

FILING FOR DISSOLUTION (DIVORCE) WITHOUT CHILDREN

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<p>Additional forms you may need: <i>(More information is in the Instructions below)</i></p> <input type="checkbox"/> Uniform Support Declaration <input type="checkbox"/> Statement of Assets and Liabilities <input type="checkbox"/> Waiver of Personal Service

What these forms do

This set of forms will help you to get a divorce (legally called a “dissolution of marriage”) if you do not have children under 21. If you have any children under 21, use the *Dissolution with Children* forms.

TALK TO A LAWYER BEFORE USING THESE FORMS IF:

- You are part of a **same-sex couple** AND:
 - You are married, have a civil union, or registered in another state
 - You are married, have a civil union, or registered in another state in addition to Oregon
 - You registered as domestic partners in Oregon **before February 4, 2008**
 - You are unsure if your partnership is a Registered Domestic Partnership (RDP)
 - If you want partner support and either party lives in (or may move to) another state.
- You want to *divide* the **retirement benefits** of either party
- Either party is a debtor in a current **bankruptcy** case

If Both Parties Already Agree

If you agree on all of the issues, you can file as Petitioner and the respondent can accept service of the Petition and sign a completed Judgment form. The respondent can also choose not to file a Response. If no response is filed, judgment will be entered based on what is in the Petition after you file a Motion for Order of Default (see “By Default” section below).

You can also file as Co-Petitioners.

Important Contact Information

Washington County Circuit Court—courts.oregon.gov/washington

Oregon Judicial Department—courts.oregon.gov

Oregon State Bar Lawyer Referral Service—oregonstatebar.org

Phone: 503.684.3763 or toll-free in Oregon at 800.452.7636

If you are deployed or about to be deployed, you may contact the Oregon State Bar Military Assistance Panel (osbar.org/_docs/ris/militaryflyer.pdf) for information about special rights and rules that may apply to you.

Notice about these instructions and forms

These instructions are not a complete statement of the law. They cover basic procedures for simple dissolution. If you have complicated issues or questions about the law, talk to a lawyer.

Information about Dissolution

Petition and Judgment—A dissolution case starts with a “petition,” which tells the court what you want. That’s why you are called the “**petitioner**.” The other parent is the “**respondent**.” The case ends with a “judgment,” which is the court’s final decision. The judgment is the document that finalizes your case and contains your rights and responsibilities. Your dissolution is effective once the judge signs the judgment. (*See “The Judgment” section for more details about the terms of your judgment*)

- **NOTE:** the general judgment in this case will create rights and responsibilities that may be permanent. Spousal support orders often can be modified later, but property orders usually can’t. Talk to a lawyer if you have questions about these issues.

Contact Information—Keep the court and all other parties informed of your current address. **You don’t have to use your home address.** You may use any contact address where you regularly check in, as long as it is in the same state as your home. The court will assume that you receive all notices and documents sent to that address. **It is YOUR responsibility to let the court and other parties know if you move or want to get mail at a different address.**

WHO IS A “CHILD”?

- “Child” means any child who was born, conceived, or adopted during this marriage or Registered Domestic Partnership (RDP). It also includes any children of both petitioner and respondent who were born prior to the marriage or RDP.

- Children who have been emancipated are not “children” for purposes of these forms. A child is considered emancipated (independent) if the child:
 - Has been declared emancipated by a court order or
 - Is legally and validly married

STEP 1: STARTING YOUR CASE

Keep In Mind:

- Talk to a lawyer if you or Respondent is already in bankruptcy. The court may not be able to proceed with your dissolution until the bankruptcy is resolved.
- **Registered Domestic Partners (RDP)** should see a lawyer if partner support is requested and either party might move out of state. If the new state does not recognize RDPs, you may have trouble collecting partner support.
 - ✓ Note: Only same-sex couples can have Registered Domestic Partnerships
- You may be entitled to part of the respondent’s retirement benefits. See the “Property and Debts” section for important information. You may lose this right if you do not include it in your Petition.

Legal Questions

➤ **Where to File**

- Marriage—you must file in a county where either you or your spouse lives at the time you file. One spouse must have lived in Oregon for at least six months before the Petition is filed.
- RDP—you must file in a county where either you or your partner lives. If neither of you lives in Oregon but your RDP was registered here, you may file in the county where either of you last lived.

➤ **Statutory Restraining Order**

By filing your Petition, you agree to follow the terms of an automatic restraining order. The order is effective on you when you file the Petition and on the respondent once the papers have been served (*see below for service information*). If you don’t follow the order, you can be held in contempt of court and subject to penalties.

- You must attach a copy of the restraining order (called “**Notice of Statutory Restraining Order Preventing the Dissipation of Assets in Domestic Relations Actions**”) to the Summons and serve it on the respondent.
- The statutory restraining order prevents *both parties* from:
 - Dissipating (transferring, selling, destroying, removing, disposing of) real or personal property.
 - Making changes to insurance policies without the agreement of the other party or the court.
 - Making extraordinary expenditures (unusual or high-dollar payments or purchases). Expenditures that are necessary for the safety or welfare of the parties, ordinary business activities, or related to this court case are allowed.

➤ **Name Change**

If you changed your last name when you got married or registered as domestic partners and want to change it back to a former legal name, you can request that on your Petition. **NOTE:** You *cannot* use this form to change your name to a name you have never used before.

- RDPs: If you changed your name through a separate name-change judgment and want to change it back, you should also file for another judgment to do that. Do not rely on the

dissolution judgment to be effective for all purposes, especially federal records like Social Security, Medicare, and immigration. Talk to a lawyer if you have concerns.

Filling Out The Forms

- **You are the “Petitioner” on ALL forms throughout this case, and your spouse or partner is the “Respondent.”**
 - Use full names (first, middle or middle initial, last) and print names the same way on all forms—*first, middle, last*.
- **Mandatory Arbitration**—If the **ONLY** disagreement between you and the respondent is about property, mark in the caption that the claim **IS** subject to mandatory arbitration. (*See “Step 3—Resolving Your Case” for information about arbitration.*)
 - If you disagree about any issue **OTHER** than property, mark that your claim **IS NOT** subject to mandatory arbitration.
- **Do not put Social Security numbers or dates of birth on your Petition.** Social Security numbers and dates of birth must be given to the court but kept confidential from the public and the other party. Use the “Confidential Information Form” (CIF) to protect your identifying information.
 - Fill out one CIF for each party.
 - The Notice of Filing of Confidential Information Form must be served on the respondent with your other documents. See below for information about service.
- **If the other parent does not respond**, you may be able to get a judgment by default (*see “Resolving Your Case,” below, for more information*). As you fill out your Petition, you must include enough information that the respondent knows what you are asking for. If you do not include specific requests, the court will not be able to enter a judgment by default until after you have had amended (changed) paperwork served on the respondent.
 - **NOTE:** this often happens with property awards, spousal support and debt allocations. See the Appendices for specific information.

Fill out the forms listed in step 1, Starting your Case, above.

You may need additional paperwork before the court can enter a judgment.

- ◇ Uniform Support Declaration—See Appendix A
- ◇ Statement of Assets and Liabilities—See Appendix B

Spousal/Partner Support

There are three different categories of spousal or partner support in Oregon:

- **Transitional** support is to help you get work-related education and training.
- **Compensatory** support may be ordered if you significantly contributed to the education, training, job skills, career, or earning capacity of your spouse or partner.
- **Maintenance** may be ordered for your general support.

Either party may request and be awarded support. More than one type of support may be awarded. Any award may be ongoing or for a particular period of time (such as three years, while in school, up to a certain amount, etc.).

If you and Respondent do not agree on support, you need to submit a ***Uniform Support Declaration***.

- **NOTE:** Support is also available to **Registered Domestic Partners**. If either partner might leave the state or declare bankruptcy, you should see a lawyer.

Spousal and partner support are taxable income to the recipient. Support is deductible to the person making payments (payor). RDPs should see a tax professional about support.

Life Insurance

The court can order a party to carry life insurance if that party is ordered to pay spousal/partner support. Life insurance in connection with a support obligation is for the benefit of the person receiving support.

PROPERTY AND DEBTS

You need to tell the court how you want to divide your property and debts. You should be as specific as possible and include everything you and the respondent own or owe. If any property or debts are not included in your judgment, you cannot return to court to make changes later except in very limited circumstances.

If you don't know what to ask for in your Petition, you can request "equitable relief." This means that the judge will decide what is fair if your case goes to trial. You should talk to a lawyer if you intend to do this.

Unless your spouse/partner agrees and you both sign the general judgment, you will probably have to serve new documents on the respondent before you can get a final judgment if:

- you are not specific in your Petition about how you want the court to divide property and debts (including if you asked for equitable relief)

or

- what you put in the Judgment is different from what you asked for in the Petition.

You may be entitled to part of the respondent's retirement benefits (including pensions). If you do not address retirement benefits in your judgment, you will lose the right to claim your share except in very limited circumstances. These forms will not *divide* a party's retirement benefits. Talk to a lawyer first if you want to claim a portion of the respondent's retirement benefits.

STATEMENT OF ASSETS AND LIABILITIES

If your case goes to trial, you will need a Statement of Assets and Liabilities.

Have your documents reviewed

You may want to have your documents reviewed before you file. For information about how to find a lawyer, call the Oregon State Bar at the numbers on page 2. If you are low-income, you might be able to get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program. The local Legal Aid office might review documents for free if you qualify. You may make an appointment to have the courthouse facilitator review your documents for completeness. Facilitators are not lawyers and cannot give legal advice.

Make copies

Make one copy of **all** of the completed forms for your records. The court clerk will make copies to be served on the other party when you file your Petition.

STEP 2: FILING AND SERVICE

File your forms

File all of the **original** forms in step 1 above. The clerk will give you a **case number** when you file. Put the case number on all copies and originals.

You have to pay the filing fees when you file your papers. Go to courts.oregon.gov/Washington for the current filing fee schedule.

The clerk will give you some papers. A copy of these papers must be included with the Petition that you have served to Respondent (see below regarding service). **NOTE:** You are not required to serve the List of Documents Parties May Have to Give Each Other (*ORS 107.089*) on Respondent, but if you do, then you both have to provide the listed documents to the other party.

SERVICE

You must officially notify Respondent that you have filed a case. This is called “service.”

Acceptance of Service—If it is safe for you to give the respondent the papers yourself, you can use an Acceptance of Service form. If the respondent signs an Acceptance of Service, no other kind of service is required. Signing the Acceptance of Service does *not* mean the respondent agrees with anything in your Petition, only that he or she received the papers. **You must file the documents listed in step 1 BEFORE you give the copies to the respondent.**

Formal Service

If the respondent does not sign the **Acceptance of Service**, you must use another method. There are four ways you can serve. Service must be done **after** your Petition is filed.

****3 CRITICAL POINTS****

1. If you serve before you file, you will have to serve the papers again.
2. You **CANNOT** serve the papers yourself unless Respondent signs an Acceptance of Service.
3. If Respondent has a lawyer, you should also mail a courtesy copy of the papers to the lawyer.

1. **Personal Service:**

- a. **By Sheriff or Private Process Server:** Take a copy of your papers to the sheriff’s office in the county where Respondent is located and have a sheriff’s officer serve the papers. The sheriff’s office charges a fee for service. You can also hire a private process server of your choice.
- b. **By a Non-Party:** Have a competent* person 18 years or older who is a resident of Oregon **and who is not a party** to the case (Petitioner or Respondent), **nor** the lawyer of a party, serve the papers. The server cannot be an employee of any party. If the respondent is outside of Oregon, the server must be a resident of the state where the respondent is. If you have safety concerns, have the sheriff perform service.

*competent means a person who can understand, remember, and tell others about an event.

A Certificate of Service must be filed with the court by the person who serves the respondent. The certificate must include the date of service and the name of the person served.

2. **Substitute Service:** The process server may leave the papers at the respondent's residence (where he or she normally lives) with someone 14 years or older who lives there. The process server must also mail a copy of the papers (with a statement of the date, time, and place that the papers were served on the other resident) to the respondent by first class mail. Make sure the process server completes a Certificate of Service. The date of service is the day the first class mailing is put in the mail.
3. **Office Service:** The process server may leave the papers with someone *in charge* of the respondent's office or normal workplace. The process server must also mail a copy of the papers (with a statement of the date, time, and place that the papers were served on the person in charge) to the respondent by first class mail. Make sure the process server completes a Certificate of Service. The date of service is the day the first class mailing is put in the mail.
4. **By Mail:** First, the process server must send the papers to the respondent's home or business address by first class mail. Second, the server must send a copy by certified mail, return receipt requested. The process server **must** file proof of service with the court, including the signed green card, date of receipt, and item number along with a Certificate of Service. **If the green card is not returned or if someone other than the respondent signed for it, then service by mail was not effective and you must try another type of service.** The date of service is the day the respondent signs the returned green card.

If you are not able to have Respondent served by any of the methods listed above, you may ask a judge to allow you to use another service method. Alternative Service forms to make this request are available online at courts.oregon.gov/Washington.

STEP 3: TEMPORARY ORDERS

You may ask the court to make temporary orders after you file the Petition. Temporary orders are effective as soon as a judge signs the order. They last until a judge changes the terms, signs the General Judgment, or dismisses the case. For example, either party may request an order for spousal/partner or an order requiring one party to move out of the family home. To make any of these requests, you must file a "motion" (request) asking the court to do what you want. You may need a lawyer to file these requests or some forms are available from the courthouse facilitator.

- **NOTE:** The General Judgment may affect earlier temporary orders done by Limited Judgment. Talk to a lawyer if you have questions.

STEP 4: RESOLVING YOUR CASE

There are three ways your case can be resolved: by agreement between the parties, by default if the respondent doesn't respond, or by a judge in a trial.

By Agreement

It is always better to resolve issues yourselves, since you know what's important to you. Once the case goes to a judge, it is out of your control. If you can't resolve the issues on your own, you will be required to mediate before you see a judge.

Arbitration: If you disagree only about how to divide your property and debts, the court will send you to an arbitrator. An arbitrator is appointed by the court to meet with both parties and their lawyers (if any) and to make a decision about how property should be divided. Both parties are required to pay for this service. If either of you disagrees with the arbitrator's decision, you can ask the court for a trial.

Trial requires payment of additional fees. If a trial is not requested, the arbitrator's decision is final unless both of you agree on another resolution.

If you and Respondent have agreed to all of the issues, fill out and file:

- **Declaration in Support of Judgment**
- **General Judgment of Dissolution of Marriage/RDP**

Note: The Judgment must be signed by both parties before being submitted to the court.

By Default

Respondent has 30 days to respond to your Petition. The time starts running from the day *after* the date of service. Day one is the day after the party was served. If day 30 falls on a weekend or holiday, Respondent has until 5:00 p.m. on the next day the court is open to file a response. The response must be in writing and must be filed with the court and mailed to you. If the respondent does not file a response within 30 days, you may request an Order of Default.

Default means that you are asking the judge to award you what you asked for in your Petition because the respondent did not file a response. NOTE: If the respondent has given you written notice that he or she intends to appear, you must give written notice that you intend to apply for a default order at least 10 days before you file your motion. A form for notice is available from the courthouse facilitator. File your notice with the court and mail a copy to the respondent.

The judge may not grant a default if the respondent is incapacitated, a minor, a financially incapable person, a protected person, or a respondent in a fiduciary protective proceeding, as defined by ORS 125.005.

You must also show that the respondent is not in active military service before the court can enter an order of default. This is part of the Ex Parte Motion for Order of Default and Declaration in Support. If the respondent is in active military service, you cannot get an order of default unless the service member waives protection under the Servicemembers Civil Relief Act (SCRA). This law has strict rules about what "active military service" means. This protection does not apply to all service members at all times.

If the respondent is in the military, you should see a lawyer before trying to get an order of default. If a default is not done properly, the respondent can re-open the case after returning from service. **Be aware** that if you knowingly make false statements about the respondent's status, you may face both federal and state penalties.

If you know the respondent is *not* in the military, you must state *facts* that explain how you know.

If you have the respondent's Social Security Number or date of birth, go to the Department of Defense website dmdc.osd.mil/appj/scra/scraHome.do to find out if the respondent is in active service. This site can give you a free statement of service status that you can print out (called a "certificate of service" on the website). Attach this statement, or a printout of the screen, to your motion. You can also call 571.372.1100 for military verification. Put the date and the name of the person you spoke with on your motion.

If you don't know whether the respondent is in the military and have checked the website, or don't have the necessary information, mark "I am unable to determine whether this person is in military service" and add any facts that you *do* know. The judge will decide whether to grant the default.

➤ **If Respondent is in the military**

If Respondent is in active military service of the United States and has not responded to the Petition, the court won't go ahead with your case until one of the following things happens:

- (1) Respondent is no longer in active military service,
- (2) Respondent waives the right to avoid default in writing, or
- (3) the judge holds a special hearing in your case.

Talk to a lawyer if Respondent will not sign the waiver and you do not want to wait for military service to end. The SCRA rules are technical and complex. Contact the Oregon State Bar for help (contact information is on Page 2).

Requesting a Default—fill out the following forms:

- **Ex Parte Motion for Order of Default and Declaration in Support**
- **Order on Motion for Default**
- **Declaration in Support of Judgment**
- **General Judgment of Dissolution of Marriage/RDP**

Read your Petition CAREFULLY! The Declaration in Support of Judgment allows you to note any information that has changed since you filed the Petition. Read **each** section of the Petition you filed and note any changes in the spaces provided. You must complete the rest of the Declaration in all cases.

File the originals with the court any time *after* 30 days from the date of service. You must file the Motion for Order of Default by the **91st day** after you filed the Petition (NOT the proof of service!). If not, your case may be dismissed.

The court will send you notice when your judgment has been entered.

By Trial

Conferences with the Judge

The Court may schedule a status conference if a response has been filed. These meetings usually take place with a judge with both parties present, along with their lawyers (if any). You must attend any conferences that are scheduled unless you have received permission from the judge not to attend. At the conference, the judge may talk to you about how your case is going to be handled, consider requests for temporary orders, or set future court dates.

NOTE: You must give the other party an opportunity to review the judgment before you submit it to the court.

THE JUDGMENT

Regardless of how you resolve your case, a General Judgment of Dissolution of Marriage/RDP must be signed by a judge. One of you may be ordered to fill out the judgment form and give it to the court to be signed.

The judgment finalizes your dissolution and contains all of the issues decided in the mediation, arbitration, trial, or agreement.

- **NOTE:** The General Judgment may affect earlier temporary orders done by Limited Judgment. Talk to a lawyer if you have questions.

If the respondent DID NOT file a response, the information you fill out in the final judgment must be *exactly* the same as what you requested in the Petition.

If the respondent DID file a response, the information should be the *exactly* the same as what was decided in mediation, arbitration, hearing, trial, or through your agreement. All parties must review the Judgment before you submit it to the court. You must send the Judgment document along with the Notice of Proposed Judgment or Order to the respondent.

Other parties can object to the Judgment. If that happens, you have to discuss the objections and attempt to resolve them before you submit the Judgment to the court. If you are not able to resolve the objections, the objecting parties can either send you a written statement explaining their objections, or they can submit their objections directly to the court. You must complete the Certificate of Readiness section of the Judgment to tell the judge whether there are outstanding objections.

If the respondent is responsible for preparing the judgment, the respondent must send the proposed judgment to you before submitting it to the court. Then you can review it and object to it within seven days of the date it was sent to you. If you and the respondent are not able to resolve your objections after reasonable efforts, you can either send a written explanation of your objections to the respondent or directly to the court. You must notify the respondent of your intentions so that they can advise the judge that there are outstanding issues. The judge may make a decision after reviewing the documents, or the court may contact you with further information.

If you are responsible for preparing the final judgment, make a copy for yourself and one for Respondent (unless you got an Order of Default). File the original with the court.

Your dissolution is finished and effective the date the Judgment is signed by the judge. NOTE: the terms of your judgment are not enforceable until the court enters the judgment. You will receive a Notice of Entry of Judgment.