

Temporary Relief Request
[packet not intended for modifications or with post-judgment filings]
Linn County SLR 8.005

Notice about these instructions and forms.

*These instructions are not a complete statement of the law. They cover basic procedure for requesting temporary relief during the pendency of a case. **These forms are not intended to be used during a modification proceeding.** Neither the Court nor Court Staff is permitted to give legal advice. For legal advice you should speak with a lawyer. For additional information visit your local law library and/or refer to the "Additional Resources" section on the last page of these instructions.*

The Linn County Circuit Court has local rules, programs and procedures that may not be explained in these instructions. Please refer to the "Linn County Supplementary Local Court Rules."

If you have a question about a form you cannot locate, you should consult your local court which may have the form available. These forms and procedures apply only in Linn County.

STEPS and FORMS

Step 1. Starting your Request for Temporary Relief by Motion – Page 2

- ☐ Ex Parte Motion for Order to Show Cause Regarding Temporary Relief SLR 8.005 and Declaration
- ☐ Order to Show Cause Regarding Temporary Relief SLR 8.005
- ☐ Uniform Support Declaration (required when child support or spousal support is requested)

Step 2. Serving the Other Party – Page 3

- ☐ Certificate of Service

Step 3. Waiting for a Response or Filing Supplemental Declarations – Page 3

- ☐ Supplemental Declaration (optional if a response is filed)

Step 4. Waiting for a Response and Finalizing Your Request for Temporary Relief – Page 4

By Default:

- ☐ Ex Parte Motion for Order of Default and Declaration
- ☐ Order of Default
- ☐ Limited Judgment regarding Temporary Relief SLR 8.005
- ☐ Order for Temporary Relief SLR 8.005

Attachments: Child Support Worksheet and/or Standard Linn County Parenting Plan

By Opinion Letter (Ruling):

- ☐ Limited Judgment regarding Temporary Relief SLR 8.005
- ☐ Order for Temporary Relief SLR 8.005
- ☐ Notice of Proposed Judgment/Order (use if applicable)

Attachments: Child Support Worksheet and/or Standard Linn County Parenting Plan

When filling out the forms, follow these directions

- Please make certain that all sections are complete. The document must be readable. If the document is handwritten, please print.
- The case heading is your case number and the parties to the court case.
- This motion will need to be filed with a Petition or in an existing case, prior to a General Judgment. The clerk will give you a case number when you file your papers. Make sure to put this number on all copies. If your case is already open and pending a General Judgment, use the same case number, petitioner and respondent.
- 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 and often check in. If you use a contact address, the court will assume that you will receive all notices sent to that address. Be aware however that if you do not receive your mail and the court sends you notice you will be deemed to have received notice whether you receive your mail or not.

STEP 1: STARTING YOUR REQUEST

This type of request starts with a “motion” which lists the items you are asking the court to order. The Limited Judgment and the Order for Temporary Relief are the documents which finalize your request.

Parenting Plan

The Oregon Judicial Department and the State Family Law Advisory Committee have created a “***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://courts.oregon.gov>

Linn County Standard Parenting Plans are available for a fee in room 107 of the Linn County Courthouse or for no fee at <http://courts.oregon.gov/courts/linn>.

Child Support

Information about child support, including the Guidelines and Worksheets are located at <http://justice.oregon.gov/guidelines>. If child support is requested, a **Uniform Support Declaration** MUST be completed and filed with your **Ex Parte Motion** for Order to Show Cause Regarding Temporary Relief otherwise, the Judge may not allow the support request.

Spousal Support

Spousal support may be requested in the **Ex Parte Motion** for Order to Show Cause Regarding Temporary Relief. If support is requested, a **Uniform Support Declaration** MUST be completed and filed with your **Ex Parte Motion** for Order to Show Cause Regarding Temporary Relief, otherwise, the Judge may not allow the support request.

Have your documents reviewed

You may have your documents reviewed by either a lawyer or the Family Court Assistance Office. You should obtain legal advice if either of you have a retirement account or have **other complicated issues**. 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. You may also schedule an appointment with the Family Court Assistance Office to review your documents by calling 541-704-3479 or by emailing linnfamilycourt@ojd.state.or.us.

Make copies

Make two copies of your filing; one copy is for your records and one copy will need to be served on (deliver to) the other party.

File the forms

File all of the original forms that are listed above with the court clerk.

Check Back

The **Order to Show Cause Regarding Temporary Relief** must be signed by a judge before you serve the other party. Check back with the court in 7 to 10 days to see if a judge signed the **Order to Show Cause Regarding Temporary Relief**. If the order was signed, you will also need to know which judge signed the **Order to Show Cause Regarding Temporary Relief**, the spelling of the judge's name, and the date the **Order to Show Cause Regarding Temporary Relief** was signed. You may check the status of your case at www.court.oregon.gov/linn, click on *Calendars & Records*.

You may purchase service copies from the copy center at (541) 812-8770. If you already have your copies, you may conform the **Order to Show Cause Regarding Temporary Relief** by placing the symbols “/s/” on the judge's signature line, along with the name of the judge and fill in the date that the order was signed. You are now ready to have the other party served.

STEP 2: SERVING THE OTHER PARTY

Have the Other Party Served

You are required to have the other party served (have papers delivered) with (a) copies of the **Ex Parte Motion and Order to Show Cause Regarding Temporary Relief** and the **Uniform Support Declaration** (if applicable).

If the other party is willing to accept service, they must fill out the **Acceptance of Service** form (available online at <http://courts.oregon.gov/courts/linn> or from the cashier in room 107 at the Linn County Courthouse), sign it in front of a notary or court clerk, and then file it with the court. It is not necessary that the other party agree with what is in the papers, just that they are 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 the other party 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. A **Certificate of Service** must be filed with the court after service has been made. Make certain that all of the documents given to the other party are listed in the Certificate of Service.

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,” “office service,” and “service by mail” — 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 living at the other party's home who is at least 14 years old, AND mailing of the documents to the other party's home address by first class regular 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, AND mailing of the document to the home or business address of the other party by first class regular mail.
Service by Mail (Return Receipt Requested)	Deliver by mailing a true copy of the documents to the respondent by first class mail AND by mailing the documents certified or registered, return-receipt requested, or by Express mail, the <u>other party</u> is REQUIRED to sign the “return receipt.”

STEP 3: WAITING FOR RESPONSE OR FILING SUPPLEMENTAL DECLARATIONS

NOTE: Linn County Local Court Rule 8.005 gives the other party 14 days to respond to your motion, but the 14 days cannot expire prior to the summons response deadline. The time starts running from the date of service.

If the other party is in the Military

If the other party is in the active military service of the United States and has not responded to the **Ex Parte Motion for Order to Show Cause Regarding Temporary Relief**, 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) the other party is no longer in the active military, (2) the other party 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 Linn County Court, room 107 or online for no cost at <http://courts.oregon.gov/courts/linn>. You may need to talk to an attorney if your spouse is not willing to sign the waiver.

Check for Response

The other party 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 14 days from the date of service, but no earlier than the summons response deadline (30 days). You may check the status of your case at www.court.oregon.gov, click on *START (middle of the page)*. 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/order giving you what you asked for in your **Ex Parte Motion for Order to Show Cause Regarding Temporary Relief**, with no input from the other party. If a response has been filed, you will not be allowed to take a default and the judge will give you further instructions in an opinion letter.

Supplemental Declaration

After a Response and Supporting Declaration is filed and mailed to the other party, the parties have 10 days from the date of mailing to file any Supplemental Declarations. Please refer to Linn County SLR 8.005

STEP 4: FINALIZING YOUR REQUEST FOR TEMPORARY RELIEF

No Response Filed; Requesting a Default, filing the Limited Judgment or Order for Temporary Relief

To ask the court to enter a default, you must fill out the following forms:

- *Ex Parte Motion for Order of Default; and Declaration*
- *Order of Default*
- *Limited Judgment re: Temporary Relief (Money issues only)*
- *Order for Temporary Relief (other temporary relief ordered)*

You may file the original with the court any time after 14 days has expired from the date of service (but no earlier than the Summons Response deadline - 30 days).

Opinion Letter

An opinion letter will be written by the Judge. This opinion letter will include the Judge's ruling after the review of the filed motion and affidavits. Failure to file a Declaration or a Uniform Support Declaration, where required, may result in denial of relief.

Requesting a hearing after the opinion letter

A hearing to review the custody and parenting time ruling may be requested within ten (10) days after the Court's opinion letter. Please refer to the Linn County Supplemental Court Rule 8.005.

Forms Required to Finalize Your Motion

The following form is required to finalize your case:

- *Limited Judgment re: Temporary Relief (money issues only)*
- *Order for Temporary Relief (non-money issues)*

You may also need to file the following additional forms, depending on your circumstances.

- Child Support Worksheets, Parenting Plans.

Limited Judgment and Order for Temporary Relief

The Limited Judgment re: Temporary Relief or the Order for Temporary Relief finalizes the judge's ruling (or your request if there was not a response). This document is usually prepared by the party who filed the motion.

A Limited Judgment re: Temporary Relief form should be used when there is money owed between the parties.

An Order for Temporary Relief form should be used for all other temporary issues awarded.

If the other party did not file a response, the information you fill out in the Limited Judgment re: Temporary Relief or the Order for Temporary Relief should be the same as what you requested in your **Ex Parte Motion for Order to Show Cause Regarding Temporary Relief and Declaration**.

If the other party filed a Response and Declaration, the information should be the same as what was in the judge's ruling/opinion letter.

Filing Your Judgment/Order - Certificate of Readiness under UTCR 5.100

1. Your proposed judgment/order may be filed when you have mailed a copy of your judgment and the *Notice of Proposed Judgment or Order* to all parties entitled to service. **And:**
 - No objection has been sent to you within the 7-day time frame.
 - If you received objections that you could not resolve with the other party despite reasonable efforts to do so, you will have filed with the court a copy of the objections you received and indicated which objections remain unresolved.
2. You may file your proposed judgment if service to the other party **is not** required under UTCR 5.100 (1)(c) because:
 - The other party has been found in **default** or an order of default is being requested with your proposed judgment.
 - Your judgment is submitted **ex parte** as allowed by statute or rule.
 - Your judgment is being submitted in **open court** with all parties present.
 - Each party affected by this judgment has **stipulated** to or **approved** the judgment, as shown by the signatures on the judgment, or by written confirmation sent to you.

ADDITIONAL RESOURCES

Oregon Judicial Department - Family Law Forms and Resources: <http://courts.oregon.gov>

Oregon State Bar <http://osbar.org>
Lawyer Referral 1-800-452-7636
Modest Means (low income) " "
Tel-law 1-800-452-4776

Child Support Program: 1-800-850-0228;
<http://doj.state.or.us/child-support>

Division of Child Support: (541) 967-2028
Worksheet – www.justice.oregon.gov/guidelines

Legal Aid Service of Oregon (must have low income)

Child Support Help Line 1-800-383-1222
Local offices: Look on the "Local Family Law Practices and Programs" form for your court, the telephone book, or in the "legal links" section of the Oregon State Bar's website at <http://osbar.org>

Domestic Violence Help 1-800-799-SAFE