

PARENTING TIME ENFORCEMENT

These forms will help you ask the court for an order to enforce or change a parenting time judgment or order from a court. There are multiple ways to enforce or change custody and parenting time judgments or orders. Talk to a lawyer about other options you may have.

Note about custody: If you want the court to change orders related to custody and the judge grants your *Motion for Order to Show Cause* in this action, you will have to file an additional motion to modify your judgment or order. Go to www.courts.oregon.gov/forms for forms to file a motion to modify your judgment.

If you do not have a judgment or order awarding custody or parenting time, do not use these forms. Go to www.courts.oregon.gov for the appropriate forms or talk to a lawyer.

Important Contact Information

Oregon Judicial Department - www.courts.oregon.gov

Oregon State Bar Lawyer Referral Service - www.oregonstatebar.org

Phone: 503.684.3763 or toll-free in Oregon at 800.452.7636

Where to File

For Oregon Orders or Judgments – File in the county where the judgment you are enforcing was issued

Non-Oregon Orders or Judgments - File in the Oregon county where either party or any of the children live. Be aware that Oregon may not have authority to make permanent changes to your judgment or order.

If your order was issued by a court other than an Oregon Circuit Court, you can (but don't have to) register your order in Oregon first. You may need to register your judgment or order in Oregon if you:

- want to make changes to your child support order *or*
- expect serious problems with enforcement or ongoing interstate conflicts

Go to www.courts.oregon.gov/forms for forms to register a non-Oregon judgment. Talk to a lawyer for more information.



Step 1: Filling out the Forms

- **MAKE SURE YOU COMPLETE THE COUNTY NAME WHERE YOU ARE FILING AT THE TOP OF THE FIRST PAGE OF EACH FORM!**
- **Parties:** The parties are the same as they are on your original case
- **Case Number**
 - Oregon judgments or orders: the case number is the same as it is on your original case

- Non-Oregon judgments or orders: the court will assign your case a new number when you file your *Petition*
- **Copy of judgment or order:** Attach a copy of the judgment or order you are enforcing. If you are enforcing a judgment or order from a non-Oregon court, you must attach a certified copy of the judgment or order (you can use a photocopy of the certified copy).

Fill out the ***Ex Parte Motion or Petition for Order To Show Cause Re: Parenting Time Enforcement***



Have your documents reviewed

You may have your documents reviewed by a lawyer or a court facilitator (if your court has one) before you file. For information about how to find a lawyer, call the Oregon State Bar at the number on Page 1. 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 call your local Legal Aid office. Facilitators may be available for free in your court, but you may have to make an appointment. Call your court for information.



Make a copy of all forms for your records. You will also need copies for service. See Step 2 for information about service.



File the original *Motion or Petition* with the court clerk. When you file, ask the court what will happen next.

You will have to pay the filing fee when you file your papers. Go to www.courts.oregon.gov/Pages/fees.aspx for the filing fee.

- If you are low income, you may ask the court to defer (postpone) or waive your filing fee. You must complete an ***Application and Declaration for Deferral or Waiver of Fees*** and an ***Order Regarding Deferral or Waiver of Fees*** and file them with your papers. If the fee is deferred, you will have to pay the fee later. If the fee is waived, you don’t have to pay it now. However, the judge may reconsider waived and deferred fees at the end of the case.

The Order on Motion or Petition to Show Cause

The judge will review your filing. The court will send (or give) you an *Order on Motion or Petition to Show Cause* which either grants or denies your request to have the other party respond to your requested changes. The order will have information for both you and the other party about how your case will proceed. If a hearing is scheduled, you *must* appear or the court will deny the changes you asked for.

- If the court denies your request, no changes will be made and no hearing will be scheduled
- If the court grants your request, you must serve the *Order* and a copy of the *Motion or Petition and Declaration* on the other party. See the next section for service information.



STEP 2: NOTIFY THE OTHER PARTY

You must officially notify the other party if the court grants your *Order to Show Cause*. This is called “service.” **NOTE:** If the other party has a lawyer, you **MUST** serve the lawyer – **NOT** the party!

More information about service (including how to serve someone in jail and special rules for military personnel) is available here:

www.courts.oregon.gov/programs/family/selfhelp/Documents/HowToServeLegalPapers.pdf

Acceptance of Service – If it is safe for you to give the respondent the papers yourself, you will need 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 papers with the court before you give the copies to the respondent.**



Formal Service

If the respondent does not want to 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.

1. **Personal Service:**

- a. **By Process Server:** Take a copy of your papers to the sheriff’s office in the county where the other party 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 other party is outside of Oregon, the server can be a resident of the state where the other party 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 whoever serves the other party. The certificate must include the date of service and the name of the person served.

2. **Substituted Service:** The process server may leave the papers at the other party’s residence (where he or she normally lives) with someone 14 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) to the other party 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 other party’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) to the

other party 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.

- By Mail:** First, the process server must send the papers to the other party'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 other party 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 other party signs the returned green card.

The image shows a green Domestic Return Receipt form. The form is divided into two main sections: 'SENDER: COMPLETE THIS SECTION' and 'COMPLETE THIS SECTION ON DELIVERY'. The 'SENDER' section includes instructions and fields for 'Article Addressed to' and 'Article Number'. The 'ON DELIVERY' section includes fields for 'Received by (Please Print Clearly)', 'Date of Delivery', 'Signature', and 'Service Type'. A red circle highlights the 'Date of Delivery' field, and a yellow arrow points to it from the right. The form also includes checkboxes for 'Restricted Delivery?' and 'Insured Mail?'. At the bottom, it says 'PS Form 3811, July 1999 Domestic Return Receipt 102395-00-M-0952'.

Proof of Service

The Certificates are your proof of service. An original *Certificate of Service* or *Acceptance of Service* must be filed with the court for your case to proceed, regardless of the method of service.



If proof of service is not received within **63 days** of filing your *Motion or Petition*, the court may send you a notice of dismissal. Your case may be dismissed if you do not provide proof of service within 28 days of the notice.

If you are not able to have the other party served by any of the methods listed above, you may ask a judge to allow you to use another service method. The judge might allow you to publish or post the documents. Forms to make this request are available online at <http://www.courts.oregon.gov/forms>.



STEP 3: THE HEARING

Courts handle these cases differently. Your court can tell you how your case will proceed.

If your court schedules a hearing, you **must** attend the hearing or your requests will not be granted. If you need an interpreter or ADA accommodation for your hearing, contact the court as soon as possible.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

Case No: _____

and

Petitioner
Respondent

**EX PARTE MOTION OR PETITION
FOR ORDER TO SHOW CAUSE
FOR EXPEDITED PARENTING
TIME ENFORCEMENT
UNDER ORS 107.434
and DECLARATION IN SUPPORT**

Filing fee at ORS 21.205(3)

➤ I need an interpreter: Spanish ASL other: _____

Motion/Petition

This is a: (check one)

- MOTION because the judgment or order was issued or registered in an Oregon Circuit Court
 PETITION because the judgment or order was issued by a court in a different state

I am the Petitioner Respondent in this case. The other parent has violated my parenting time or substantially violated the parenting plan ordered in the attached judgment or order issued:

On (date of judgment or order): _____

In case #: _____

By (court or agency) : _____

A certified copy of the judgment or order that has been violated is attached (required)

I ask the court to issue an *Order to Show Cause* requiring the other party to appear and show cause why this court should not grant the following orders to remedy the violations

Additional parenting time in the children’s best interest to compensate for wrongful denial of parenting time (explain) _____

- Modify the parenting plan as follows:
 Supplement the existing plan as attached or as follows: _____

- Requiring bond or security to be posted by the other parent
- Counseling or education sessions for either or both parents focusing on the impact of violating the parenting plan on the children
- Costs and expenses incurred by me to enforce the parenting plan including lawyer fees, filing fees, and other costs to be paid by the other parent
- Ending, pausing, or changing spousal/partner support (*explain changes*) _____

Ending, pausing, or changing child support because parenting time has been interfered with or denied without good cause. The other requirements of ORS 107.431 are met. (*Explain changes*) _____

Changing custody because parenting time has been interfered with or denied without good cause. I ask the court to schedule a hearing to change custody orders. I understand that I must file a separate motion to modify the judgment before a hearing regarding custody will be held.

Statement of Points and Authorities

ORS 107.434 allows the court to modify custody, parenting time, and support terms in a judgment of dissolution, annulment, or separation case by expedited hearing

ORS 107.431 allows the court to set aside, alter, or modify parenting time and to terminate or modify child support if parenting time is being denied without good cause

Declaration

The other parent has violated the parenting plan since the last hearing as follows:

Pickup/drop off schedule (*explain how and when*): _____

Overnight schedule, including weekdays, weekends, holidays, school breaks, etc. (*explain how and when*): _____

Schooling, day care, or extracurricular activities (*explain how and when*): _____

Contact (*explain how and when*): _____

Other activities, including religious schooling or services, medical or mental health visits, or other appointments (*explain how and when*): _____

Other provisions (*explain how and when*): _____

If you requested a hearing to change custody OR a change to the parenting plan that is more than make up time or substitute parenting time, complete the next sections

Custody and Parenting Time Changes

1. UCCJEA Information (Uniform Child Custody Jurisdiction and Enforcement Act)

This court has jurisdiction to modify custody, or parenting time under the UCCJEA (ORS 109.741 – 109.751) because:

- An Oregon court made the original order and the children (or at least one parent) still live in Oregon
 Other reason (*explain*) _____

1A. List the places where any of the named children has lived in the last five years, the names of the people they lived with at that time, and *current* contact addresses for those people

Current:

Child's Name	Current Address	Lives with:
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Other: _____
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Other: _____

Residences:

Dates From/To	County, State	Name of Parent/Caretaker	Contact Address of Parent/Caretaker	Which Children

Additional page attached titled "Section 1A-UCCJEA"

Additional Caregivers:

Dates From/To	Name of Parent/Caretaker	Where did they live with this caretaker?	Contact Address of Parent/Caretaker	Which Children

1B. Other than the judgment or order I want to enforce I **have not** participated in any case about the custody or parenting time of the named children in any state, *except:*

Name of Court	State	Case No.	Date of final decision	Result <i>(include names of affected children)</i>

Additional page attached; see section titled "Section 1B-UCCJEA"

1C. I do not know of any other legal proceeding that may affect the outcome of this case, including enforcement of domestic violence or protective orders, adoption, termination of parental rights, or guardianship involving any of the children pending in any state except for: _____
(identify court, case number and the kind of proceeding)

1D. I do not know any person besides the other parent who has physical custody of the children or who claims to have custody, visitation or parenting time rights except for *(list name and address)*: _____

2. The requested change in custody or parenting time is in the **best interest** of the children because *(explain in detail)* _____

Additional page attached; see section titled "Section 2-Best Interests"

Certificate of pending/existing child support proceedings

- There is is not a PENDING child support proceeding
 - Case number: _____ Court or Agency: _____
- There is is not an EXISTING child support order or judgment
 - Case number: _____ Court or Agency: _____

I hereby declare that the above statements are true and complete to the best of my knowledge and belief. I understand they are made for use in court and I am subject to penalty for perjury.

Date

Signature

Print Name

Contact Address

City, State, Zip

Contact Phone

Note about custody: If you want the court to change orders related to custody, you will have to file an additional motion to modify your judgment or order and pay a separate filing fee. Go to www.courts.oregon.gov/forms if the judge grants your *Motion for Order to Show Cause*.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

Case No: _____

and

Petitioner
Respondent

CERTIFICATE OF SERVICE
(ORCP 7D(2))

- (a) Personal Service
 (b) Substitute Service
 (c) Office Service
 (d) Service by Mail

I, (name) _____, declare that I am a resident of the state of _____ . I am a competent person 18 years of age or older. I am not a party to or lawyer in this case, and not the employee of a party. I certify that the person served is the person named below. I served true copies of the original (check all that apply):

- Petition and Summons
 Information about mediation
 Notice of Confidential Information Form (CIF) Filing
 Notice of Statutory Restraining Order Preventing Dissipation of Assets
 Order to Show Cause re: Modification with Motion and Declaration
 Information about continuing insurance coverage (COBRA)
 Uniform Support Declaration
 Other information provided by the court clerk (name all forms or documents served) _____
 Other (name all forms or documents served) _____

by (check a, b, c, or d and complete all information):

(a) **Personal Service** on (date) _____, at _____ a.m./p.m., to { Petitioner Respondent} (name) _____ in person at the following address _____ in the County of _____, State of _____.

(b) **Substitute Service** on (date) _____, at _____ a.m./p.m., by delivering them to the following address _____ in the County of _____, State of _____ . Delivered to (name) _____, who is a person age 14 or older and who lives there.

(Complete the section below only if the server also did the follow-up mailing required by ORCP 7D(2)(b). If a person other than the server did the follow-up mailing, that person must complete a separate Certificate of Service Mailing.)

On (date) _____, I personally deposited a true copy of the same documents served with the U.S. Postal Service, via first class mail, in a sealed envelope, postage paid, addressed to the party to be served: Petitioner Respondent (name) _____

_____, at the party's home address listed above, together with a statement of the date, time and place that the documents were hand-delivered to the party's dwelling (residence).

(c) **Office Service** on (date) _____, at _____ a.m./p.m., by delivering them to the office of the party to be served, located at: (address) _____, during normal working hours for that office, where I left the documents with (name) _____, who is a person apparently in charge, to give the documents to the party to be served. (Complete the section below only if the server also did the follow-up mailing required by ORCP 7D(2)(c). If a person other than the server did the follow-up mailing, that person must complete a separate Certificate of Service Mailing.)

On (date) _____, I personally deposited a true copy of the same documents served with the U.S. Postal Service, via first class mail, in a sealed envelope, postage paid, addressed to the party to be served: Petitioner Respondent (name) _____, at the party's: home address at: _____, **OR** business address above, together with a statement of the date, time and place that the documents were hand-delivered to the party's office.

(d) **Service by Mail, Return Receipt Requested** on (date) _____, I personally deposited **two** true copies with the U.S. Postal Service. **One** by first class mail, and the **other** by certified or registered mail, Return Receipt Requested, or by express mail, postage paid, addressed to the party to be served: Petitioner Respondent (name) _____, at the party's home address located at: _____ (address). (NOTE: If mailed Return Receipt Requested, the return receipt must be attached to this Certificate of Service.)

I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Date

Signature of Server

Print Name

If person serving is NOT a sheriff or sheriff's deputy, address and phone number of server:

