

## CHAPTER 8—Domestic Relations Proceedings

### 8.010 ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT

- (1) Together with the original petition, the attorney for a petitioner, or if unrepresented, a petitioner, must file with the trial court administrator a certificate of residency establishing that one or both of the parties currently resides in the county in which the petition is being filed. Any petition tendered without a certificate of residency must be returned forthwith by the trial court administrator to the person who submitted the petition for filing, together with any tendered filing fee.
- (2) Petitioners, when providing service on respondents, must attach to the petition a copy of the Notice to Parties of A Marriage Dissolution as required by ORS 107.092. Copies of the notice may be obtained from the trial court administrator's office.
- (3) Unless otherwise ordered by the court, decrees in all uncontested actions for annulment or dissolution of marriage or for separation shall be entered on the basis of the affidavit set forth in ORS 107.095(4) in lieu of a hearing on the merits.
- (4) In any contested dissolution of marriage, separate maintenance or annulment action, each party must file with the trial court administrator and serve on the other party a statement listing all marital and other assets and liabilities, the claimed value for each asset and liability and the proposed distribution of the assets and liabilities. In the alternative, the parties may elect to file with the trial court administrator a joint statement containing this information.
- (5) In any proceeding under ORS chapters 107, 108, or 109 wherein child support or spousal support is contested, each party must file with the trial court administrator and serve on the other party a Uniform Support Affidavit in the form specified in Form 8.010.5 in the UTCR Appendix of Forms. A Uniform Support Affidavit required by this subsection must be completed as follows:
  - (a) If no party seeks spousal support or deviation from the uniform child support guidelines, the parties must complete the affidavit and attachments required for the affidavit, but the parties need not complete the schedules or attachments to the schedules.
  - (b) If any party seeks spousal support or any deviation from the uniform child support guidelines, all parties must complete the affidavit and all schedules and the attachments for all of them.
- (6) The documents required to be filed under subsections (4) and (5) above must be filed and served:
  - (a) at the time designated in the relevant SLR;
  - (b) in the absence of an SLR thereof, not less than 14 days before the hearing on the merits unless both parties stipulate otherwise, but in any event by the beginning of trial.

- (7) No judgment under this chapter shall be signed, filed or entered without the filing with the trial court administrator of all relevant documents, including all of the following:
  - (a) An affidavit of completed service.
  - (b) An affidavit of nonmilitary service and the proposed order of default, if the respondent is in default.
  - (c) The affidavit described in ORS 107.095(4) if the matter is uncontested.
  - (d) A completed Oregon State Health Division Record of Dissolution of Marriage form.
  - (e) If child support or spousal support is an issue, a Uniform Support Affidavit for each party, except where that issue is resolved by stipulation or default. A Uniform Support Affidavit required by this paragraph must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided under subsection (5) of this rule.
  - (f) If child support is an issue, the SED work sheets described under UTCR 8.060.
  - (g) A proposed judgment.
- (8) Parties who have been ordered to submit a proposed judgment in cases involving child or spousal support must submit the original and one copy to the trial court administrator.
- (9) Parties to proceedings under ORS 107.085 or 107.485 must follow UTCR 2.100 to segregate all social security numbers from documents the parties submit in the proceedings so the numbers will be protected as required by section 1, chapter 380, Oregon Laws 2003 ('03 HB 3015).

#### 8.020 SUPPORT ORDERS

Every proposed order or judgment providing for the support of any person under ORS chapters 107, 108, 109, 110, 416 or 419A, 419B, or 419C, or modifying any order or judgment for support of any person under those chapters, must set forth the due date of the first support payment to be made thereunder, the means of payment and the person to whom payment must be made.

#### 8.040 PREJUDGMENT RELIEF UNDER ORS 107.095(1)

- (1) An order for relief authorized by ORS 107.095(1) may be granted on motion supported by affidavit setting forth sufficient facts to establish a right to the requested relief.
- (2) Any motion regarding temporary custody of a minor child must be supported by an affidavit which must state the present location of the minor child, the person with whom the child presently resides, the persons with whom and the places where the child has resided for the last 6 months, including the length of time with each person and at each residence, and the reasons why a temporary custody order is sought.

- (3) Any motion regarding temporary support must be accompanied by a Uniform Support Affidavit in the form specified in Form 8.010.5 in the UTCR Appendix of Forms. A Uniform Support Affidavit required by this subsection must be completed as provided under subsection (5) of UTCR 8.010.
- (4) At least 7 days before the hearing, the opposing party also must serve and file a Uniform Support Affidavit on the moving party, when support is to be an issue. A Uniform Support Affidavit required by this subsection must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided for completion of the affidavit under subsection (5) of UTCR 8.010.

#### 8.050 JUDGMENT MODIFICATION PROCEEDINGS

- (1) Modification proceedings must be initiated by an order to show cause based on a motion supported by an affidavit setting forth the factual basis for the motion or by other procedure established by SLR. When support is to be an issue, a Uniform Support Affidavit, as set out in Form 8.010.5 in the UTCR Appendix of Forms, must also be filed with the motion and completed as provided under subsection (5) of UTCR 8.010.
- (2) The order to show cause must be served by delivering a certified copy thereof, together with a certified copy of the motion, affidavit and Uniform Support Affidavit, if applicable, in the manner necessary to obtain jurisdiction.
- (3) At least 7 days before the hearing, the opposing party also must serve and file a Uniform Support Affidavit on the moving party, when support is to be an issue. The Uniform Support Affidavit must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided under subsection (5) of UTCR 8.010.
- (4) If public assistance is being provided to the minor child(ren), however, and the Support Enforcement Division (SED) of the Department of Justice either initiates or responds to a support modification proceeding, SED must be allowed to file and serve, in lieu of the Uniform Support Affidavit, an affidavit which sets out the following information:
  - (a) The name of the legal or physical custodian of the child(ren).
  - (b) The name and date of birth of each child for whom support modification is being sought.
  - (c) A statement of the amount of public assistance being provided.
  - (d) A statement of the value of food stamps being provided.
  - (e) A statement of whether medical insurance (Medicaid) is being provided.
  - (f) A statement of any other known income of the physical custodian.
  - (g) A statement concerning any special circumstances which might affect the determination of support.

#### 8.060 FILING SED WORK SHEETS REQUIRED IN CHILD SUPPORT CASES

Parties must submit the completed Support Enforcement Division (SED) child support computation work sheets that are appended to OAR 137-50-320 to 137-50-490 as required by the following:

- (1) If child support is an issue at the time of trial, the UTCR 8.010 statement of each party must include the work sheets.
- (2) If child support is awarded, the judgment must incorporate the work sheet as an exhibit evidencing the basis for the court's award.
- (3) In cases involving temporary child support, the moving party must serve the adverse party with the work sheets, and financial affidavits filed by parties with the court must include the work sheets.
- (4) If child support is an issue at the time of hearing, each party must submit the work sheets to the court.
- (5) If an award of child support is modified, the amending judgment must incorporate the work sheet as an exhibit evidencing the basis for the court's award.

#### 8.070 STANDARDIZED PARENTING PLANS

- (1) SLR 8.075 is reserved for judicial districts to announce that they have adopted a standardized parenting plan.
- (2) The specifics of such plans shall be placed in an appendix to the SLR.

#### 8.080 STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS (Adopted out-of-cycle on December 5, 2003, pursuant to CJO 03-072; effective January 1, 2004.)

- (1) The form of notice specified in Form 8.080.1 in the UTCR Appendix of Forms shall be used for the statutory restraining order established by section 2, chapter 414, Oregon Laws 2003 ('03 SB 801). The petitioner shall be responsible for assuring that a copy of the notice is attached to the summons as required by section 5, chapter 414, Oregon Laws 2003 ('03 SB 801). The notice shall not be signed by a judge.
- (2) The request for hearing required by section 3, chapter 414, Oregon Laws 2003 ('03 SB 801) shall be in substantially the same form as specified in Form 8.080.2 in the UTCR Appendix of Forms.

8.090 CERTIFICATE REGARDING PENDING CHILD SUPPORT PROCEEDINGS AND/OR EXISTING CHILD SUPPORT ORDERS AND/OR JUDGMENTS (Adopted out-of-cycle on December 5, 2003, pursuant to CJO 03-072; effective January 1, 2004.)

A certificate regarding pending child support proceedings and/or existing child support orders and/or judgments, in substantially the same form as specified in Form 8.090 in the UTCR Appendix of Forms, shall be included with motions and petitions filed pursuant to ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, and 125.025, as required by sections 3, 4, 5, 7, 8, 9, 10, and 11 of chapter 116, Oregon Laws 2003.

8.100 PROCEDURE FOR WAIVER OF \$25 MARRIAGE FEE UNDER ORS 106.102 (Adopted out-of-cycle on December 30, 2003, pursuant to CJO 03-076; effective January 1, 2004.)

- (1) To obtain a waiver of the \$25 fee required to be paid under ORS 106.120 before a circuit, appellate, or tax court judge can perform weddings in certain circumstances, both persons wishing to be married must do all the following:
  - (a) Complete a UTCR Form 8.100.1a in the attached UTCR Appendix of Forms.
  - (b) Submit the completed form to a circuit court judge serving the county where the wedding will be performed for review and appropriate action.
  - (c) If the request is granted by the judge under (b) of this subsection, give the copy of the signed waiver to the judge who will solemnize the ceremony.
- (2) If the request is denied by the judge, there is no waiver. Those persons who made application must either reapply under this rule or pay the fee. However, neither person may again make a request of any judge to waive the fee for 30 days from the date a judge signs an order denying a waiver under this rule.
- (3) If a person is requested to pay the fee under ORS 106.120 while applying for a marriage license or by a court clerk, the person may show a valid waiver of fee granted to that person under this rule and will not have to pay the fee. A waiver granted under this rule is valid for only 30 days from the date the judge signs the order allowing the waiver and does not waive any other fees which may legally be charged related to the marriage or wedding.
- (4) Upon receipt of a request for waiver under this rule, a judge will do all the following:
  - (a) Review the request to determine whether the judge can make a determination on the request. Only circuit court judges serving in the county where the wedding will be performed can grant a waiver under this rule. A judge will deny a request for a waiver under this rule if the request has been made to any other judge within 30 days.
  - (b) Determine whether exigent circumstances exist allowing the judge to waive the fee. The determination of exigent circumstances is at the sole discretion of the judge, but can, by statute, specifically include indigency of the parties to the marriage.

- (c) Sign the waiver form indicating the judge's decision; give a copy of the completed, signed form to the parties to the impending marriage; and file a copy with the trial court administrator for that circuit court.
- (5) When solemnizing a marriage a judge, under ORS 106.120(9), will accept a copy of a valid waiver granted under this rule in lieu of proof of payment of the fee required under ORS 106.120(9). The judge will maintain the copy of the waiver with other records of the marriage for as long as the judge is required to maintain the other records.