

DOMESTIC RELATIONS TRIALS

In the Lane County Circuit Court

Two different types of trials are available in the Lane County Circuit Court for resolving domestic relations cases like divorce, separation, unmarried parent, and modification cases about child custody, parenting time, and child support. The two types of trials are called an Informal Domestic Relations Trial (IDRT) and a Traditional Trial. **IMPORTANT! Each type of trial has pros and cons. Please carefully review the following information about these two types of trials.** You will need to choose the type of trial that you think is best for your case.

What is an Informal Domestic Relations Trial (IDRT)?

In an Informal Domestic Relations Trial (IDRT), you and the other person speak directly to the judge about the issues that are disputed in your case. You are not questioning the other side and they are not questioning you. Only the judge asks questions of each person. This happens even if you or the other person has a lawyer. Usually, other witnesses are not allowed to testify. You can, however, ask the court to let an expert witness testify, such as a doctor, counselor, or custody evaluator.

The Rules of Evidence do not apply in an IDRT. This means there is more flexibility on what you and the other person can tell the judge about your case. Both you and the other person can give the judge any documents or papers you want the judge to review. The judge will decide the importance of what you and the other person say and the importance of the papers you each give to the judge. In an IDRT, lawyers are only allowed to:

- say what the issues in the case are,
- respond when the judge asks if there are other areas the person wants the court to ask about, and
- make short arguments about the law at the end of the case.

An IDRT is a voluntary process, and will be used only if both people involved in the case agree to it. Both people must complete a form that says they want to use an IDRT. If both people don't complete a form choosing an IDRT, then a Traditional Trial will be used.

What is a Traditional Trial?

In a Traditional Trial, lawyers or people who represent themselves usually present information to the judge about the issues that are disputed in your case by using a question and answer format. Each person may be a witness, and each person is allowed to have other witnesses testify. After one side asks questions of his or her witnesses, the other side gets to ask follow-up questions of the other person and their witnesses. Generally, the judge asks few, if any, questions.

The Rules of Evidence do apply in a Traditional Trial. This means there are limits on what you, the other person, and your witnesses can tell the judge about your case. There are also limits on the documents and papers that you, the other person, and the witnesses can give the judge to review. If you or the other person has a lawyer in a Traditional Trial, the lawyer will make opening statements and closing arguments to the judge and will ask questions of you, the other person, and witnesses. If you represent yourself, you will be the one to make opening statements, closing arguments and questioning witnesses.



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Per [UTCRC 8.120](#), the parties must select an Informal Domestic Relations Trial within 14 days of the case being at issue. The parties must file a [Trial Process Selection and Waiver Form](#).

Why Would I Choose an Informal Domestic Relations Trial?

- 1) Fewer rules apply, so Informal Domestic Relations Trials may be easier for people who are representing themselves.
 - 2) You are comfortable speaking in court and explaining your circumstances and the facts to the judge but you may benefit from having a lawyer assist you in a limited way.
 - 3) Both you and the other person can speak directly to the judge about the issues in dispute without interruption or objections from the other person or the other person's lawyer. The other person is not allowed to ask you questions.
 - 4) There may be increased flexibility in what you or the other person can say in court. For example, you both may be able to discuss conversations involving other people who are not in court.
 - 5) Rules of Evidence do not limit what documents or papers you or the other person can give to the judge for review. You both can give documents you may think are important to the judge.
 - 6) Informal Domestic Relations Trials may be shorter. Therefore, a lawyer may be able to prepare in a shorter amount of time, so the cost to have a lawyer represent you may be less.
 - 7) Your case is relatively simple. You believe you can effectively get to the point of addressing the issues in your case.
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Why Would I Choose a Traditional Trial?

- 1) Rules and formal procedures are in place to establish a set manner for the court to review evidence. You or your lawyer may feel more comfortable, or your case may benefit from this structure given the complexity of your case.
- 2) You are uncomfortable speaking and explaining your circumstances and facts to the judge, and may benefit from having a lawyer represent you. You may also represent yourself.
- 3) The question and answer format may allow additional evidence to come to light regarding issues in dispute in your case, for example by having the opportunity ask the other person or witnesses follow-up questions.
- 4) The Rules of Evidence limit what you, the other person, and witnesses say in court, as well as the documents and papers that can be given to the judge for review.
- 5) You may bring any witnesses you think are important to your case. The judge will evaluate credibility of your witnesses when he or she has the chance to see and hear the witness in person.
- 6) Your case is complicated. You and the other person own a business or have stocks, investments, significant real property or retirement funds to divide.

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How an Informal Domestic Relations Trial Works:

- 1) When the Informal Domestic Relations Trial begins both people will be asked if:
 - they understand the rules and how the trial works, and
 - they agreed to participate in the IDRT voluntarily.
 - 2) The person that started the case will speak first. He or she swears to tell the truth and may speak about anything he or she feels is important to the case.
 - 3) He or she is not questioned by a lawyer. Instead, the judge will ask questions in order to get clear information to make a decision in your case.
 - 4) If the person talking has a lawyer, then that lawyer may ask the judge to ask their client questions on specific topics.
 - 5) This process is repeated for the other party in the case.
 - 6) If there are any experts, the expert's report may be given to the judge. Either person may also ask to have the expert testify and be questioned by the judge or the other person.
 - 7) Each person may submit documents and other evidence that they want to the judge to see. The judge will look at each document and decide whether it is trustworthy and should be considered.
 - 8) Each person may briefly respond to comments made by the other person.
 - 9) Each person or their lawyer may make a short legal argument about how the laws apply to their case.
 - 10) Once all the above steps are complete, the judge states their decision. In some cases, the judge may give the ruling at a later date.
 - 11) Any of the above steps may be modified by the judge in order to make sure the trial is fair for both people.
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How a Traditional Trial Works:

- 1) Each person or their lawyers make an opening statement, telling the judge about the case and what result they want and why that result would be fair. The person who started the case goes first.
- 2) All witnesses, including each person in the case, will be required to swear to tell the truth before being asked questions.
- 3) The person who started the case calls all of their witnesses, one at a time. That person or their lawyer asks the witnesses questions and may give the judge documents or other evidence. The other person or their lawyer is then given a turn to ask the witnesses questions. The people in the case will also usually be witnesses.
- 4) This process is repeated for the other person.
- 5) Both people, or their lawyers, make a closing argument, summarizing the evidence (statements of witnesses and documents), explaining how the witnesses support the result they want, and telling the judge what he or she thinks is most important for the judge to consider in making a decision.
- 6) Once all the above steps are complete, the judge states their decision. In some cases, the judge may give a ruling at a later date.

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What Both Trials Have in Common:

- 1) You have to decide which type of trial you want to have. Both people must agree to have an Informal Domestic Relations Trial. The case will be scheduled for a traditional trial if any of the following circumstances exist: a) both people want a Traditional Trial, b) if only one person wants a Traditional Trial, or c) if a party or parties fail to file a waiver form selecting the Informal Process.
- 2) Before the trial starts there are several documents that each person **must** prepare and give to the judge and the other person:
 - In a divorce or separation case, a list of everything you and your spouse or partner own and debts you both owe, called “A Statement of Assets and Liabilities.” If possible, it is best to give the judge one list, even if you do not agree on what each item is worth or who should get it.
 - If there are children and child support is an issue or if spousal support is an issue, a Uniform Support Declaration is required.
 - If there are minor children, a proposed parenting plan
- 3) The Judge will consider the factors that the law requires in making a decision about your case.
- 4) After the trial is over, the judge may direct one person (or their lawyer if they have one) to draft a final judgment in writing. The final, written judgment must contain all of the decisions the judge made at the end of the trial. The case is not over until the judge receives the final written judgment and signs it.

RESOURCES

For more information about going to court, go to www.courts.oregon.gov/familylaw and click on the “Self-Help” link.

For information about finding a lawyer, go to <http://www.osbar.org> and click on the “For The Public” link.



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