EXCHANGE OF FINANCIAL INFORMATION

Whenever a divorce or separation case is filed, each spouse will probably provide the other with information about finances and property. The law encourages this exchange of information so each spouse understands the assets and debts of the other. Fair settlements and court orders are helped when each spouse has the same information, and when financial details are not hidden.

The spouse filing the case (the "petitioner") receives from the court a copy of the law about exchanging financial information. The petitioner may "serve" (deliver) a copy of this law to the other spouse (the "respondent") along with the other court papers that start the case. If the petitioner does this, each spouse then has 30 days from the date the respondent is served to provide the other with the information. If the spouses have attorneys, the information is usually exchanged through the attorneys. Information that must be exchanged includes tax returns, wage records, credit card balances, automobile titles, pension and retirement plans, and bank accounts.

If a hearing on child or spouse-support is scheduled before the 30 days are up, the financial information must be exchanged at least three (3) week days before that hearing.

Spouses who do not obey the laws about exchanging information could be required to pay the other spouse's legal expenses and attorney fees from enforcing this law. Once a final judgment has been issued in the divorce or separation, the court could re-open the property division terms of the case if the court finds that assets were concealed on purpose or by accident. Fines can be imposed for concealing assets. Deadlines for re-opening the property division terms depend on the facts of the case.

OPTIONS FOR RESOLVING DISPUTES

Final decisions about family law matters are usually formalized as court “judgments.” The judgment contains written court orders that give the persons involved proof of the decision and the legal means to enforce it. Not all court judgments come after trials or hearings. For example, some court judgments are issued after the parties work out an agreement by themselves or with the help of attorneys or mediators. These are often called “stipulated judgments.”

A **mediator** is a third person trained to help the parties reach a settlement during confidential discussions. In other situations, a qualified third party - an **arbitrator** - hears witnesses and makes a decision that becomes the court order unless an appeal is made to the court.

The cost of court-connected mediation services is largely paid out of the fee that persons involved pay to file court papers. The cost of court-connected arbitration services is paid by the persons involved, but a deferral or waiver may be made for persons with very low incomes. Private mediators and arbitrators, not connected with the court, are also available for hire in many communities. For certain family matters, especially issues involving parents and teens, local community mediation centers may be helpful.

Some counties offer **custody and visitation studies/evaluations** as part of their court services. These are careful interviews done by counselors who speak with the parents and children and prepare written recommendations about the best parenting plan for the child. Parents wanting this service often have to pay for it. Private psychologists and other experts who do custody and parenting time studies are also available for hire in many communities.

Another service offered in most counties is **parent divorce education classes**. The class covers topics such as parenting plans, court procedures, the effect of separation or divorce on children, and methods to resolve conflict. Parents in counties offering these classes may be required to attend, unless excused by the court for a good reason. Parents do not have to attend together. Reasonable fees are charged except for individuals the court has found unable to pay. A list of parent education classes is available at the following website: *http://www.ojd.state.or.us/familylaw*.

Contact your local court for information about available options for resolving family law disputes. Contact information for courts is available at: *http://www.ojd.state.or.us/trialcourtlocations*.

This information was provided by the Oregon Judicial Department with the assistance of the Department of Justice, Division of Child Support.

FAMILY LAW GUIDELINES & SERVICES

CHILD SUPPORT GUIDELINES

Oregon law requires all courts and agencies that set child support orders to use guidelines created by the State. These guidelines decide the amount of child support a parent will be ordered to pay by using the incomes of both parents and the number of children named in the support order. The rules describe how much child support is paid when the parent is unemployed, self-employed, or working part-time or temporarily. If the parent is already paying support for children from another relationship, this lowers the parent's income. The rules also address support parents might get from an ex-spouse - it is added to the income of the receiving parent, and subtracted from the income of the paying parent.

Once the parents' incomes are determined, they are added together to make a combined income. Based on the combined income of the parents and how many children are involved, Oregon law sets how much money the parents should spend to raise their children. Day care costs and some of the children's medical costs are then added to this basic support, and the combined figure is the total child support obligation.

The parent without custody pays the same share of the **total** child support that his or her income represents to the parents' combined incomes. In other words, if the non-custodial parent has 60% of the parents' combined incomes, that parent will pay 60% of the total child support obligation.

Credit for parenting time is given when parenting time is equal to or exceeds 20% and there is an agreement in writing. The credit increases gradually with increases in the amount of parenting time. For more information about calculating child support, please visit the Division of Child Support website at: *http://www.dcs.state.or.us/calculator*.

The parent without custody must enroll the child in an available health insurance plan if ordered to do so by the court or a hearings officer.

The parents share this cost based on how much income each has. The non-custodial parent must pay the premium and the custodial parent's share is deducted from the child support payment.

When insurance is provided by the custodial parent, the custodial parent pays the premium and the non-custodial parent's share is added to the child support payment that he or she pays.

People receiving public assistance (welfare) are usually not required to pay any child support.

Oregon law presumes the amount of support calculated under these guidelines is correct. If either or both parents wish to have a different amount ordered, they must convince the judge (or a hearing officer, if support is decided by an agency) that the presumed amount is unjust or inappropriate. The judge must agree and make a specific ruling about why the presumed amount is not being ordered.

CHILD SUPPORT SERVICES

The State of Oregon operates the Child Support Program which is free (or a nominal $1 fee) and available to anyone who wants services. The Department of Justice's Division of Child Support is the agency in charge of the Program, with both the Division of Child Support and local District Attorney offices providing services.

The services provided by the Child Support Program include:

- Establishing who the father of a child is
- Finding the noncustodial parent
- Getting a child support order established or changing an existing support order
- Getting medical insurance coverage for a child
- Determining the amount of past due child support
- Enforcing and collecting child support payments
- Collecting spousal support payments when spousal support is part of a child support order

Child support services are available to both custodial and noncustodial parents, even if one of the parents live in another state. Relatives or other caretakers who have physical custody of a child are also entitled to child support services.

If the child receives public assistance in Oregon or received it in the past, the Division of Child Support (DCS) will provide child support services. Public assistance means Temporary Assistance for Needy Families (TANF) or Medicaid (including Oregon Health Plan Services). DCS also provides services if the child is in the care of the Department of Human Services (i.e., foster care) or the Oregon Youth Authority.

If the child has not received public assistance, either parent can receive child support services from the District Attorney in the county where they live. In a few counties, DCS provides services for the District Attorney by contracted agreement.

Neither the Division of Child Support (DCS) nor the District Attorney is the attorney for the parent. They cannot give legal advice. They represent the State of Oregon. Any person involved in a case handled by DCS or the District Attorney may hire an attorney at their own expense. In contempt and criminal nonsupport cases, the court will appoint an attorney to represent the person charged if that person cannot afford an attorney.

Child Support Program Toll-Free Helpline:

1-800-850-0228

At **http://www.dcs.state.or.us**, customers can also access information such as local office addresses and telephone numbers, frequently used forms and specific case

PARENTING TIME PLANS

Oregon law requires parents (married or unmarried) to file a parenting plan with their request for a divorce or child custody order. A parenting plan is a document that states how much time the child(ren) will spend with each parent and how decisions about the child(ren) will be made. It may be either general or detailed. Parents are encouraged to create their own parenting plan.

If parents are unable to create or agree on their own plan, a judge will determine the parenting plan which fits the best interests of the child(ren). Most courts also require parents with children to attend a parent divorce education class where parents learn about the effect of divorce on children.

There are many places to find help with creating a parenting plan:

- The **Oregon Judicial Department website**, *http://www.ojd.state.or.us/familylaw* has a Basic Parenting Plan Guide or Packet for Parents with forms and instructions on how to create your own parenting plan. In addition, there is a Safety Focused Parenting Plan Guide available on this website, which can be used where there are safety concerns. Both guides include a list of books and resources, optional schedules for parenting time, and information about developmental stages, as well as other materials to help you with your parenting plan and other questions you might have.

- You can locate a **private attorney** through the Oregon State Bar at (800) 452-7636 or *http://www.osbar.org*. You may be able to obtain an initial consultation for $35 at the Oregon State Bar's "Lawyer Referral Service" as well as additional information about free or low-cost legal services available through non-profit agencies, volunteer programs, or the bar association of your county.

- **OregonLawHelp** is a website offering legal information for low-income Oregonians. Contact information for legal aid offices is also available here. The website is available in the Spanish language too. *http://www.oregonlawhelp.org*

- The **parent divorce education class** that your court may require you to attend may also have information about creating parenting plans. A list of parent education classes is available at the following website: *http://www.ojd.state.or.us/familylaw*.

- A **mediator** may be able to help you and the other parent through the process of creating a parenting plan. See "Options for Resolving Disputes" in this brochure.

- If your court has a **family law facilitator**, that person may be able to help you in completing the forms and can provide other referrals. A list of facilitators in Oregon is available at the following website: *http://www.ojd.state.or.us/familylaw*.