

Information Sheet – Motion for Temporary Orders

(Washington County Circuit Court)

USE this Motion packet to:

- Ask the court to make temporary orders in your case. The request can be about child custody, parenting time, child support, spousal support, property, finances, attorney fees and costs, or other matters. You can ask for a civil no-contact order with these forms (you cannot ask for a restraining order or stalking order – see →).
 - It is possible to ask for parenting time (or a change to parenting time) without asking to change custody (custody means legal decision-making power over the child). You do not have to ask for both parenting time and custody, but can if needed.
 - It is possible for the court to order equal parenting time with one parent having custody; likewise, it is possible for parents to agree to joint custody but have the court order that one parent has less than half of the parenting time.
 - You can only have joint custody by mutual agreement – if you or the other person does not agree to joint custody, the court *cannot* order it and instead must choose who will be awarded custody.
 - You can only get spousal support if you are a *spouse* or a same-sex registered domestic partner. You *cannot* get spousal support if you are not married or in an Unregistered Domestic Partnership, regardless of sexual orientation.

DO NOT use this motion packet:

- Before a Petition has been filed to start your case. You may file this motion at the same time *with* the Petition, but not before.
- If you already have an agreement with your spouse or the other parent in your case. For information on turning an agreement into an order of the court, see the full Packets contained [here](#).
- To apply for, change, or end a restraining order, stalking order, or other protective order. For protective orders, you should fill out the appropriate paperwork [here](#).
 - If you are in need of domestic abuse assistance, see the resources listed [here](#).
- To seek contempt or enforcement of orders. Those packets can be found [here](#).

Forms Checklist:

ALL people must use these forms (attorneys and non-attorneys; you may not use your own self-created form or your documents will be rejected).

Before you submit your paperwork, you must have:

- i. **Motion:** This is the document that tells the court what you want. The “why” comes in the declaration (see below) – this is just the document that tells the judge what issues you want the court to decide.
 - Specify on the first page whether you have regular and reliable access to a phone and/or internet.
 - *Note: This is **very** important because this determines how the court will contact you and when your hearing will be scheduled.
 - What is it that you want?
 - a. Make sure you fill out all parts of the pre-printed form to ensure the judge can consider your requests
 - b. If a section does not apply to your case, mark “no request” and move on.
 - One thing to consider: When do you want support to start?
 - a. You cannot ask for a date any earlier than when the other side filed the petition (if they are the petitioner) or was served with the petition (if they are the respondent).
- ii. **Declaration Form:** This is the document that you sign under penalty of perjury as your side of things, your story, the “why” you want the things you asked for in the motion.
 - Fill out all relevant parts of the declaration form and pre-printed questions.
 - If you are requesting temporary custody, you must fill out the questions regarding custody on the declaration form. These come directly from the Oregon Revised Statutes, which is the law the judge has to consider when deciding custody. The factors can be found at [ORS 107.137](#).
 - a. While there are many things the court considers in deciding custody, some examples are (this is not all examples, just a few):
 - i. Who makes/takes the children to doctor or dentist appointments;
 - ii. Who volunteers in the child’s class or chaperones field trips/dances;
 - iii. Who is involved in any Parent Teacher Association or similar groups for the children;
 - iv. Who coaches the children’s sports activities;
 - v. Who signs the children up for/takes them to their activities;
 - vi. Who communicates with the children’s doctors, teachers, tutors, and other providers;

- vii. Who makes sure the children call (or are available for calls from) the other parent during parenting time;
 - viii. Who ensures the children have Mother's Day/Father's Day cards or gifts made and facilitate taking them to the other's house for those special days.
- To request parenting time (or a change to parenting time), you *must* also submit a [proposed parenting plan](#) to the court along with your declaration. You must use one of the following forms:
 - a. [Basic Parenting Plan](#)

OR

 - b. [Safety-Focused Parenting Plan](#)
- You can attach up to five (5) additional written, free-form pages to your declaration form to explain any additional information you wish the judge to have.
 - a. You will *not* be allowed to testify at the hearing in front of the judge – your declarations and the paperwork you submit are your testimony so make sure you include all of your requests and why you want them. You will only be allowed to answer questions from the judge at the hearing.
 - b. If you are asking for spousal support, you need to be a legal spouse or a *same-sex* unregistered domestic partner only. You cannot get spousal support if you are not legally married or if you are opposite-sex partners cohabitating together.
 - i. For spousal support, explain in your form declaration and your written reasons *how much* you need in spousal support and why. Include why you believe the other person can afford to pay you the amount you need.
- iii. **Order to Show Cause**
 - Do not fill in anything on this form except your name that you are submitting it – the judge fills out the rest and signs it. This is the document that tells the other side what to do.
- iv. If you seek any child support, spousal support, or financial requests, you must complete a [Uniform Support Declaration](#) (“USD”).
 - You must provide your *gross* income (pre-tax income), not net or take-home pay. The court is required to look at your pre-tax income so if you do not include this, your case may be postponed until you provide it.
 - Be sure to include all additional income on Page 3 as required – i.e. rental income, bonuses, self-employment income, disability, TANF/SNAP, Social Security, pension/retirement, commissions. If the income is varied or irregular, give your best average of the

monthly amount and make a note as to why you do not have an exact number.

- The USD must include all required attachments:
 - a. Pay stubs;
 - b. Health Insurance proof;
 - c. Tax returns;
 - d. Existing parenting time orders (if seeking child support); and
 - e. Child care costs (if seeking child support).
- Complete the “Schedule 1” portion of the USD *only* if you are seeking spousal support or other financial requests. If you are only asking for child support, you do not need to fill out Schedule 1 of the USD.
- Address or request the court to consider any “rebuttal” factors in the final page of the USD in the box provided. “Rebuttals” are factors the court can use to adjust the child support amount up or down. They can be found at [OAR 137-050-0760](#) and include, but are not limited to things like costs paid for travel to exercise parenting time (if you live far away from one another), special hardships, if the child does not live with either parent, or extraordinary needs of the child that are paid separately from child support (like medical needs).

v. Child Support Worksheets

- The judge needs to know what you want or want to pay for child support, based on the information in the USD.
- Use the [Oregon Child Support Calculator](#) to determine support; click “view and print” when you come to the end to print or save the calculation in PDF form.

vi. Exhibits

- These are documents which should be attached to your declaration. There should not be many of them – no more than 10 pages total.
- Examples of exhibits could be text screenshots or emails from the other person, pictures, work or parenting time calendars, or other things you want the court to review before making a decision about your requests.

vii. Optional: Third Party Statements/Declarations

- With your motion, you are allowed to submit up to two (2) declarations from third parties. These third parties could be a significant other, babysitter, family member, friend, medical provider, or other person who has actual knowledge of the items you wish for them to tell the court.
- The declaration must be no longer than three (3) pages for each declaration. Note you may not do a 6-page declaration for one witness only. The maximum page number allowed per declarant is three (3) pages.

- It is not helpful to the court if the declarations are only about things these people know because they heard the information from you. If they witnessed an incident, heard something from the other parent/spouse directly, or have knowledge that you or your spouse may not have about your situation, they may be helpful to the court.

Formatting Your Documents:

All documents, including declarations, must be either handwritten or if they are typed they must follow the rules contained in [UTCR 2.010](#) (A video on how to create a pleading page can be found [here](#)):

- 12 point font;
- Times New Roman font;
- Double spaced;
- Numbered lines (vertical line of numbers down the left side of the page, for 26 lines);
- 8.5" x 11" white paper;
- 1-inch margin on top and bottom, 2-inch margin at top;
- Case Caption on the first page
 - Must state the court where being filed (i.e. State of Oregon, Washington County Circuit Court), names of the parties, identification of parties' roles (petitioner/respondent), case number, and the name of the document (i.e. "Father's Declaration").

File your documents with the court – in person, by mail, or e-filing

1. If you are filing in person give your paperwork, with 1 full copy, to the court. The original is for the court to keep. The copy is for the court to stamp ("conform") and return to you for your records. Once the Judge signs the Order to Show Cause you will be contacted and a service copy will be sent to you.
 - *Note if you file by mail, you need to send a self-addressed stamped envelope with the documents so the court can return the packet to you. The court will not pay for postage to return your documents to you, so you must pre-pay.
2. Pay your filing fee, if any. You can find the filing fee schedule [here](#). The fees change frequently, so check the fee schedule right before you file your documents to ensure you have the correct fee.

IMPORTANT DEADLINE

The person filing this motion **must schedule a hearing** on this motion when you file it. You must file an Order to Show Cause. The court will issue a show cause hearing date to your Order to Show Cause.

The person receiving this motion **must file a written response within 14 days** of the day you are served with the order to show cause, or within 30 days from the date the Summons and Petition were served on you, whichever is later. Use the blank forms provided to you by the person filing the motion, which include blank *Response* and *Declaration* forms to explain why the court should not approve their requests. You must file other written proof supporting your side and propose your own *Parenting Plan* or *Child Support Worksheets*. You must appear at the hearing – the hearing is listed on the Order to Show Cause form which you should receive as part of the packet from the person filing the motion.

Service Instructions:

You must get the other person in your case (your “opposing party” – i.e. your spouse or the other parent) served **as soon as you get this filed** with the court. If you delay getting the other person served, your hearing and requested relief may be delayed.

<p><i>What is “service”?</i></p> <ul style="list-style-type: none">▪ “Service” means giving the legal documents you filed with the court to the other people involved in the case (i.e. your spouse, the other parent) so they know what you are asking the judge to order and so they have information about the date/time/location of the hearing.▪ If the other person is not properly “served” then the judge cannot give you what you are requesting at the hearing. The hearing will be postponed until the person properly receives the documents. You will not “win” if you do not make sure the other party gets the required documents.	<p><i>How do you complete “service”?</i></p> <ul style="list-style-type: none">▪ Ways to serve the other person:<ul style="list-style-type: none">- <u>Personal Service:</u> Personal service means that your “server” physically walks up to the other person, verifies that they are the right person (if they don’t already know the other person), and hands them the documents. If the other person refuses to take the documents, the server can leave the documents near the person (i.e. on the counter, desk, car, porch, ground at their feet).<ul style="list-style-type: none">*Note: This is the best way to make sure the other person gets the documents required.- <u>Mail Service:</u> Mail service means your “server” mails all the required documents to the
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	address of the person being served.
<p><i>Who</i> can be the “server”?</p> <ul style="list-style-type: none"> ▪ Any person over the age of 18, mentally competent, but it cannot be you (could be a friend or sheriff or professional process server) ▪ Must sign a proof of service about the circumstances of service <u>and</u> file it with the court ▪ You should keep a copy of the Proof of Service for your records. As a rule, you should keep a copy of all items you file with the court for your own records. Many people often fill out one packet and do not make copies; they give the packet to the court, then they do not have their own copy to refer to at the hearing. Create a folder or binder with copies of all documents for your case so they can be easily located. 	<p>The server MUST give (“serve”) the following documents to the other person in this case:</p> <ul style="list-style-type: none"> ▪ List of “conformed” documents and notices <ul style="list-style-type: none"> - “Conformed” means that the court has stamped or placed a case number verifying that the documents have been filed on each document. ▪ Judge-signed Order to Show Cause – this is the document that tells the other person what they need to do ▪ Blank Response form ▪ Blank Declaration form ▪ Blank Parenting Plan forms (both basic and safety-focused) ▪ Blank Uniform Support Declaration

Problems with Service: What if I am trying my best and I cannot find the other person to serve them? You should fill out the packet to request [Alternative Methods of Service](#).

What will happen at my Hearing?

- The court will set a date for an oral hearing once your documents have been submitted. The clerk will tell you the signed Order to Show Cause when you file your documents – this will have the date, time, and location of your hearing on it.
- The hearing will be – at most – 15 minutes long. The judge will have read all of your and the other party’s paperwork before the hearing starts.
- There will be *no* witnesses allowed at the hearing. You will not be allowed to testify – your declarations and the paperwork you submitted are your testimony.
 - You will only be allowed to answer questions from the judge at the hearing.
 - Do not bring friends or family to testify on your behalf. They will not be allowed to talk to the judge.
- The decisions made at the hearing are temporary and “without prejudice” which means that it is possible for the judge to change their mind at the ultimate trial and order things differently.
- This hearing will not be your last court appearance – there will be a trial date set for the “final” orders. The only way you will not have a final trial or modification

hearing is if you and the other person come to an agreement (and file it with the court) or dismiss (drop) the entire case.

Get ready for your hearing:

- If you have trouble finding your courtroom, ask the filing clerk or the information desk in the courthouse.
- Take a copy of your documents with you for you to reference in court if needed.
- Bring something to take notes so you remember what the judge orders.
- Dress appropriately – like you are going to a meeting or job interview. No suit or tie is required, but do your best to look presentable.
- Wait quietly until your case is called forward by the judge.
- Answer the judge's questions respectfully, speak clearly, do not use profanity, do not interrupt.
- You must wear a mask and practice social distancing at court – the court is following all CDC guidelines and all executive orders from Governor Brown. Plan accordingly.

What Happens After the Hearing?

The orders made by the judge will need to be written down as an Order After Hearing. This is so you and the other person can have a written version of exactly what the judge said to follow at home.

- If you and your opposing party do not have attorneys, the court will create the written order for you to take home with you.
- If you or your opposing party have attorneys, the court will order one of them to write up the judge's orders in written form.

Do you have questions or need help? Contact these entities:

- [Court Facilitator/Self-Help Desk](#) – 503-846-8888
- [Oregon Law Center](#) – See website for contact information for local offices
- [Oregon State Bar Referral Service & OSB Modest Means Program](#): 503-684-3763 & 800-452-7636 (fill out modest means application [here](#))
- Legal Aid Directory - oregonlawhelp.org