

In the Matter of Adopting Out-of-Cycle)	CHIEF JUSTICE ORDER
UTCR to Establish a Written Procedure)	No. 03-076
for Waiver of New Marriage Surcharge)	
Fee in Exigent Circumstances Under)	ORDER ADOPTING OUT-OF-CYCLE UTCR
Section 1, Chapter 565, Oregon Laws)	ON PROCEDURE TO WAIVE NEW
2003, and Adding the Change and)	MARRIAGE FEE AND PLACING THE
Related Form For Comment in the)	ADOPTED CHANGES IN THE CURRENT
Current UTCR Cycle)	UTCRCYCLE FOR PUBLIC COMMENT

Whereas, chapter 565, Oregon Laws 2003, (“this Law”, 2003 Senate Bill 391) establishes a \$25 fee to be collected when a marriage is solemnized at certain times by tax, appellate, or circuit judges of this state, and

Whereas, this Law becomes effective January 1, 2004, and

Whereas, this Law specifically allows me, as Oregon’s Chief Justice, to establish a written procedure for waiver of the fee in exigent circumstances which are not defined but which the statute states specifically include, but are not limited to, indigency of the parties to the marriage, and

Whereas, my adoption of a Uniform Trial Court Rule (UTCRC) will allow implementation of the fee waiver on the effective date of this Law, as intended by the legislature; and

Whereas, the attached changes to the UTCRC accomplish the purpose of this Law and allow the adopted changes to receive public comment in this year’s UTCRC cycle so that any appropriate improvements to the rule could be implemented as early as August 1, 2004; now, therefore,

I HEREBY ORDER, pursuant to ORS 1.002 and 106.120(4)(d) as amended by section 1, chapter 565, Oregon Laws 2003, the following:

1. I adopt the new UTCRC 8.100 shown in Attachment A to this CJO and the form related to that UTCRC shown in Attachment B to this CJO.
2. I direct the Office of the State Court Administrator to make reasonable publication of the attached adopted changes to the UTCRC so that the public may submit comment on the changes and propose changes to the UTCRC Committee for review and recommendation to me.
3. I place the attached adopted UTCRC changes on the regular spring agenda (for the meeting currently scheduled for April 9, 2004) of the UTCRC Committee to allow the committee to review public comment and proposed changes and make recommendations that could take effect as early as August 1, 2004.

This order takes effect immediately, and this UTCRC and its related form shall be effective January 1, 2004.

DATED this 30th day of December, 2003

Wallace P. Carson, Jr.
Chief Justice

ATTACHMENT A to CJO 03-076

8.100 PROCEDURE FOR WAIVER OF \$25 MARRIAGE FEE UNDER ORS 106.120.

- (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.

ATTACHMENT B to CJO 03-076

UTCRC 8.100 FORM TO REQUEST WAIVER OF \$25 FEE (ORS 106.120) WHEN MARRIAGE HANDLED BY A COURT

A. WHEN TO USE THIS FORM. There is an additional \$25 statutory fee for people who want to get married by a judge of a circuit court, an appeals court, or the tax court if the marriage:

- would take place during normal working hours, excluding holidays,
- would take place in a court facility or county clerk’s office; or,
- would involve more than a minimal amount of court or clerk staff time or other resources.

If you want to get married but think you shouldn’t pay the fee, this form is how you ask a circuit court judge to waive that fee. A judge can waive the fee if you ask and the judge believes there is good reason why you shouldn’t have to pay the fee.

B. HOW TO USE THIS FORM: The following are the three (3) steps necessary to use this form:

1. STEP 1. You must fill in information asked for in part “C” of this form and read, fill in, and sign part “D” of this form as required.
2. STEP 2. You must take the completed form to an Oregon Circuit Court judge and ask the judge to approve your request. That judge you go to MUST be a judge of the circuit court serving the county where the wedding will be performed. You cannot ask more than one judge every 30 days.
3. STEP 3. IF the circuit judge grants your request to waive the fee, the judge will sign the form below and so indicate on the form. Then the judge will give you a copy of the form. Within 30 days after the judge has signed the form showing the judge granted your request, you can get married without paying the fee by giving the judge who marries you the copy of the form you were given by the judge who granted your request. If you are asked to pay the fee by a county clerk when you get a marriage license, you can show them a copy of the form and will not have to pay the \$25 fee.

C. INFORMATION TO COMPLETE (STEP 1):

<p>1. Information about 1st person wanting to marry (print or type): a. Name and Residence:</p> <p>First _____ Middle _____ Last _____ Street _____ City _____ State _____ Zip Code _____</p> <p>b. _____ Gender _____ Age _____ Birth Date: _____ Month _____ Day _____ Year _____</p>	<p>2. Information about 2nd person wanting to marry (print or type): a. Name and Residence:</p> <p>First _____ Middle _____ Last _____ Street _____ City _____ State _____ Zip Code _____</p> <p>b. _____ Gender _____ Age _____ Birth Date: _____ Month _____ Day _____ Year _____</p>	<p>3. Information about court where marriage will be/has been arranged:</p> <p>Court Name _____ County where court is _____ City where court is _____ State, Zip Code for Court _____ Judge who will perform ceremony (if known) _____</p>
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D. (STEP 2) We are the people shown in boxes C1 and C2 and say the following to the court:

1. We would like to get married, but believe that we should not have to pay the \$25 fee under ORS 106.120 for the following reason (state reason): _____

2. Within the past thirty (30) days, neither of us have requested another judge to waive this fee.
3. We, the undersigned, each knowingly give the information and make the representations in this form under an oath or affirmation attesting to the truth of what is stated and subject to sanction by law if we knowingly provide false information to the court.

Date _____ Signature (person in box 1 above) _____
Date _____ Signature (person in box 2 above) _____



COURT ORDER

As a Judge of the Circuit Court, _____ County, State of Oregon, I order that this request to waive the \$25 fee under ORS 106.120 be: granted **OR** denied.

Date: _____ Judge’s Signature: _____

Print or type judge’s name: _____

NOTE: This waiver is only valid for 30 days after the judge signs.