

[PRE-JUDGMENT]
Temporary Custody and Parenting Time
Application Packet – “Immediate Danger”
Instructions for Packet 16A

This process is authorized by ORS 107.097(3)(a) for certain cases involving child custody issues where the child/ren is/are in “immediate danger.” A petition for divorce, separation, custody or parenting time must have already been filed, or must be filed at the same time as the forms in this packet are filed. **These forms cannot be used in a case to modify (change) an existing judgment establishing custody (See Packet 16B).**

STEP 1

Fill out the following forms:

- Affidavit in Support of Ex Parte Motion for Temporary Custody and Parenting Time – “Immediate Danger” (AFFIDAVIT)
- Ex Parte Motion for Temporary Custody and Parenting Time – “Immediate Danger” (MOTION), and
- Ex Parte Order for Temporary Custody and Parenting Time – “Immediate Danger” (ORDER).

The case heading (names and case number) at the top of each form will be the same as it is on the petition that started the divorce, separation, or custody/parenting time case. Sign the lines that say “I certify this is a true copy” **only** on the copies that you make for the other party. You must sign the affidavit in front of a court clerk or notary, and will be asked for picture identification.

Attach any existing custody orders involving the child/ren to the AFFIDAVIT.

STEP 2

You may wish to get your paperwork reviewed by the courthouse facilitator (if there is one at your court) or an attorney.

STEP 3

Make two copies (one for service; one for your records) of the AFFIDAVIT, MOTION and signed ORDER. Sign each of the copies on the line below the words, “I certify this is a true copy.”

STEP 4

File the original documents (AFFIDAVIT, MOTION, and ORDER) with the court clerk. Ask the court clerk when a judge might be available to decide the matter. Once the order has been signed by a judge, the clerk will keep the originals for the court’s legal file. Ask the clerk for two copies of the signed ORDER. Sign the copies on the line next to the words, “I certify this is a true copy.”

STEP 5

Have the AFFIDAVIT, MOTION and signed ORDER served on the other parent. You may use the sheriff’s office, a process server or any competent person 18 years of age or older (who is a resident of the state of service and not a party to the case, nor an officer, director or employee of a party, nor an attorney for a party), to complete service. *This means you cannot serve the documents yourself, because you are a party.* For information about other service methods, talk to your local courthouse Facilitator.

After the documents have been served, the person who serves them must complete and file the AFFIDAVIT OF SERVICE with the court.

NOTE: At any time while the temporary order is in effect, the other parent has a right to request a hearing. After the court receives the other parent’s request for hearing form, the court must make a reasonable effort to hold the hearing within 14 days, but **MUST** hold it no later than 21 days after the request form is filed. ORS 107.097 (4)(b). If a hearing is scheduled, you must attend. If you fail to appear at the hearing, the court is required to vacate the order (meaning it will no longer be in effect).

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

In the Matter of the Marriage of:)
)
_____,) Case No. _____
) Petitioner,)
) and) EX PARTE MOTION
)) FOR TEMPORARY CUSTODY AND
_____,) PARENTING TIME ORDER UNDER
) Respondent.) ORS 107.097(3)(a) – “IMMEDIATE DANGER”

I, _____, request that the Court issue an “Immediate Danger”
(Print your name)

Temporary Custody and Parenting Time Order pursuant to ORS 107.097(3)(a) during the time it takes for our case to be settled or to come to final hearing before this court.

I understand that in order for me to make this request, my child/ren must be in “immediate danger.” I have explained the details of these dangers in my affidavit, which is attached to this Motion.

The name(s) and birthdate(s) of my minor child/ren that should be protected by this order are:

NAME	BIRTHDATE
_____	_____ Do not list. Provide by UTCR 2.130 CIF
_____	_____ Do not list. Provide by UTCR 2.130 CIF

DATED: _____, 20 _____

Petitioner Respondent Signature

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself and I completed it without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this form.

 Petitioner Respondent, Signature Print Name

Address or Contact Address City, State, Zip Telephone or Contact Telephone

I certify that this is a true copy: _____
 Petitioner Respondent Signature

5. I have have not participated in any litigation concerning the custody, visitation, parenting time or placement of the child/ren in this or any other state. I have participated in the following litigation:

Name of Court	State	Case No.	Date	Result

6. I do not know of any other domestic violence, custody, visitation, parenting time or placement proceeding involving the child/ren, or of any other court case which could affect this case, pending in this or any other state except for: _____

(identify court, case number and the kind of proceeding)

7. I do not know any person other than the other parent who has physical custody of the child/ren or who claims to have custody, visitation or parenting time rights except for: _____

(list name and address)

8. There are are not any other custody, parenting time, visitation or restraining orders affecting the child/ren. I have attached copies of any existing orders to this affidavit.

Dated: _____ day of _____, 20_____.

 Petitioner Respondent, Signature

SIGNED AND SWORN to before me this _____ day of _____, 20 _____
by: _____

Notary Public for _____/Court Clerk
My Commission Expires: _____

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself and I completed it without paid assistance.
 I paid or will pay money to _____ for assistance in preparing this form.

 Petitioner Respondent, Signature

Print Name

Address or Contact Address

City, State, Zip Telephone or Contact Telephone

I certify that this is a true copy: _____

Petitioner Respondent, Signature

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

In the Matter of <input type="checkbox"/> the Marriage of:)	
)	Case No. _____
_____)	
Petitioner,)	<input type="checkbox"/> AFFIDAVIT <input type="checkbox"/> DECLARATION OF SERVICE
and)	<input type="checkbox"/> Personal Service (ORCP 7D(2)(a))
)	<input type="checkbox"/> Substitute Service (ORCP 7D(2)(b))
_____)	<input type="checkbox"/> Office Service (ORCP 7D(2)(c))
Respondent.)	<input type="checkbox"/> Service by Mail, Return Receipt Requested (ORCP 7D(2)(d))
)	

I, _____, being first duly sworn, say declare I am a resident of the County of _____, State of _____. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action.

(Check one of the following):

1. **Personal Service.** On the _____ day of _____, 20____, at _____ a.m./p.m., I served true copies of the original Ex Parte Motion for, and Affidavit in Support of, Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" by delivering them to: Petitioner Respondent _____ (name) in person at the following address: _____ within the County of _____, State of _____

2. **Substitute Service.** On the ____ day of _____, 20____, at _____ a.m./p.m., I served true copies of the original Ex Parte Motion for, and Affidavit in Support of, Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" by delivering them to _____ (name), who is a person age 14 or older and a member of the household of the party to be served, at the following address _____ within the County of _____

(Complete the section below only if the undersigned performed the followup mailing required by ORCP 7D(2)(b). If a party or other person other than the undersigned did the follow up mailing, s/he must submit a separate Affidavit of Service.)

On the _____ day of _____, 20____, I personally deposited a true copy of the original Ex Parte Motion for, and Affidavit in Support of, Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" with the United States Postal Service, via first class mail, in a sealed envelope, postage prepaid, 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).

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3. **Office Service.** On the _____ day of _____, 20____, at _____ a.m./p.m., I served true copies of the original Ex Parte Motion for, and Affidavit in Support of, Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" by delivering them, in person, to the office of the party to be served, located at: _____ during normal working hours for that office, where I left the documents with _____ (name), who is a person apparently in charge and who has a business duty to provide the documents to the party to be served. (Complete the section below only if the undersigned performed the followup mailing required by ORCP 7D(2)(c). If a party or other person other than the undersigned did the follow up mailing, s/he must submit a separate Affidavit of Service.)

On the _____ day of _____, 20____, I personally deposited a true copy of the Petition for Ex Parte Motion for, and Affidavit in Support of, Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" with the United States Postal Service, via first class mail, in a sealed envelope, postage prepaid, addressed to the party to be served: Petitioner Respondent _____ (name), at the party's: home address located at: _____ (address), OR business address, listed above, together with a statement of the date, time and place that the documents were hand-delivered to the party's office.

4. **Service by Mail, Return Receipt Requested.** On the _____ day of _____, 20____, I personally deposited **two true copies** of the original Ex Parte Motion for, and Affidavit in Support of, Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" with the United States Postal Service, one via first class mail, and the other sent by certified or registered, return receipt requested, or express mail, with postage on both copies fully paid, addressed to the party to be served: Petitioner Respondent _____ (name), at the party's: home address located at: _____ (address). **The party served signed a receipt for the certified, registered or express mailing, and the return receipt is attached to this Affidavit.** (NOTE: The return receipt MUST be attached to this Affidavit of Service.)

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself and I completed it without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this form.

