

Responding to Petition for Dissolution (Divorce), Cases with Children Instructions for Packet 1D

Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated divorce cases. For legal information, please talk to a lawyer, visit your local law library and/or refer to the “Additional Resources” section on the last page of these instructions.

The instructions may refer to some forms not included in this packet. If you have a question about a form you cannot locate, you should consult the court which may have the form available.

This set of forms and instructions explain how to file a response to a petition for dissolution (divorce). When filling out the forms, follow these directions:

- The case heading is the same as listed on the petition you were served.
- 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.
- Do not use any kind of correction fluid or tape on documents to be filed with the court. If you make an error, cross it out and initial it (both parties if it is a stipulated document).
- Some 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 for your spouse.
- Make yourself a copy of any document you are filing with the court. File the original with the court clerk.
- 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: FILING YOUR RESPONSE

You have 30 days following the date you were served with the petition to file a written response with the court clerk and pay the filing fee. The court clerk will ask you for a filing fee when you file your papers. Check with the 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 it. The form is available from the court clerk or the court facilitator. Once the form is completed and notarized, you may file it with the court clerk. One or both of the parties may be required to pay the fee at a later date.

In the response, space is provided for you to state that you disagree with certain items asked for in the petition. You may also write in items that you would like the court to order that were not included in the petition. These are called “counterclaims.” If you agree with everything asked for in the petition, you are not required to file a response. The court will enter judgment based on what was asked for in the petition.

Legal Issues to Consider.

Oregon law requires a number of issues be addressed in the final divorce judgment. Before you fill out your response, you should review what your spouse asked for in the petition, and think about how you want to handle these issues.

Also, if you were not served with the petition in Oregon, or if you haven’t lived in Oregon for a long period of time, you may be entitled to respond by objecting to service or jurisdiction. However, these are complicated legal determinations, and you should talk to an attorney about what kind of response to file if either of these situations applies to you.

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.ojd.state.or.us/familylaw>. It also includes a “Safety Focused Parenting Plan Guide” and a “Medium/Long Distance Plan Guide” to help you develop a parenting plan where there are safety concerns for your child/ren or distance between the parents.** If the parents don’t agree on a parenting plan, a judge will order a parenting plan for you.

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 in your response.

For information about child custody, you may visit www.osbar.org.

Child Support. In most cases, the court will order child support if the parties have a child and no child support order already exists. 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. **Support is typically withheld from wages unless an exception is allowed for direct deposit to the other parent’s checking or savings account, or, if support enforcement services are being provided to either parent, as an “electronic payment withdrawal (EPW) or electronic funds transfer (EFT)” to a Department of Justice account.** (EPW and EFT are procedures whereby funds are automatically withdrawn from a checking/savings account as authorized by the account holder.) 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. 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>. The court facilitator, legal aid office or child support program **may** also be able to help you calculate the amount of support.

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.

Spousal Support. Oregon law provides for three different categories of spousal support: transitional, compensatory and spousal maintenance. Transitional support may be ordered for a spouse to get work related education and training. Compensatory spousal support may be ordered if one party has significantly contributed to the education, training, vocational skills, career or earning capacity of the other spouse. Spousal maintenance may be ordered for the support of one spouse. The judge will consider a number of factors when making the award. For more information on what the judge will consider, refer to ORS 107.105 (to view, visit your local law library or www.leg.state.or.us/ors/).

Property and Debts – Statutory Restraining Order. Oregon law requires both Petitioner and Respondent to obey a restraining order preventing *either party* from dissipating (selling, destroying, removing, disposing of) real or personal property, making unilateral (without the agreement of the other

party) changes to insurance policies, and making extraordinary expenditures. Expenditures that are necessary for the safety or welfare of the children or the parties are not prohibited. The order is effective on both you and the petitioner once you have been served with the “*Notice of Statutory Restraining Order Preventing the Dissipation of Assets in Domestic Relations Actions.*” You may request a hearing if you object to the terms of the Statutory Restraining Order. If you violate the order, you may be subject to sanctions.

For information about these issues, talk to a lawyer and/or go to the Oregon State Bar’s web site (www.osbar.org), “Legal Links” and read under “Oregon’s Laws” the sections on “Bankruptcy and Credit,” “Real Estate,” and “Taxes.” If either spouse has a retirement plan, you should talk to an attorney before filling out the response. The attorney can advise you if this packet will work for your situation. If the parties own real estate located in Oregon, a “lis pendens” notice (notice of pending suit) may be filed with the county clerk as provided in ORS 93.740 (to view, visit your local law library or www.leg.state.or.us/ors).

Social Security Numbers.

Oregon law requires that social security numbers be provided to the court, but kept confidential from the public in all family law cases. Additionally, UTCR 2.130 considers the following personal information as confidential: date of birth; telephone number; e-mail address; residential or mailing address; if required by law, employer’s name, address and telephone number; and driver license number of a party or the child of a party, as well as former married names. **Do not include any of this personal information in your pleadings.** Instead, include this information in the **required** UTCR 2.130 Confidential Information Form (CIF). You must submit one form for each party. The court has no responsibility or liability to make sure you have omitted this information—it is your responsibility. **NOTE: You are REQUIRED to serve a copy of the CIF on all parties to the proceeding, unless you have been granted an Order to Limit Disclosure of CIF to Another Party.**

You may be able to request an Order to Limit Disclosure of CIF to another party under certain circumstances. Please carefully read the entire CIF form, and if you want to request this information not be shared with other parties to your case, fill out the request section on the second page of the form. If the court grants your request, you will be required to mail or deliver a Family Law Notice of Nondisclosure of CIF form to the other party(ies) in the case. This form (UTCR 2.130.3) is available upon request.

If you wish to segregate additional protected personal information, such as credit card numbers, bank or other financial account numbers, bank or other financial account locations, financial account access numbers, or similar information that is used for financial transactions, it can be kept confidential under ORS 107.840 or ORS 192.502(2), use UTCR 2.100 long form which is available upon request.

Have your documents reviewed.

You may have your documents reviewed by a lawyer or the courthouse facilitator before you file. For information about how to find a lawyer, call the Oregon State Bar Lawyer Referral Service. If you are low income, you may get 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.

Filing the Response.

After you have filled out the Response, make two copies. One copy is for your records, and the second copy is for your spouse. Unless there is a no contact or restraining order, and **if your spouse does not have an attorney**, mail your spouse's copy **to your spouse's address** and fill out the Certificate of Mailing form, **and file it with the court**. If your spouse is represented by an attorney, **you must instead** mail the copy to your spouse's attorney and provide the attorney's address in the Certificate of Mailing form.

File the original Response, Certificate of Mailing and Acknowledgment about Dissolution form with the court clerk along with the required filing fee (unless your fee has been waived or deferred by a judge).

Parenting Classes.

You are required to participate in a program of education called Kids' Turn. for divorcing parents. You must register for the class at (503) 846-0665 within 14 days of filing the dissolution. Generally you will not be allowed to finalize your divorce until you have completed the class and a certificate of completion has been filed with the court.

STEP 2: WAITING 90 DAYS

Oregon law requires a 90-day waiting period between the time you are served, and the time the court can hold a final hearing or sign the judgment. You, or your spouse, may ask the court to waive this period if you and your spouse reach an agreement on the terms of your divorce, and have filled out a "stipulated" (agreed to) judgment completely. *Note: If you do not respond to the petition served upon you (i.e., if you "default"), your spouse may ask the court to waive this period without further notice to you or the serving of additional documents upon you.*

To ask the court to waive the 90-day period, you may use Packet 1F, Request for Waiver of 90-Day Waiting Period.

Temporary Orders.

You may ask the court to make temporary orders. Temporary orders are in effect once signed by the judge and last until changed or until the judgment is signed by a judge or the case is dismissed. For example, either spouse may ask for an order for spousal or child support, an order preventing one or both spouses from getting rid of property owned by both spouses, an order an order requiring one spouse to move out of the family home or an order preventing either spouse from interfering with the child/ren's regular living arrangement and schedule. To make any of these requests, you will need to file a "motion" (request) asking the court to do what you want. You may need the assistance of an attorney to file these requests.

You may use Washington County Packet 6B, Temporary Protective Order of Restraint Packet to ask the court to order that neither parent change the child/ren's usual place of residence, change the child/ren's regular routine, or interfere with the other parent's usual contact with the child.

In addition, all courts have restraining order forms for cases involving domestic violence. A restraining order can usually be obtained within a day or two of filing if there has been abuse in the last 180 days, and if there is further danger of abuse. Forms are available from the restraining order office located in the courthouse.

Conferences with the Judge.

A **settlement conference** will be scheduled at the request of a party if a response has been filed. This meeting takes place with a judge with both spouses present, along with their attorneys if they are

represented. If you request a settlement conference, you must certify that you and your spouse have attempted settlement. You or your spouse may object to a settlement conference within 14 days of receipt of the request. The parties may agree that the judge assigned to the case may also be the settlement judge.

A **status conference** will be scheduled by the judge approximately 120 days after you were served but not until after the settlement conference, if one has been requested. At the conference, the judge will probably talk to your attorney or you about how the case is going to be resolved and will probably set future court dates if the trial date has not been previously scheduled.

Working Toward Agreement.

The court wants to help you resolve the issues that you and your spouse disagree on. You may discuss these issues with your spouse directly if it is safe for you to do so and if no court order prohibits this contact. You may also discuss them with your spouse's attorney. If you filed a response, and later decide that what your spouse asked for in the petition is okay with you, you may fill out and file a Waiver of Further Appearance and Consent to Entry of Judgment form. The court will then enter judgment based on what was requested in the petition. Ask your local courthouse facilitator for help with this step. If you can't resolve the issues on your own, the court may provide a number of options to help you, including mediation, arbitration and custody evaluation.

Mediation. If you and the other parent disagree about custody of the child(ren) and/or parenting time, the Court requires you to participate in mediation. A mediator is a person trained to help people resolve disagreements. You may ask to meet with the mediator alone if you are uncomfortable meeting with the other parent for any reason. There is no fee for this service. If mediation has not yet been ordered in your case, you must file a Request and Order for Mediation (Form #6H). You may request that the mediation requirement be waived, if you have a good reason, by filing a Motion and Order and Affidavit for Waiver of Mediation (see Form #6I). For example, if there has been domestic violence, the court will consider a request to waive the mediation requirement.

You may also meet with an independent mediator to resolve the financial issues in your case. Any fees charged by the independent mediator would be the responsibility of the parties.

Arbitration. If the only disputed issue is the disposition of property totaling less than \$50,000, the court will order an arbitrator. The court may also ask the arbitrator to resolve spousal support issues. An arbitrator is a lawyer appointed by the court who meets with both spouses and their lawyers, if they are represented, and makes a decision about how the property should be divided. Both spouses are required to pay for this service unless the court has specifically waived or deferred the arbitrator's fee. If either spouse disagrees with the arbitrator's decision, he or she can ask the court for a trial. If a trial is not requested, the arbitrator's decision is final unless both spouses agree on another resolution.

Custody/Parenting Time Evaluation. If parents can't agree on a parenting plan, sometimes the court refers the case to a custody or parenting time evaluator. After interviewing each parent and doing other research, the evaluator may make a recommendation to the judge about which parent should have custody and what the parenting plan should be. The evaluator will consider factors that might affect a child's safety, such as domestic violence, substance abuse, child abuse or other circumstances. The parties must pay for the evaluation.

STEP 3: FINALIZING YOUR DIVORCE

A divorce is "final" the date the judgment is signed by a judge. The judgment contains all of the issues decided in mediation, arbitration, hearing or through your agreement. If both spouses agree on all

issues, it may be prepared by either spouse as long as it is reviewed and signed by both spouses. If there are still items that you don't agree on, the court will set a date for a "final hearing" or trial. The judge may direct one spouse or the attorney to prepare the judgment after the hearing. Some judges may want you to attend a "settlement conference" (a meeting between the parties to discuss settlement, usually led by a different judge than your trial judge) to help you come to agreement.

If you are responsible for filling out the judgment, make a copy for yourself and one for your spouse, and file the original with the court. **If your case involves child or spousal support, file an extra copy of the proposed judgment with the court.**

You may also have to file the forms listed below, depending on your circumstances.

Parenting Class Certificate of Completion. A certificate of completion of the parenting class must be filed with the court unless this requirement has been waived by order of the court.

Child Support Worksheets. If child support is or could be ordered, child support worksheets need to be filled out and attached to the final judgment.

Parenting Plan. Your parenting plan may be completely covered in the final judgment. If there are additional pages, attach them.

Uniform Support Affidavit. This form is only required if you and your spouse don't agree on child or spousal support. You also **are required** to complete the schedules on the form. It must be provided to the court and the other party prior to the status conference with the judge.

ADDITIONAL RESOURCES

Oregon State Bar www.osbar.org
Lawyer Referral 1-800-452-7636
Modest Means (low income) " "
Tel-law 1-800-452-4776

Washington County Family Law Assistance Program (courthouse facilitator)
<http://courts.oregon.gov/Washington> (click on family law)
Email: wsh.famlaw@ojd.state.or.us

Oregon Law Help (Free legal info for low income Oregonians): www.oregonlawhelp.org

Legal Aid Service of Oregon (must have low income)

Division of Child Support: 503-986-6090
www.dcs.state.or.us

Child Support Help Line 1-800-383-1222
Local office: 503-648-7163

Domestic Violence Help 1-800-799-SAFE

Oregon Judicial Department - Family Law Forms and Resources: www.ojd.state.or.us/familylaw