

**NOTICE SEEKING PUBLIC COMMENT ON
OUT-OF-CYCLE AMENDMENT TO UTCR 1.120**
(Comment Period Closes at 5:00 pm on August 30, 2019)

I. INTRODUCTION

We are seeking comment on an out-of-cycle amendment to Uniform Trial Court Rule (UTCR) 1.120. The amendment was adopted out-of-cycle by Chief Justice Order [19-035](#), effective June 13, 2019.

II. HOW TO SUBMIT COMMENTS

You may submit your comments by:

- clicking on the button below, next to the amended rule
- email (utcr@ojd.state.or.us)
- traditional mail (UTCR Reporter, Supreme Court Building, 1163 State Street, Salem, Oregon, 97301-2563)

Please submit your comments so that we receive them by 5:00 p.m. on August 30, 2019. Comments will be reviewed by the UTCR committee at its next meeting on October 18, 2019.

III. OUT-OF-CYCLE AMENDMENT

For the convenience of the reader, deleted wording is shown in [*brackets and italics*] and new wording is show in {**braces, underline, and bold**}.

1.120

EXPLANATION

This amendment was requested by Lindsey Detweiler, Assistant General Counsel, Oregon Judicial Department. The amendment clarifies the circumstances in which a filing fee is required when a person files a motion for disbursement of monies.

AMENDED RULE

1.120 **DISBURSING MONIES; MOTION AND ORDER**

- (1) The trial court administrator will not disburse monies without order of the court in any instance where the trial court administrator is unable to determine any of the following:
 - (a) The amount to be disbursed including, but not limited to, instances where the trial court administrator is required to calculate interest, past payments, or proceeds remaining from a sale.

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on This Rule](#)

- (b) The specific party or parties to whom the trial court administrator is to disburse monies.
- (2) In any instance described under subsection (1), the trial court administrator must give notice to the presiding judge and to any parties the trial court administrator can reasonably determine might have an interest in the monies. The following apply to notice under this subsection:
- (a) Notice must be in writing.
 - (b) Notice must include all the following to the extent possible: an indication that it is being given under this section, the amount of the money in question, identification of the source from which the trial court administrator received the money, a copy of any document received with the money, a description of the circumstances of receiving the money, identification of any case to which the trial court administrator can determine the monies may be related, and a description of the reasons for not disbursing monies.
 - (c) The trial court administrator shall enter in the register the fact of giving the notice, the time of giving notice, the manner of giving notice, and the persons to whom notice was given.
- (3) At any time the trial court administrator does not disburse monies for reasons described under subsection (1) of this section or for any other reason, the court or any person with an interest in the money may submit a motion for an order to disburse the monies. The following apply to a motion under this subsection:
- (a) Notice of the motion must be given to persons which the submitting party reasonably determines might have an interest in the money.
 - (b) The motion must indicate that it is being submitted under this section.
 - (c) The motion must include all the following: an explanation of the party's interest in the money, supporting mathematical calculations showing the amount of money that should be disbursed, any supporting documentation or affidavits that might assist the court in its determination, the name and address of the person to whom the monies should be disbursed, a proposed order to disburse.
 - (d) [*The motion is not a new filing or appearance but a continuation of an existing proceeding and*] **{If the person filing the motion has previously appeared in the proceeding,}** no fee is required for filing the motion. **{If the person filing the motion has not previously appeared in the proceeding, the person must pay the first appearance fee required by statute.}**
- (4) If the court determines money is to be disbursed, the court must enter an order to disburse directing specific amounts of money held by the trial court administrator to be disbursed and specific persons to whom the trial court administrator is to disburse the monies.

- (5) A trial court administrator must hold any monies subject to this section in the court trust account and follow the established accounting procedures until the trial court administrator receives the order to disburse.

1990 Commentary (statutory citations updated August 1, 2014):

Situations to which this section applies include, but are not limited to, a trial court administrator receiving and being unable to disburse monies under ORS 18.422(3), 18.872(2), 18.950, 87.475(3), or 88.100.