

Temporary POST-JUDGMENT Custody and Parenting Time Application Packet – “Immediate Danger” Instructions for Packet 16B

This process is authorized by ORS 107.139 for certain cases involving child custody issues where the child/ren is/are in “immediate danger.” A court order or judgment for custody or parenting time must already exist. A motion for a permanent modification of custody must be filed or pending at the time this application is made.

STEP 1

Fill out the following forms:

- Affidavit in Support of Motion for Post-Judgment Temporary Custody and Parenting Time – “Immediate Danger” (AFFIDAVIT),
- Ex Parte Motion for Post-Judgment Temporary Custody and Parenting Time – “Immediate Danger” (MOTION), and
- Ex Parte Order for Post-Judgment 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 originally started your 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. **YOU MUST MAKE A GOOD FAITH EFFORT TO TALK TO THE OTHER PARTY REGARDING THE PURPOSE OF THIS PROCEEDING AND THE TIME YOU WILL APPEAR BEFORE A JUDGE ON THIS MATTER.**

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 hold the hearing within 14 days. ORS 107.139(2)(a). 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:)
)
_____,)
Petitioner,)
and)
_____,)
Respondent.)

Case No. _____

EX PARTE MOTION FOR POST
JUDGMENT TEMPORARY CUSTODY AND
PARENTING TIME ORDER UNDER
ORS 107.139 – “IMMEDIATE DANGER”

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

Temporary Custody and Parenting Time Order pursuant to ORS 107.139.

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

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

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

In the Matter of the Marriage of:)
)
_____,)
Petitioner,)
and)
_____,)
Respondent.)

Case No. _____

AFFIDAVIT IN SUPPORT OF EX PARTE
MOTION FOR POST-JUDGMENT TEMPORARY
CUSTODY AND PARENTING TIME UNDER
ORS 107.139 – “IMMEDIATE DANGER”

STATE OF _____)
) ss.
County of _____)

I (*print your name*), _____, being first duly sworn, say: I am the
 Petitioner Respondent in this proceeding.

1. My minor child/ren’s names and birthdates are:
NAME

BIRTHDATE

Do not list. Provide by UTCR 2.130 CIF

Do not list. Provide by UTCR 2.130 CIF

Do not list. Provide by UTCR 2.130 CIF

2. My child/ren are in “immediate danger” because of the following detailed facts (**be specific**): _____

Additional page attached

3. I made a good faith effort to confer (speak) with the other party regarding the purpose and time of this court appearance on _____, 20_____. The result of this attempt was (describe the other party’s response): _____

///

///

4. List the places where the minor child/ren of the parties have lived in the last five years and the names of the people they lived with at that time.

Dates	County, State	Parent(s)/Caretaker	Current Address/Contact Address of Parent/Caretaker	Which Children

Additional page attached

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

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)

6. 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)* _____

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

Petitioner Respondent, Signature

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

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

AFFIDAVIT IN SUPPORT OF EX PARTE MOTION FOR POST-JUDGMENT TEMPORARY ORDER FOR CUSTODY AND PARENTING TIME UNDER ORS 107.139 – “IMMEDIATE DANGER” - Page 2 of 2

Notice

You may request a hearing on this order as long as it remains in effect by filing with the court a [hearing request in the form described in ORS 107.139 (3)] request for a hearing. In the request you must tell the court and the other party that you object to the order on the ground that the child was not in immediate danger at the time the order was issued. In the request you must also inform the court of your telephone number or contact number and your current residence, mailing, or contact address. This form is available through the Oregon Judicial Department’s web site, <<http://www.ojd.state.or.us/familylaw>>, and may also be available through your local circuit court.

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.

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

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, Post-Judgment Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Post-Judgment 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, Post-Judgment Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Post-Judgment 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 _____, State 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, Post-Judgment Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Post-Judgment 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, Post-Judgment Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Post-Judgment 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: _____ (address), 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, Post-Judgment Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Post-Judgment 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, Post-Judgment Temporary Custody and Parenting Time Order Under ORS 107.097(3)(a) - "Immediate Danger" and Order for Post-Judgment 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.

Complete ONE of the following:

IF AFFIDAVIT:

Dated this _____ day of _____, 20_____.

Signature of Server

Print Name

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone

SIGNED AND SWORN to before me this _____ day of _____, 20 _____,
By _____.

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

OR

IF DECLARATION:

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this _____ day of _____, 20_____.

Signature of Server

Print Name

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone