

Filing For Dissolution (Divorce), Cases Without Children

Instructions for Packet 1C

Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover the basic procedure for uncomplicated divorce cases. For legal information, please talk to a lawyer, visit the Hillsboro 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 may consult the court facilitator.

This set of forms and instructions will allow you file for and obtain a divorce. The instructions are broken down into four basic steps. The forms that go with each step are listed below. Be sure to print all the forms.

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When filling out the forms, follow these directions:

- You are the “petitioner” on all court forms and your spouse/partner is the “respondent.” Use full names (first, middle or middle initial, last) and print the names the same on all forms.
- Do not use correction material of any kind.
- The clerk will give you a case number when you file your papers. Make sure to put this on all copies and originals.
- Some forms have to be notarized or signed in the presence of a court clerk. You will need your photo ID for this.
- 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. You need to sign this line only on the copies that are served on your spouse/partner.

- Always file the original forms 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. **Note: If you fear for your safety, you may be able to obtain a non-disclosure order.** Consult with an attorney or the Family Law Assistance Program for instructions and the appropriate forms.

STEP 1: STARTING YOUR DIVORCE

To get the divorce case started, fill out the first set of forms, file them with the clerk and have your spouse/partner “served” (have the papers delivered to your spouse/partner). **It is very important to have your spouse/partner served AFTER you file the first set of forms with the court clerk.**

Fill out the following forms:

- Acknowledgment about Dissolution
- Petition for Dissolution of Marriage/Registered Domestic Partnership
- Record of Dissolution of Marriage (Vital Statistics Form; Available from the court)
- UTCR 2.130 Confidential Information Form (one REQUIRED for EACH party)
- Notice of Filing CIF
- Automatic Statutory Restraining Order Preventing Dissipation of Assets
- Summons

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; and 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 Notice of Filing CIF on all parties to the proceeding.** 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.

Legal Issues to Consider.

A divorce case starts with a “petition” which lists the items you are asking the court to order in the “judgment.” The petition is often referred to as your “wish list,” and the general judgment is the document that finalizes your divorce 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 petition, you should carefully think about how you want to handle these issues.

You may not know what real or personal property to ask for in the beginning because you are not sure what property you own either alone or together with the other party, or you may not know how much spousal support to ask for in the beginning because you do not know how much the other party earns. The Petition provides options for either indicating a specific amount or distribution of property or, where you do not know, to ask that these be made equitably (fairly) determined prior to judgment so that you have time after filing the petition to find out what property you own or how much the other party earns.

HOWEVER:

if you do NOT ask for a specific amount or distribution in the Petition, or if what you ask for in the Judgment is different from what you asked for in the Petition, **the court may require you to file an amended petition and re-serve documents on the other party** before it will enter a final judgment. This is so the other party knows exactly what is being asked for if the Judgment is different from what was in the Petition.

Unmarried and Unemancipated Child/ren at Least 18 and Under 21 Years of Age. The law regarding unmarried unemancipated child/ren who are at least 18 and under 21 years of age are necessary parties to all family law cases that would or could involve child support. The Petition has a line to write in the child/ren's name to include them in the heading. The Judgment forms have a place indicating how the child/ren 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 child/ren must be legally served with all the required documents. After they are served, child/ren **may** sign a Waiver of Further Appearance and Consent to Entry of Judgment form if the child does not choose to participate further in the case. Otherwise, the child may file a response to contest the petition.

Spousal Support. Oregon law provides for three different categories of spousal support: transitional, compensatory and maintenance. Transitional support may be ordered for a spouse/partner 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/partner. Spousal maintenance may be ordered for the support of one spouse/partner. The judge will consider a number of factors when making the award, and may order more than one type of support. For more information on what the judge will consider, please refer to ORS 107.105 (to view, visit the Hillsboro law library or www.leg.state.or.us/ors). If your case would or could involve spousal support, you are strongly encouraged to talk to a lawyer. There are no calculators for determining how much and for how long a person should receive spousal support and court facilitators do not have other resources to assist in making that determination.

Property and Debts—Statutory Restraining Order. Oregon law requires both Petitioner and Respondent to obey a restraining order preventing *either party* from selling, destroying, removing, disposing of real or personal property, and without the agreement of the other party changes to insurance policies, and making extraordinary expenditures. Expenditures that are necessary for your safety or welfare are not prohibited. **By filing your petition, you agree to be bound by the terms of this order.** The order is effective on the respondent once the notice has been served on the respondent. You may request a hearing if you object to the terms of the Statutory Restraining Order (see Packet 1BC for a Request for Hearing Form). If you violate the order, you may be subject to sanctions. You must attach a copy of the “Notice of Statutory Restraining Order Preventing the Dissipation of Assets in Domestic Relations Actions” (see Packet 1BC) to the Summons and serve it on the Respondent.

If either spouse/partner has a retirement plan, you should talk to an attorney before filling out the petition. The attorney can advise you if this packet will work for your situation. If either spouse/partner owns 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 the Hillsboro law library or go to www.leg.state.or.us/ors).

Have your documents reviewed.

You may have your documents reviewed by a lawyer or a courthouse facilitator at a workshop before you file. For information about how to find a lawyer, you may want to contact the Oregon State Bar Lawyer Referral Service. If you are low income, you may be able to get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program, or you may want to call Oregon Law Center (Legal Aid) office (low income and domestic violence). Contact information is listed in the additional resources section at the end of these instructions.

File the forms.

File all of the original forms that are listed above with the court clerk except the summons and automatic statutory restraining order preventing dissipation of assets. 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.

The clerk will give you a number of handouts when you file your papers. The handouts include a notice regarding continuation of health coverage and a copy of ORS 107.089 (documents parties may have to give each other if you have a copy served on the respondent). The clerk will give you two copies of each handout: one for you and one to be served on your spouse/partner. You aren't required to serve the copy of ORS 107.089 on your spouse/partner, but if you do, both spouses/partners must follow what it says.

Have your spouse/partner served.

You are required to have your spouse/partner served (have papers delivered to) with (a) copies of the documents given to you by the clerk, (b) the Statutory Restraining Order described above, (c) copy of both CIF forms, and (d) certified copies of the petition and summons (you may certify the copies by signing your name where it says "I certify this is a true copy"). **It is very important to have your spouse/partner served or accept service AFTER you file the first set of forms with the court clerk.**

If your spouse/partner is willing to accept service, s/he must fill out the Acceptance of Service form, sign it in front of a notary or court clerk, then file it with the court. It is not necessary that your spouse/partner agree with what is in the papers, just that he/she is willing to acknowledge receipt of them.

If the other party will not complete the Acceptance of Service form, **YOU CANNOT SERVE THE PAPERS YOURSELF**. You may have service completed by the Sheriff in the county where your spouse/partner lives, by a private process server, or by another individual who is a competent person 18 years or older, an Oregon resident (or of the state where service is made) and not a party nor an attorney for a party. Caution should be used before asking a friend or relative to serve the papers if your spouse/partner might react angrily or violently. An Affidavit of Service along with the original summons must be filed with the court after service has been made.

The best way to serve the other party is to have the person serving the papers hand them directly to the respondent (personal service). If personal service cannot be done, there are other ways to serve the papers including "substitute service" and "office service"— see the Table below. You may ask the Sheriff or a private process server about these other options or consult an attorney.

Standard Methods of Service	
Personal Service	Delivery of papers directly to the other party
Substitute Service	Delivery of papers to a person <u>living</u> at the other party's home who is at least 14 years old, PLUS mailing of the documents to the other party's home address by regular first class mail
Office Service	Delivery of papers to a person who appears to be in charge at the other party's place of employment (who has a business duty to give the documents to the other party), done during working hours, PLUS mailing of the document to the home or business address of the other party by regular first class mail

If you are not able to have your spouse/partner served by any of the methods described above, you may ask a judge to allow you to use another service method. The judge might allow you to publish, post or mail the documents. In order to make this request, you may use Packet 6A—Alternative Form of Service.

Serving Child/ren Who are Necessary Parties. Because all unmarried, unemancipated child/ren at least 18 and under 21 years of age are necessary parties to the case, they must also be served. Follow the same steps for serving your spouse/partner for serving child/ren who are parties to the case.

Temporary Orders.

You may ask the court to make temporary orders after the petition is filed. Temporary orders are in effect once signed by the judge and last until further order of the court or until a general judgment is signed by a judge or the case is dismissed. For example, either spouse/partner may request an order for spousal support, an order requiring one spouse/partner to move out of the family home. To make any of these requests, file a “motion” (request) asking the court to do what you want. You may need the assistance of an attorney to file these requests.

If there has been domestic violence you may want to consider a Family Abuse Prevention Act (FAPA) order if there has been abuse in the last 180 days and if there is further danger of abuse. Forms are available from the victim’s assistance office located in the courthouse. If you arrive to fill out the forms early enough in the day, you may see the judge that afternoon. Otherwise, you would come back to see the judge the next day.

If Both Spouses/Partners Agree.

There are two ways to handle your case if both spouses/partners agree on all issues: (1) one spouse/partner can file as petitioner, the other spouse/partner can accept service of the petition and not file a response (if there is no disagreement with what the petitioner requested in the petition) and judgment will be entered based on what was stated in the petition, or (2) the other party may sign the Acceptance of Service, Waiver of Further Appearance and Consent to Entry of Judgment and the General Judgment of Dissolution. If the process followed is (2), you would skip the default process.

If your spouse/partner (the respondent) does not agree with you at first and files a response, then later decides that what you requested in the petition is acceptable, both of you can sign the General Judgment of Dissolution to avoid having to go through the court process further. The courthouse facilitator can help you with this process.

STEP 2: WAITING FOR A RESPONSE; TAKING A DEFAULT

Oregon law gives your spouse/partner 30 days to respond to your petition. The time starts running from the date of service, with the next day being day one. The response must be written and filed with the required filing fee. **If you and the other party agree and both sign the final judgment of dissolution, you may skip the default documents.**

If your Spouse/partner is in the Military.

If your spouse/partner is in the active military service of the United States and has not responded to the petition, you may have to go through some extra steps. The court won’t go further with your case until one of the following things has happened: (1) your spouse/partner is no longer in the active military, (2) your spouse/partner has waived his or her rights using the Waiver of Right to Stay of Proceedings form, or (3) the judge holds a special hearing in your case. You may get a Waiver of Right to Stay of Proceedings form from the courthouse facilitator or use Form 6G. You may need to talk to an attorney if your spouse/partner is not willing to sign the waiver.

Check for Response.

Unless there is a no contact or restraining order, your spouse/partner should mail or deliver a copy of his or her response to you when it is filed with the court. If you haven't received a copy of a response after 30 days from the date of service, you may check with the court clerk to see if one has been filed. If no response has been filed, you may request a "default order." A default means that you may ask the court to enter a judgment giving you the items you asked for in your petition, with no input from your spouse/partner. If a response has been filed, you will not be allowed to take a default, and you will skip the next two sections about requesting a default and go to step 3.

No Response Filed; Requesting a Default.

- To ask the court to enter a default, you must fill out the following forms:
- Ex Parte Motion for Order of Default; and Order
- Declaration in Support of Motion for Order of Default

Be sure to complete the section of the declaration telling the judge why you think the other party is not in the military on active duty. Some judges also require a DMDC certificate. You may obtain it at this website: <https://dmdc.osd.mil/appj/scra/scraHome.do>. You will see security warnings that you may bypass—it is a safe, government website. The courthouse facilitator can assist you in getting a certificate.

You may file the original with the court anytime after 30 days have expired from the date of service. You may file it with the court clerk or personally take it to your judge at ex parte for immediate signature. The court clerk or facilitator can tell you the ex parte times for your judge. Until the default order is signed by a judge, your spouse/partner is still able to file a response.

You may skip step 3 and submit the documents to finalize your case listed in step 4 at the same time.

STEP 3: WHILE YOUR CASE IS PENDING

Working Toward Agreement.

The court wants to help you resolve the issues that you and your spouse/partner disagree on. You may talk about these issues with your spouse/partner directly if it is safe for you to do so and if no court order prohibits that contact. You also may discuss them with your spouse/partner's attorney.

Mediation. If you and the other party disagree, you may want 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 party for any reason. 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/partners and their lawyers, if they are represented, and makes a decision about how the property should be divided. Both spouses/partners are required to pay for the arbitrator's fee. If either spouse/partner disagrees with the arbitrator's decision s/he can ask the court for a trial. If a trial is not requested, the arbitrator's decision is final unless both spouses/partners agree on another resolution.

Settlement conference. A settlement conference may be requested by either party if a response has been filed. This meeting takes place with a judge with both spouses/partners present, along with their attorneys, if they are represented. If you request a settlement conference, you must certify that you and your spouse/partner have attempted settlement. You or your spouse/partner 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.

Status conference. If the other party files a Response, a status conference may be scheduled by the judge approximately 120 days after the other party was served with the Petition. At the status conference, the judge will talk to the parties (or your attorney, if you hire an attorney) about how the case is going to be resolved. The judge will also set future court dates if a trial date has not been previously scheduled. You will receive notice of any scheduled status conference from the court by mail. It is important for the court to have your current address or contact mailing address so you will receive all court notices. If you do not attend a status conference, the judge may find you in default and finalize your case without your participation. Make sure to carefully review the status conference notice to see if you are required to file any additional forms with the court prior to the status conference.

- **Uniform Support Declaration.** This form is only required if the parties do not agree on the amount of any spousal support. Your completed Uniform Support Declaration must be provided to the court and the other party at least seven days prior to the status conference with the judge, and any court hearing or trial relating to spousal support.

STEP 4: FINALIZING YOUR DISSOLUTION

If there are issues still not finalized by agreement or arbitration, the court will set a date for a trial. The judge will make the decisions on the issues in dispute. A divorce is “final” on the date the general judgment of dissolution (divorce) is signed by a judge.

Forms to Finalize Your Divorce.

The following forms are required to finalize your divorce:

- Petitioner’s Affidavit Supporting Judgment of Dissolution/Domestic Partnership (not required if a trial has been held)
- General Judgment of Dissolution/Domestic Partnership

The General Judgment.

The judgment finalizes your divorce. If both spouses/partners agree on all issues, it may be prepared by either spouse/partner as long as it is reviewed and signed by both spouses/partners. If the spouses/partners don’t agree on all issues, the judge may direct one spouse/partner or the attorney to prepare the judgment. The party who did not write the judgment will have an opportunity to object to what the judgment, if the party believes it contains a mistake.

If your spouse/partner didn’t file a response, the information you fill out in the final judgment must mirror what you requested in the petition. If your spouse/partner filed a response, the information must contain all of the issues decided by agreement, arbitration, and trial. If there are money awards included in your case and you need assistance with the information required in the “money award” section at the end of the judgment, you are strongly encouraged to consult an attorney.

If you are responsible for filling out and filing the final judgment, make a copy for yourself and one for your spouse/partner (unless he or she didn’t file a response), and file the original with the court. **If your case involves spousal support, file an extra copy of the proposed judgment with the court.**

WASHINGTON COUNTY FAMILY LAW RESOURCES

BELOW IS A LIST OF SOME SERVICES THAT ARE AVAILABLE IN WASHINGTON COUNTY. THE CIRCUIT COURT DOES NOT SPECIFICALLY ENDORSE ANY OF THEM.

Circuit Court

Name: **Washington County Circuit Court**
Address: 150 N First Avenue
Hillsboro, OR 97124

Phone number: (503) 846-8888
Website: <http://courts.oregon.gov/Washington>
Fees: http://courts.oregon.gov/Washington/Rules_Fees/Court_Fees/Pages/fees.aspx

Name: **Family Law Assistance Program**, 8 am to 5 pm, Monday-Friday
Address: 145 NE Second Avenue, Room 102C
Hillsboro, OR 97124
Phone: Not available by phone.
Website: http://courts.oregon.gov/Washington/Services/Family_Law/pages/family_law_main.aspx
Email: wsh.familylaw@ojd.state.or.us
Fee: Services are free; forms are 25 cents per page
Service provided: Sell and review forms for divorce, separation, and modification. Many forms available on website or by email. Document reviews for starting or finishing divorce or custody cases and modifications only by registering for a workshop by email or in person. Services are for people representing themselves in a family law court action. Court employees (facilitators) in the program are not attorneys and may not give legal advice. Spanish-speaking staff available.

Mediation Services (privately obtained)

Name: **Oregon Mediation Association**
Phone number: (503) 8872-9775
Website: www.omediate.org
Service provided: Referral to private mediation services providers

NON-PROFIT LEGAL SERVICES

Name: **Oregon Law Center (Legal Aid)**—Hillsboro Regional Office
Address: 230 NE Second, Suite F
Hillsboro, OR 97124-3011
Phone number: (503) 640-4115
Fax: (503) 640-9634
Website: <http://www.oregonlawhelp.org>
Fee: Free
Service provided: Legal services to low income individuals; Spanish speaking staff available.

Name: **St. Andrew Legal Clinic**—Hillsboro Office
Address: 232 NE Lincoln, Suite H
Hillsboro, OR 97124
Phone number: (503) 648-1600
Website: <http://www.salcgroup.org>
Fee: Sliding fee scale
Service provided: Legal services for divorce, family abuse prevention, guardianship, and spousal support.

SERVICES PROVIDED BY THE OREGON STATE BAR

Lawyer Referral Service 8 am to 5 pm, Monday-Friday
Phone number: (503) 684-3763 or toll-free in Oregon: (800) 452-7636
Website: <http://www.osbar.org/public/ris/ris.html#referral>

Fee: \$35 initial consultation; further representation as arranged with attorney
Service provided: Referral to an attorney for an in-office consultation about your legal issues.

Modest Means Program

8 am to 5 pm, Monday-Friday
Phone number: (503) 684-3763 or toll-free in Oregon: (800) 452-7636
Website: <http://www.osbar.org/public/ris/ris.html#referral>
Fee: \$35 initial consultation; further representation as arranged with attorney
Service provided: Legal assistance at a reduced rate. Assistance is offered to qualified applicants based on income and assets, type of case and availability of a participating lawyer in Washington County.

Military Assistance Panel

8 am to 5 pm, Monday-Friday
Phone number: (503) 684-3763 or toll-free in Oregon: (800) 452-7636
Website: http://www.osbar.org/_docs/ris/militaryflier.pdf
Fee: Free 30-minute consultation; further representation as arranged with attorney.
Service provided: The Military Assistance Panel matches Oregon active-duty **deployed** service members and their dependents with lawyers willing to provide legal advice. Lawyers have been trained to provide legal assistance relating to the Service Members Civil Relief Act and also are able to help with a wide range of legal matters.

Problem Solvers

8 am to 5 pm, Monday-Friday
Phone number: (503) 684-3763 or toll-free in Oregon: (800) 452-7636
Website: <http://www.osbar.org/public/ris/ris.html#solvers>
Fee: Free 30 minute consultation.
Service provided: Young people between the ages of 11 and 17 may call to request a referral to this program for a consultation with an attorney.

Legal Topic Index:

<http://www.oregonstatebar.org/public/legalinfo.html>
Fee: Free
Service provided: Legal information covering a variety of general legal topics.