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# DIVORCE, ANNULMENT, AND CHILD CUSTODY:

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## DISCLAIMER

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The information on this page is intended for educational purposes only. It is not legal advice. If you have specific questions, or are experiencing a situation where you need legal advice, you should contact an attorney.

Student Legal Services makes every effort to ensure the accuracy of the information on this page. However, the law changes frequently and this site should not be used as a substitute for legal advice. It is highly recommended that anyone accessing this page consult with an attorney licensed in the state of Wyoming prior to taking any action based on the information provided on this page.

## DIVORCE

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A divorce is when two individuals petition the court to formally end their marriage. Divorce includes the division of marital property. If a couple has children, the court also will determine the custody arrangement for those children.

You can learn more about divorce on the Equal Justice Wyoming website [here](#).

It is possible to complete the divorce process without an attorney. Completing the process without an attorney is called a “pro se divorce.” Divorces without attorneys are easiest when there are no children and the parties agree about the majority of the property distribution.

You can access directions and packets for a pro se divorce [here](#).

## ANNULMENT

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An annulment is when the marriage is dissolved as if it never existed. It is very hard to receive an annulment and most marriages will not qualify.

Annulments occur in two situations. When the marriage is void and when the marriage is voidable.

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### VOID MARRIAGES:

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When a marriage is void, it means that the marriage could not have taken place under the law—therefore it does not exist.

Marriages are void when:

- 1) One person in the marriage has a different husband or wife living at the time;
- 2) When either party is mentally incompetent at the time of the marriage;
- 3) When the parties are related to each other in any of the following ways—parent and child, grandparent and grandchild, brother and sister of either half or whole blood, aunt and nephew, uncle and niece, or first cousins. This does not include people who are not related by blood.

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## VOIDABLE MARRIAGES

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When a marriage is voidable it means that either party has the right to annul the marriage, but it is not automatically annulled.

Marriages are voidable when:

- 1) The marriage was entered into when either party was under the age of legal consent (18) unless the judge gave permission, IF the parties separated before they turned 18, and did not live together afterwards, or
- 2) One of the parties only consented to the marriage because of force or fraud, and they did not voluntarily live together.

## CUSTODY

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Child custody can be a complicated process. Equal Justice Wyoming has additional information about child custody [here](#). It is highly recommended that you obtain an attorney to assist with child custody issues.

There are two types of custody:

- 1) Legal custody—making important decisions about the child (schooling, medical care, etc.). If the parents can get along, they can share legal custody.
- 2) Physical custody—also known as residential custody, physical custody refers to the parent with whom the children live most of the time.

Forms of custody:

- 1) Sole physical or primary custody—one parent receives physical custody of the children and the other parent sometimes receives either supervised or unsupervised visitation rights.
- 2) Joint or shared custody—the parents share physical and legal custody with the children spending a significant amount of time with each parent. Sometimes the court will give each parent legal custody, but award one parent physical custody with the other parent receiving visitation.
- 3) Split custody—if there is more than one child the court orders one or more children to live with one parent, and one or more children to live with the other

The procedure for child custody determinations varies based on whether the parents were married or unmarried.

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## MARRIED PARENTS

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If a couple is married with children and they get divorced, the court will also have to make a custody determination.

Courts must approve the child custody arrangement—even if the parents fully agree. This is because the court must determine whether the arrangement and the child support amount are in the “best interests of the child.”

The court looks at the following elements to determine the “best interests” of the child:

- 1) the quality of the relationship each child has with each parent;
- 2) the ability of each parent to provide adequate care for each child throughout each period of responsibility, including arranging for each child’s care by others as needed;
- 3) the relative competency and fitness of each parent;
- 4) each parent’s willingness to accept all responsibilities of parenting, including a willingness to accept care for each child at specified times and to relinquish care to the other parent at specified times;
- 5) how the parents and each child can best maintain and strengthen a relationship with each other;
- 6) how the parents and each child interact and communicate with each other and how such interaction and communication may be improved;
- 7) the ability and willingness of each parent to allow the other to provide care without intrusion, respect the other parent’s rights and responsibilities, including the right to privacy;
- 8) geographic distance between the parents’ residences;
- 9) the current physical and mental ability of each parent to care for each child;
- 10) any other factors the court deems necessary and relevant.

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## UNMARRIED PARENTS

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If an unmarried couple needs to determine custody, paternity must be established prior to the custody determination.

If paternity has not been established, then the mother is considered to have custody and the father will not have custody or visitation rights.

To learn more about establishing paternity go [here](#).

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## CUSTODY MODIFICATION

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Custody arrangements can be changed or modified by either parent if that parent can prove:

- 1) There has been a substantial and material change in circumstances that requires modifying the agreement, and;
- 2) Modifying the agreement is in the best interest of the child.