

**Circuit Court of the State of Oregon
for Multnomah County
Family Law Department**

Parenting Time Enforcement Procedure

Oregon law requires courts in each county to have a procedure to rapidly deal with the problem of interference with parenting time rights. One purpose for this is to improve compliance with the terms of parenting plans. ORS 107.434 Unless parties otherwise agree, the court must hold a hearing within 45 days after a motion is filed seeking enforcement of a parenting time order. The court must also provide certain forms for this purpose.

This document explains how to start court proceedings for enforcement of a parenting plan in Multnomah County. Steps 1 - 3 explain that you must first identify: (a) the type of procedure applicable to your situation; (b) the appropriate court in which to file the case; and (c) the specific forms within your packet that are required to achieve your goals.

1. The procedure below deals only with parenting time enforcement. You must first consider whether you need the “custody enforcement” procedures, instead of this packet.

Custody enforcement should only be used if there is a current order granting you physical custody and the other parent is now withholding custody. It is considered a drastic measure that should only be used after documenting a party’s legal right to custody. If there is any doubt, another method should be used.

To enforce custody, an **Order of Assistance** is signed by the Judge, allowing a law enforcement officer to recover the child for the person who is entitled to physical custody. ORS 107.437 (3). This occurs without advanced notice to the other parent. It occurs after you file a Motion / Petition with the court requesting custody enforcement. **It is not available as a way to enforce parenting time violations.** (The Order of Assistance is not the only method for enforcing custody that is available under Oregon law, but it is by far the most common method.)

There is a charge for custody enforcement forms in Multnomah County. However, there is **no filing fee to request an Order of Assistance**. For more information on custody enforcement, review procedures in:

- Packet 5B (Local Version 1) [custody enforcement / to enforce an Oregon Judgment]; or
- Packet 5B (Local Version 2) [custody enforcement / to enforce a Judgment issued Out-of-State];
With Version 2, also review Packet 5C (optional registration of Out-of-State Judgment).

2. Once you’ve determined you need “parenting time enforcement,” instead of custody enforcement, the next step is to make sure you are obtaining documents for this in the proper county.

If the Order / Judgment you wish to enforce was issued in another Oregon county:

- Seek enforcement in that county using their forms, or
- Ask that county to transfer the case to Multnomah County by filing a Motion to Transfer in that county, pursuant to ORS 107.449, or by using any other forms accepted by that county for such a request.

The procedures described in this document are primarily for enforcement of:

- A Judgment issued in Multnomah County, or
 - A Judgment issued Out-of-State, involving a child who is currently in Multnomah County or who may soon be located here.
3. If the Judgment in your case was issued in Multnomah County or Out-of-State, continue reading these instructions. The list below guides you to the proper forms that apply to your situation:

If the Order / Judgment you wish to enforce was issued in Multnomah County:

- You will use the Motion (Form 21-46) in Packet 5A (Local Version 1), rather than a Petition (Form 21-63). Disregard any references to Registration. Use all other forms in the packet.

If the Order / Judgment was issued in another State:

Use the Petition (Form 21-63) in Packet 5A (Local Version 2), rather than a Motion. Use all other forms in the packet.

If you have not previously registered the Out-of-State Judgment in an Oregon Court, you **MUST** also use Packet 5C to register it. (Registration is required for parenting time enforcement but optional for custody enforcement.) Instructions for registration are found in Packet 5C. You may begin the registration process at the same time you request enforcement.

4. Because carbon copy (NCR) versions of certain forms are available at the Multnomah County Courthouse, and in some instances are required, you may wish to pick up a complete packet of parenting time enforcement forms from the Family Court Self-Help Center, rather than using the OJD website. The Center is located in Room 211B of the Multnomah County Courthouse, on the second floor.
- a. Notify the Family Court Facilitator or Clerk that you need a complete set of forms. You must specify whether you want parenting time forms for enforcing:
- (i) an **Oregon Order** (Packet 5A: Local Version 1) or
 - (ii) an **Out-of-State Order** (Packet 5A: Local Version 2).
- In Multnomah County, the registration forms in 5C are offered as a set, together with Packet 5A: Local Version 2.

One complete set will be provided to you free of charge. Additional sets must be purchased.

- b. Go directly to step 5 if you seek enforcement of an Out-of-State Parenting Time Order. Otherwise, you need information on the required forms for mediation:

Mandatory mediation applies only if the Parenting Time Order you want enforced was issued in Oregon. The following explains which Mediation forms are accepted:

Multnomah County does not accept the statewide form for requesting mediation (form 6H). Instead, you must obtain the local carbon copy court form entitled “Request for Mediation and Order.” It is Multnomah County form # 28-07 (revised date: 5 / 02 or later).

5. **Instructions for filling out the Motion (or Petition), Affidavit and Order:**

If you want to enforce an Oregon Judgment, first fill out the following forms:

Motion for Order to Show Cause Re: Enforcement of Parenting Plan and Order
(MOTION AND ORDER) Form 21-46.

Affidavit Supporting Motion for Enforcement of Parenting Plan (AFFIDAVIT) Form 21-45.

Note: Fill in the heading on the Motion and Affidavit in the same manner as in your prior case (the case that resulted in a parenting time order / judgment), if you are filing to enforce in the same county and state that issued that parenting time judgment. The parent who was “Petitioner” in the prior case is “Petitioner” now, no matter who begins this enforcement action. The listing for “Respondent” is also the same as in the prior case.

If you want to enforce an Out-of-State Judgment that isn’t already Registered here, fill out:

Petition for Order to Show Cause Re: Enforcement of Parenting Plan and Order
(PETITION AND ORDER) Form 21-63.

Affidavit Supporting Motion for Enforcement of Parenting Plan (AFFIDAVIT) Form 21-45.

Note: When requesting to enforce an Out-of-State Judgment, you are the “Petitioner,” no matter what your role was in the prior case in the other State.

Tips for completion of either type of form, above:

- **Don’t** fill in the section of the Motion or Petition that sets the **hearing date** yet, and don’t fill in the **judge’s portion** of the Order.
- Wait to sign the Affidavit until you are the presence of a Facilitator or Court Clerk who has checked your photo identification and is witnessing your signature on the documents. (A Notary Public may also do this.)
- By filing this case, you will be asking the Judge to enforce an existing parenting time order / judgment. Proof of a valid order / judgment is required, as follows:

First, obtain a certified copy of that order / judgment from the court where it was issued. If it was a Multnomah County Judgment, purchase a certified copy in Room 131 of the Courthouse. If not, purchase the certified copy from the state / county where the Judgment was issued.

Later, when you have completed the steps below and are ready to file the original Motion (or Petition), Affidavit and proposed Order in this enforcement action, with the Family Law Clerk, attach the certified copy of the valid judgment that established parenting time.

- At this time, don't sign the part of the form that reads: "I certify that this is a true copy." That applies only to the copy you will later arrange to have served on the other party. The original you file with the court cannot be signed as a "true copy."

6. Go to the civil cashier in Room 210 and pay the \$45.00 filing fee required by ORS 107.434 (subject to ORS 21.605). Obtain a case number and write it in the heading of your documents.

After paying, go directly to step 7, if you seek enforcement of an Out-of-State Parenting Time Order. (Parent Education Class is not applicable to your situation.)

The following applies only if the Parenting Time Order you want enforced was issued in Oregon:

The cashier will provide you with two copies of the Parent Education Class Pamphlet. One of these is for you. The other copy is to be included with papers that are served on the other parent.

Note: If both parents have previously completed the Parent Education Class, it does not need to be repeated. Supplemental Local Rule 8.125 (2). Otherwise, sign up for the class at Family Court Services within 15 days of receiving this information.

7. Take your completed Motion (or Petition) to the Family Court Self-Help Center, where you will see a telephone for public use. Pick up the phone and dial "2." The Domestic Relations Calendaring Clerk will answer. Ask this person for a "Parenting Time Enforcement Hearing."

Note: Hearings are currently **scheduled 40 days after the date the Motion / Petition is filed**. This is because you must arrange to have the Order to Show Cause served on the other parent in advance of the hearing date. Parties must also complete mandatory mediation prior to the hearing date, pursuant to SLR 12.015 (1), if the Parenting Time Order for which enforcement is sought was issued in Oregon. Appointments for mediation are currently available approximately three weeks after the sign up date.

Multnomah County Supplemental Local Rule 8.015 explains the case assignment process for domestic relations cases, which also applies to parenting time enforcement hearings. This **requires the parties to telephone the court** at (503)-988-3185, between the hours of 8:30 a.m. and 3:30 p.m., **TWO JUDICIAL DAYS PRIOR TO THE SCHEDULED HEARING DATE**. Parties report that they are ready for hearing, provide an estimate of the length of time needed for hearing, or report a change in the case (such as a settlement). Failure to make proper contact will result in dismissal of the scheduled court proceedings and other consequences. Parties who report will receive a return phone call from the court the day before the hearing, confirming the courtroom location and time of hearing. Review SLR 8.015 for further details.

8. When the Calendaring Clerk tells you the **hearing date** and the **reporting date** ("Call - Assignment"), go to the first paragraph of the Motion (or Petition) and fill in the blanks for the DAY, MONTH, and YEAR for each of these. Spaces for the hearing date are at the beginning of the paragraph and spaces for the reporting date are at the end of the paragraph.
 - a. Go directly to step 9 if you seek enforcement of an Out-of-State Parenting Time Order. (Mediation does not apply to your case.)

b. Instructions for filling out forms for a Mandatory Mediation Hearing:

(Applies only if the order you want enforced was issued in Oregon.)

Fill out the local court form entitled “Request for Mediation and Order.” This is form # 28-07 (revised date: 5/02 or later). DO NOT USE FORM 6H, available on the World Wide Web.

(i) Special instructions for Respondents in FAPA Restraining Order cases:

If the other parent obtained a Family Abuse Prevention Act (FAPA) Restraining Order that prevents you from contacting that parent, you are not allowed to fill out or submit this form. Supplemental Local Rule 12.015 (1) provides that for parties to a FAPA Order, mediation will only occur on request of the petitioner to the FAPA proceeding.

(ii) Special instructions for victims of domestic violence or anyone who needs to request a waiver of mandatory mediation:

You have the option to apply for a waiver of mandatory mediation. Obtain from the Facilitator, local NCR form 21-47, dated (5/02) or later. It includes a Motion, Affidavit and Order for Waiver of Mediation. Alternatively you may use statewide Packet 6I, which has two pages -- (1) a Motion / Order for Waiver of Mediation and (2) an Affidavit.

Fill out the Motion and Affidavit, but **DO NOT SIGN YOUR NAME UNTIL YOU ARE WITH A FACILITATOR OR COURT CLERK WHO HAS CHECKED YOUR PHOTO IDENTIFICATION AND IS WITNESSING YOUR SIGNATURE ON THE DOCUMENTS.** Do not fill in the Judge’s signature line or the date in the Order section of the form. Go to the next step, below.

9. Now you are ready to go to the Family Law Clerk’s public counter in Room 211, (next door to the Family Court Self-Help Center).

The following will be accomplished in Room 211:

- A Judge’s signature will be obtained on the Order to Show Cause. This is the order which requires the other parent to come to court so the Judge can decide whether the parenting plan was violated and what to do about it.
- If Mandatory Mediation applies to your case, one of the following must happen:

The Mandatory Mediation Hearing will be scheduled, or
You need to make arrangements to ask the Judge for a waiver of Mandatory Mediation.

Steps to complete in Room 211:

These are the steps for obtaining the Judge’s signature on the Order To Show Cause and (if applicable in your case) setting a mediation hearing date or obtaining a waiver of mediation:

- a. Take the Motion (or Petition) and Order to the Family Law Clerk, who will have your Order To Show Cause signed by a Judge. Obtain a court certified copy of the signed Order.
- b. Skip the information in 9 c, below and go to step 10 if either of the following applies to you:
 - (i) You are a Respondent subject to a FAPA Order [as discussed in paragraph 8 (b)(i)]; or
 - (ii) You seek enforcement of an Out-of-State Parenting Time Order.

c. If Mediation is required in your case, do one of the following:

(i) Take your completed “Request for Mediation and Order” (form # 28-07) to the Family Law Clerk, who will assist you in setting a Mediation Hearing date and obtaining the Judge’s signature on the Order. ALTERNATIVELY:

(ii) You may choose to request a waiver of mediation by doing all of the following:

Present the Motion, Affidavit and Order for Waiver of Mediation to the Family Law Clerk, after completing the appropriate sections. [Use local NCR form 21-47, dated (5/02) or later. Alternatively you may use statewide Packet 6I.] Ask the Clerk to witness your signature on these documents, unless the Facilitator already did this. Obtain instructions from the Clerk as to when you will appear before the Judge:

Attend Ex Parte to ask for waiver of mediation:

You must appear before the Judge to ask for the waiver. You will be instructed by the Family Law Clerk to attend “Ex Parte” at either 8:30 A.M. or 1:30 P.M. (held daily) to see if the Judge will allow your request to waive mediation. “Ex Parte” means this is the type of request which can legally be made in front of the Judge without the other party being present.

What to do if the Judge denies your request for waiver of mediation:

If the Judge denies your request, you need to fill out the “Request for Mediation and Order” [see Step 8 (b) and 9(c)(i)] and have the Family Law Clerk tell you the date and time for the hearing.

If the Judge grants your request to waive mediation, go to step 10.

10. FILING CASE & SERVING DOCUMENTS ON OTHER PARTY:

You must file original documents with the court. List the case number on these. Remember that the certified copy of the parenting time judgment you want enforced, must be attached to the original Motion (or Petition), Affidavit and Order that you file with the court.

You must also arrange to have a “true copy” of all the above-mentioned documents delivered to the opposing party, in the manner explained in Oregon Rule of Civil Procedure 7.

Distribution if you use carbon copy forms:

If you are using the court’s multi-part NCR form (carbon copy sheets), you MUST file the white page of each document (the original) with the Family Law Clerk in Room 211. The yellow copy (“Service Copy”) needs to be given to the person who will be delivering the documents to the opposing party. The pink and goldenrod copies are for you to keep.

Copying and distribution if you do not use carbon copy forms:

If you are using forms that are downloaded from the World Wide Web, you need to make photocopies of the documents and prepare them for service of process, as follows:

Make two copies of the Affidavit and one copy of the Motion and Order (or Petition and Order). Keep one copy of each for your records. On the second copy of the AFFIDAVIT sign your name where it says, “I certify that this is a true copy.” Do this **only** on the copy to be served on the other

party – not on the original. Obtain a court certified copy of the Motion and Order To Show Cause Re: Enforcement of Parenting Plan (or Petition and Order) bearing the Judge’s signature.

Serving the Order To Mediate / Proving That It Has Been Served:

Remember that you must use the court’s carbon copy form: “Request for Mediation and Order” (form # 28-07), even if you download the other forms. The original (white) must be filed with the court. The yellow copy is for service on the other parent. You may keep the pink copy. After serving the other parent with this document, the process server must sign (in the presence of a Clerk of Court or Notary) and provide you with the following, which you will file with the court: “Proof of Service for Request for Mediation and Order,” form # 30-11 [dated (5/02) or later].

Service by Sheriff or Third Party:

You are not allowed by law to serve the papers yourself.
You may ask your local sheriff’s office or a private process server to serve the papers for you.

The documents they will serve include:

- Court certified copy of Motion (or Petition) and Order To Show Cause signed by Judge;
- “True copy” of Affidavit;
- Request for Mediation and Order (doesn’t apply to Out-of-State parenting time judgments);
- Parent Education Pamphlet (doesn’t apply to Out-of-State parenting time judgment);
- For Out-of-State Judgments, the notice, affidavit and judgment described in Packet 5C.

Third Party Service:

If you do not elect to have the sheriff serve the papers, obtain a “Third Party Service Packet” from the Facilitator or Family Law Clerk.

Make sure the person who completes service files a proof of service with the court, detailing how service was made. If mediation applies to the case, the person who completes service must also fill out the following document, as explained above: “Proof of Service for Request for Mediation and Order,” form # 30-11.

Service by Sheriff:

NOTE: THE SHERIFF’S FEE TO SERVE THESE DOCUMENTS IS \$25.00

11. Attend mediation and parent education class on the scheduled dates, if these requirements apply in your case.
12. Attend the Show Cause Hearing (court appearance), if your case does not settle in mediation.

13. Filling out the “Judgment RE: Enforcement of Parenting Plan” (Form 21-56):

If parties reach an agreement prior to the Show Cause Hearing date, they may fill out the Judgment together, sign and file it with the court in advance of the hearing date. They may seek a Judge’s signature on the Judgment by first checking in with the Family Law Clerk in Room 211, followed by attending a brief court appearance, called “Ex Parte,” which is held daily at 8:30 A.M. or 1:30 P.M. As soon as a Judgment is filed, the parties must contact the Domestic Relations Calendaring Clerk to cancel the Show Cause Hearing. It must be cancelled prior to the hearing date so that other cases can be scheduled.

If no agreement is reached, the Judge may fill out the Judgment at the conclusion of the Show Cause Hearing or may require a party to fill it out by inserting terms consistent with the Judge’s ruling in the case.