

# Stipulation to Modify Custody, Parenting Time and Child Support

## Instructions for Packet 4C

### Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated cases in which there has already been a judgment in a divorce, legal separation, or unmarried custody proceeding that a party now wishes to modify. For legal information, please talk to a lawyer or visit your local law library. Each court has local rules, programs and procedures that may not be explained in these instructions. **Information about how to contact your local court may be found at the Oregon Judicial Department website: <http://www.courts.oregon.gov>.**

This set of forms and instructions will allow you to ask the court to modify a custody, parenting time, and/or child support order or judgment. The court may terminate a party's obligation to pay child support if a change of custody is ordered, or adjust child support up or down if there has been a change in circumstances since the last child support order or judgment which warrants a modification.

Your request for modification should be filed in the circuit court that entered the judgment you are asking the court to modify. If either party lives in a different judicial district in Oregon than the one that entered that judgment, you may request that the case be transferred. If you want an Oregon court to modify a judgment from another state, we strongly urge you to consult with a lawyer. An Oregon court may not have jurisdiction to modify the out-of-state judgment.

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The forms that need to be filed for this process are listed below.

#### 1. Starting your Case

Motion for Stipulated Supplemental Judgment of Modification  
Affidavit in Support of Motion for Stipulated Supplemental Judgment of Modification  
Stipulated Supplemental Judgment Modifying Custody, Parenting Time, and Child Support  
Certificate re: Pending Child Support Proceedings and/or Existing Child Support Orders/  
Judgments  
Confidential Information Form (CIF) (for each party)  
Notice of Filing CIF  
Certificate of Mailing to DOJ

Attachments: Parenting Plan, Parenting Class Certificate of Completion and, if a request to terminate or modify child support is being made: *Child Support Calculation Worksheets* (See "Child Support" on page 2 )

#### **When filling out the forms, follow these directions:**

- The case heading includes your case number and the parties to the court case. If you are filing in the circuit court that entered the judgment you are attempting to modify, the case number and names of "Petitioner", "Respondent", or "Co-Petitioners" will stay the same as in the original case. If the judgment you are asking the court to modify was entered in another court, you will be given a new case number, but the names of "Petitioner", "Respondent", or "Co-Petitioners" will stay the same.
- Make sure to put the same information in the caption on all copies and originals of documents you file with the court.
- Some forms have to be notarized or signed in the presence of a court clerk. You will need your picture ID for this. Many banks provide notary services.
- Many forms say on the bottom, "I certify that this is a true copy," and provide a place to sign. Don't sign this line on the original form or on your own copy. You need to sign this line only on the copies that you make for yourself and the other parent.
- Keep the court informed of your current address so you get notice of all court dates. **You are not required to use your residential address on any court form.** You may use a contact address where you regularly check in. If you use a contact address, the court will assume that you will receive all notices sent to that address.

## STEP 1: STARTING YOUR CASE

### Legal Issues to Consider.

This type of case starts with a “motion” which lists the items you are asking the court to order in the “judgment”. The judgment is the document that finalizes your case, and contains your rights and responsibilities. Oregon law provides that a number of issues must be addressed in the judgment. Before you fill out the motion, you should think about how you want to handle these issues.

**Parenting Plan.** A parenting plan is required for cases involving a minor child. The plan sets out the schedule and rules for each parent’s time with the child. The parenting plan may include safety provisions for the child if domestic violence, substance abuse, child abuse or other circumstances are involved in your case.

A mediator can help parents create a parenting plan. Information about parenting plans may also be available through your court’s parent education program, the courthouse facilitator, or your local law library. **The Oregon Judicial Department and the State Family Law Advisory Committee have created a “Basic Parenting Plan Guide for Parents” with information about how to develop a plan, information about alternative schedules, and ages and stages of your child[ren] which should be considered in creating a plan. A sample parenting plan form is included in the Guide. The Guide may be downloaded from the OJD Family Law Website at <http://www.courts.oregon.gov/familylaw>. There is also a “Safety Focused Parenting Plan Guide” on this website to help you develop a parenting plan where there are safety concerns for your children.**

Oregon law (ORS 107.159) prevents either parent from moving more than 60 additional miles away from the other parent without giving him or her and the court notice of the move. You may ask the judge to waive this requirement by checking the last box in the parenting plan section of the petition.

For information about child custody, you may call Tel-Law (1-800-452-4776) tape 902, or visit [www.osbar.org](http://www.osbar.org).

**Child Support. IMPORTANT! Oregon law requires that the petitioning party submit a CERTIFICATE stating whether there are any pending child support proceedings or existing child support orders involving the parties’ child[ren]. To comply with this requirement, fill out and submit the form called “CERTIFICATE re: PENDING CHILD SUPPORT PROCEEDINGS and/or EXISTING CHILD SUPPORT ORDERS/JUDGMENTS” in this packet. You will be required to attach certified copies of any pre-existing child support orders (certified copies may be obtained from the clerk of the issuing court).**

You may request that the court terminate or modify a child support obligation, make a change in the parent responsible for it, or change the amount. The amount of support, if ordered, will be determined by the Child Support Guidelines. The Guidelines have worksheets to help you figure out who should pay support and how much it should be. Information about child support, including the Guidelines and Worksheets, is on the Internet at:

[http://www.dcs.state.or.us/oregon\\_admin\\_rules/guidelines.htm](http://www.dcs.state.or.us/oregon_admin_rules/guidelines.htm).

This website also has a Child Support Calculator which may help you to calculate the amount of child support which should be paid: <http://www.dcs.state.or.us/calculator>.

**Cash Medical Support.** In addition to cash child support, Oregon law may require the payment of cash medical support. If neither party has private health insurance for the child(ren) or if the health insurance is to be provided only by the parent that receives cash child support, the court is required to order cash medical support unless the court finds there are reasons not to order it. The purpose of cash medical support is to help defray the cost of health insurance and the cost of uninsured medical expenses. The judge cannot order you or the other party to pay cash medical support if you or the other party has a dependent child in the household who is eligible to receive public medical assistance or if you or the other party is eligible for public medical assistance yourselves. A party who makes no more than Oregon minimum wage cannot be ordered to pay cash medical support

Oregon law requires the court to make sure that payment for the child(ren)’s uninsured medical expenses are addressed in the judgment. Although you may request that each party share the out-of-pocket medical expenses that exceed \$250.00 per child per year, it may not be appropriate to request both the payment of cash medical support and the

sharing of uninsured medical expenses. That is because one of the purposes of cash medical support is to help pay for the cost of uninsured medical expenses.

**Unmarried and Unemancipated Children of the Parties, who are at Least 18 and Under 21 Years of Age.**

Under Oregon law unmarried, unemancipated children who are 18, 19, or 20 years of age are necessary parties to all family law cases involving support. The Motion form that deals with support will have a line to write in the child's name, including them in the heading. The Judgment form will have a place indicating how the child has been involved in the case, and if applicable, a place to sign underneath Petitioner and Respondent signatures agreeing to the judgment. As a party to the case, these children must be legally served with all the required documents. After they are served, children **may** sign a Waiver of Further Appearance and Consent to Entry of Judgment form found in Packet 6J if the child does not choose to participate further in the case. Also note that on both the Motion form and the Judgment form you must select whether support stops at age 18 or whether it continues until age 21 if the child continues to attend school.

**Insurance.** Oregon law requires that the judgment address the issue of health insurance for any minor child involved in your case, and for payment of uninsured medical expenses. It also must provide for security for the payment of support, such as life insurance. In the health care coverage section, you must mark any of the options that apply to your family's situation. There are two major categories involved in determining health care coverage for the children: private, such as insurance available through employment, and public, such as the Oregon Health Plan.

If either you, your spouse/partner, or both of you have private health care coverage available for the children, you must fill out the "PRIVATE HEALTH CARE COVERAGE IS APPROPRIATE AND AVAILABLE" section. If *neither* you nor your spouse/partner have private insurance available for the children, you will fill out the section called: "NO PRIVATE INSURANCE IS APPROPRIATE OR AVAILABLE." Regardless of insurance availability, everyone must complete the section called: "RESPONSIBILITY FOR UNINSURED HEALTH EXPENSES." It may be appropriate to equally divide the expenses if no cash medical support is ordered or for the custodial parent to pay most or all of the uninsured expenses if cash medical support is being paid to that parent.

**Filling out the Forms.**

To have the court adopt your stipulated changes, fill out the listed forms, and file them with the clerk according to local procedure.

Fill out the following forms.

- *Motion for Stipulated Supplemental Judgment of Modification*
- *Affidavit in Support of Motion for Stipulated Judgment of Modification*
- *Stipulated Supplemental Judgment Modifying Custody, Parenting Time, and Child Support*
- *Certificate Re: Pending Child Support Proceedings and/or Existing Child Support Orders/Judgments*
- *Certificate of Mailing to DOJ (if you or the other parent is or has received public assistance)*
- *Confidential Information Form (CIF)(one for each party). If there are CIFs already filed in the original court proceeding but the information has changed, you will need to file another CIF and check the box at the top of the form that shows it is an amended CIF.*
- *Notice of Filing CIF*
- *Parenting Plan (if custody/parenting time is changing)*
- *Child Support Calculation Worksheets (if child support is being terminated or changed)- See "Child Support" on page 2.*

**Social Security numbers and other confidential personal information.**

There is certain personal information that can only be listed in a Confidential Information Form (CIF) and may not be listed in any of the other papers you file with the court. See the CIF information sheet that is part of this packet.

**The Final Judgment.**

The judgment finalizes your case and contains all of the issues the parents have agreed to change from the previous judgment.

**If your case involves child support, file an extra copy of the proposed judgment and CIFs for each party with the court (they will be forwarded to the Division of Child Support as required by law).**

**Make copies.**

Make one copy of all of the forms for your and the other parent's records.

If you request that the court end the obligation to pay child support because of a requested change in custody, or change the amount of child support owed because of a change in parenting time or other circumstance, you are required to send a copy of the motion to the Division of Child Support branch office in your county.

The branch office address may be found at [http://www.dcs.state.or.us/office\\_info/offices.htm](http://www.dcs.state.or.us/office_info/offices.htm) or in the "Local Family Law Practices and Programs" form for your local court. Fill out and file the *Certificate of Mailing* after you have mailed the motion.

**Have your documents reviewed (optional).**

You may have your documents reviewed by a lawyer or a courthouse facilitator (if your court has one) before you file. Facilitators are prohibited from giving legal advice. For information about how to find a lawyer, call the Oregon State Bar Lawyer Referral Service. If you are low income, you may have your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program, or you may call your local Legal Aid office. Contact numbers are listed in the additional resources section at the end of these instructions, and in the "Local Family Law Practices and Procedures" for your court which may be attached to these instructions.

**Parenting Classes.**

Many courts require that parents of minor children go to a parent education class. If your court has a program and the local court rules require that you attend, sign up for the class right away. Some courts will not allow you to finalize your case until you have completed the class and filed a certificate of completion with the court. However, if you've already taken the required class, you do not have to take it again; simply provide a copy of the Certificate of Completion with your documents when you file.

**File the forms.**

File all of the original forms that are listed above with the court clerk. The court clerk will ask you for a filing fee when you file your papers. Check with your local court to learn the amount of the filing fee. If you feel you can't afford to pay the fee, you may ask the court to waive or defer your filing fee. Use Packet #10 of these forms, or check with your local court to see if they require a different form. Note, however, that even if your filing fee is deferred, most courts will require that you pay it at a later date.

The clerk may give you a number of handouts when you file your papers. The handouts usually include a notice regarding mediation, family law guidelines and services, family law resource list, and possibly, information about local parent education classes. The clerk will give you two copies of each handout: one for you and one to be served on the other parent.

**Check Back.**

The judgment must be signed by a judge for it to be effective. You may have to check back with the court after you have filed the papers to see if a judge signed the ORDER. Ask the court clerk or facilitator how long you may have to wait, usually 2-3 weeks.