirement.) [DivorceNet](#)
[Cornell University: State Law](#)
- A copy of certificate of alien registration for non-Japanese parties.
- Revenue stamps: 1200 yen
Postage stamps: Check with each family court for the return postage.

If the couple has a minor child, the birth certificate of the child must be presented. The court may also request copies of the birth certificates or passports of the parties to the divorce. Japanese citizens must normally present a copy of family register and certificate of residence (juminhyo).

Divorce in the U.S.

Divorces in the US are granted by states, and so the requirements, costs, complexities and time vary among all fifty jurisdictions. You will need to hire an attorney who practices in the state you wish to divorce in.

However, if you want at an early stage just some background information on a state-by-state basis, you may wish to visit [Divorce Source website](#). You must consult an attorney before proceeding, or if you have questions about what you read online.

For More Information

More detailed information in Japanese can be provided by any branch of the Family Court. A listing of the addresses and phone numbers of the Family Courts follows. Further information can also be obtained from Japanese attorneys.

You can find our [list of attorneys](#) here.

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US Embassy Japan Web Page

<https://jp.usembassy.gov/services/divorce> (as of 24 March 2023)

Family Courts

Check [the Supreme Court of Japan website](#) for the complete list of family courts in Japan (the list in Japanese only).

Check [the Supreme Court of Japan website](#) for the list of family courts with 24 hour automated information service by phone and fax (service in Japanese only).

Aomori Family Court

1-3-26 Nagashima, Aomori-shi 030-8523

Telephone: (017) 722-5351

Fukuoka Family Court

1-7-1 Otemon, Chuo-ku, Fukuoka-shi 810-8652

Telephone: (092) 711-9651

Nagoya Family Court

1-7-1 Sannomaru, Naka-ku, Nagoya-shi 460-0001

Telephone: (052) 223-3411

Naha Family Court

1-14-10 Higawa, Naha-shi 900-8603

Telephone: (098) 855-1000

Osaka Family Court

4-1-13 Otemae, Chuo-ku, Osaka 540-0008

Telephone: (06) 6943-5321

Sapporo Family Court

12 Chome, Odori Nishi, Sapporo 060-0043

Telephone: (011) 221-7281

Sendai Family Court

1-6-1 Katahira, Aoba-ku, Sendai-shi 980-8637

Telephone: (022) 222-4165

Tokyo Family Court

1-1-2 Kasumigaseki, Chiyoda-ku, Tokyo 100-8956

Telephone: (03) 3502-5888

Tokyo Family Court – Tachikawa Branch

10-4 Midoricho, Tachikawa-shi, Tokyo 190-8589

Telephone: (042) 845-0317

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Yamaguchi Family Court

1-6-1 Ekidori, Yamaguchi-shi 753-0048

Telephone: (083) 922-1330

Yokohama Family Court

1-2 Kotobuki-cho 1-chome, Naka-ku, Yokohama Shi 231-8585

Telephone: (045) 681-4181

Yokohama Family Court – Yokosuka Branch

3 Tadodai, Yokosuka-shi 238-0015

Telephone: (046) 825-0569

Yokohama Family Court – Sagami-hara Branch

6-10-1 Fujimi, Chuo-ku, Sagami-hara-shi 252-0236

Telephone: (042) 755-8682