

Governing Child Support Judgments - PETITION

INSTRUCTIONS for Packet No. 14

Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated divorce, legal separation, or unmarried custody cases. For legal information, please talk to a lawyer, visit your local law library and/or refer to the “Additional Resources” section on the last page of these instructions.

The instructions may refer to some forms not included in this packet. If you have a question about a form you cannot locate, you should consult your local court which may have the form available.

Each court has local rules, programs and procedures that may not be explained in these instructions. Please refer to the “Local Family Law Practices and Programs” form for your court, attached to these instructions. If it is not attached, consult your local court directly. Information about how to contact your local court may be found at the following website: <http://www.courts.oregon.gov>.

Packet #14 may be used when there are two or more child support orders/judgments (issued by either the child support agency or a court) and there are conflicting terms for monetary support and/or health insurance which a party wishes to resolve or change.

NOTE: The multiple orders or judgments must involve the same obligor (the obligor is the party that owes child support) and the same child/ren.

STEP 1

Fill out the following forms:

- Petition for Governing Child Support Judgment; and Order to Show Cause (PETITION/ORDER)
- Certificate of Mailing to the DCS (DCS CERTIFICATE)

Case Heading: The Petitioner is the party requesting that the court enter a governing child support judgment, and may be either the Petitioner or the Respondent in a previous case or proceeding.

Presumption: Oregon law presumes that the terms of the last-issued child support judgment are the “controlling terms” (the terms the parties must legally follow). If you do not think the terms of the last issued child support judgment should be the “controlling terms,” you need to ask the judge to “rebut” the presumption (decide that the presumption does not apply to your case). To do this, fill out Paragraph 3 of the PETITION, and select Paragraph 3(a), 3(b) and/or 3(c) to explain why you think the presumption should be rebutted.

Do not fill in the section that sets the hearing date, and do not fill in the judge’s portion of the order.

Attach a certified copy of each child support order or judgment that has ever existed which involves the same obligor and child/ren to the PETITION. (Certified copies may be obtained from the court that issued the child support order or judgment and may involve a fee.) Label each order/judgment “Exhibit #___.” (The “Exhibit #” should match the Exhibit #'s in Paragraph 2 of the PETITION.)

Make three copies of the PETITION/ORDER, one for your records, and on the other two copies of the PETITION/ORDER, sign your name where it says, “*I certify that this is a true copy.*”

STEP 2

File the original PETITION/ORDER with the court clerk and pay the filing fee, or ask for a form to waive or defer the fee.

Fill in the case number on your copy if it does not have one on it already.

STEP 3

Check back with the court to see if the ORDER was signed, and a hearing date assigned. Obtain one court-certified copy of the signed ORDER from the court clerk.

STEP 4

• To the Other Party: Have the other party served with the *court-certified copy* of your PETITION/ORDER. **You cannot serve the papers yourself.** You may ask your local sheriff's office or a private process server to serve the papers for you. Make sure the person who completes service fills in and files a proof of service with the court. If the server does not have a "proof of service" form, s/he may use the AFFIDAVIT OF SERVICE in this packet with the court, detailing how service was made.

• To the Division of Child Support: Mail one of the copies of the PETITION/ORDER that you signed and certified as being a true copy to the local branch office of the Division of Child Support, and file the DCS CERTIFICATE of MAILING with the court.

STEP 5

Attend the hearing on the date set in the Petition's ORDER TO SHOW CAUSE. Bring with you a blank copy of the GOVERNING CHILD SUPPORT JUDGMENT contained in this packet.

STEP 6

After the hearing, the judge may require that you complete all or a portion of the GOVERNING CHILD SUPPORT JUDGMENT, or the judge may complete it and file it with the court.

The judge will also name a party to, or if the judge does not name a party you as the Petitioner must, file a certified copy of the GOVERNING CHILD SUPPORT JUDGMENT with each court or the Child Support Program Administrator that issued an earlier child support judgment. Failure to do so may result in monetary sanctions including but not limited to attorney fees, costs and disbursements.

You should obtain a copy of the JUDGMENT that has been signed by the Judge for your records, and serve the other parent with a copy by mail. A copy must also be provided to the Division of Child Support. Ask the court clerk whether s/he will forward a copy of the signed judgment to the Division of Child Support, or whether you must mail it yourself.

The GOVERNING CHILD SUPPORT JUDGMENT will be the most current effective order of the court for child support and health insurance in your matter. The GOVERNING CHILD SUPPORT JUDGMENT will describe what happens to all other child support orders or judgments.

IMPORTANT: Even though the court may change the cash child support and/or medical support (health insurance and cash medical support) provisions of an earlier judgment, the GOVERNING CHILD SUPPORT JUDGMENT will not affect the enforcement or validity of ALL OTHER PROVISIONS which do not pertain to cash child support and/or medical support. You should continue to comply with all other provisions in the earlier judgment(s).