

Introduction

In the United States, you would follow **state law** to find the requirements for getting a divorce or legal separation. If you are stationed in Japan, you may be able to file for divorce in the state of your legal residency.

Getting divorced in the United States will generally be more beneficial than getting a Japanese divorce.

On the other hand, you may want to file for divorce in Japan if you do not meet the residency requirements for your state. However, you should also be aware of the pitfalls that are involved.

This handout describes the general information you will need to begin the process to obtain a divorce in a Japanese court.

OTHER RESOURCES:

[List of Japanese Translators](#)

[Handout on Divorce and Retirement Pay](#)

[U.S. Embassy in Japan:](#)

<http://japan.usembassy.gov/e/acs/tacs-7117.html>

Legal Assistance Hours:

By Appointment Only

Notary Hours:

Monday-Thursday
0900-1500



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DIVORCE IN JAPAN

This Brochure Includes:

- Options for Divorce in Japan
- Japanese Handling of Alimony, Support, Custody
- Effect of a Japanese Divorce in the U.S.
- Air Force Recognition of Foreign Divorce Decrees
- Further Resources



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

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Effects of Japanese Divorce in the United States

There is no treaty in force between the United States and any country on the enforcement of judgments, including recognition of foreign divorces. Generally states recognize and enforce foreign divorce decrees based on the concept of comity (respect among nations), provided both parties to the divorce received adequate notice, and, generally, provided one of the parties to the divorce was a resident in the foreign nation at the time of the divorce.

Proof of Foreign Divorce: In order to have your divorce decree enforced in the United States, obtain a certified copy of the foreign divorce decree from the court where the divorce decree was issued. Obtain a certified English translation of the divorce decree. Get a notarized copy of a sworn affidavit by the translator that the translation of the divorce decree is a true and accurate translation. The legal office can provide you a list of translators and help you with the notary.

*We recommend that you get a Japanese divorce decree recognized in a state court in the U.S.

Air Force Recognition of Foreign Divorce Decrees

Air Force Benefits: The Air Force will not establish or terminate benefits based on foreign divorces which are of "doubtful validity." Foreign divorces are of doubtful validity when the foreign court lacked jurisdiction to grant the divorce because neither party established a bona fide domicile in the foreign country. If a divorce is of doubtful validity, the Air Force will not establish or terminate benefits unless a U.S. court declares that the divorce is valid.

Retired Pay and Garnishment: Under the Uniform Services Former Spouses' Protection Act, divisions of military retired pay and garnishments of active duty pay may only be made through a court order issued by a "court of competent jurisdiction." Divorce decrees from Japan are not recognized as being issued by a court of competent jurisdiction, so a decree that divides Air Force retirement pay or orders garnishment of Air Force pay will not be enforced by the Air Force.

Divorce in Japan:

Mutual Consent Divorce: (*kyogi rikon*), also known as the Ward Office Divorce, is the simplest type of divorce available in Japan.

At least one spouse in the marriage must be a Japanese citizen in order for the Mutual Consent Divorce to be available. The procedure merely requires several forms be filed in the ward office of the ward where the Japanese citizen's family register is located. The non-Japanese spouse need not be physically present at the ward office to register the divorce, provided that the registration documents have been properly signed and sealed by both parties. This divorce is free of charge, however, there is a charge for copies of the divorce certificate.

This type of divorce will establish the custody of any children, but it will not address property division. Therefore, this type of divorce is not available for any divorce case where property division is at issue or if child custody cannot be agreed upon.

WARNING: The U.S. Air Force may not recognize this type of divorce. However, the divorce decree will be recognized if adopted by a court in the United States.

Family Court Divorce (step one): Filing for divorce in the Family Court is the second type of divorce and it is where couples will begin the divorce process if both spouses are not Japanese citizens. The first step in the Family Court involves conciliation meetings in which the couple attempts to come to an agreement upon the divorce settlement.

A couple that wants to get a divorce will register with the Family Court and then will later have one or more conciliation meetings. The purpose of the conciliation meeting is to attempt to reconcile the couple or to provide amicable terms for a divorce. At least one of the parties must be a legal resident of Japan in order to obtain a Family Court divorce. Legal residence in Japan requires a party to physically reside in Japan; however, there is no minimum period of residence required prior to filing. If both parties have SOFA status that qualifies as a legal resident. A court will not have jurisdiction to grant the divorce if the parties came to Japan merely to get a divorce.

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.

Please see our other handout on the requirements for obtaining a Japanese Family Court Divorce.

Family Court Divorce (step two): If the divorce is contested and the conciliatory efforts of the Family Court fail, the second step will require the couple to litigate the divorce in the Family Court. This process will require a Japanese attorney and can be complicated. Additionally, there must be grounds for divorce that satisfy Japanese law.

See the following website for additional information on Divorce in Japan: <https://jp.usembassy.gov/u-s-citizen-services/local-resources-of-u-s-citizens/divorce/>

Alimony, Support & Custody

1. Family Courts in Japan may make awards in these areas, but the authority of the Family Court to impose such awards is questionable.

2. Alimony in Japan is not the same as the United States. Spousal support is not awarded, but a lump sum of money may be granted depending on whether one of the spouses is at fault (for example, adultery).

3. The courts may award child support after considering the needs of the child, the financial situation of the parties, and other circumstances.

4. Child custody will be determined by taking into account what is in the best interest of the child. Generally, the wife is given the custody of children in Japan. The nationality of the children is not a determining factor in who should have custody.

5. Generally, if a party wants to change the decree for any reason (such as to modify child support or child custody), that party will need to apply for a modification in the Japanese court that issued the decree - even if the party has long since left Japan.