

# Responding to Petition for Separation, Cases with no Child/ren

## Instructions for Packet 2D

### Notice about these instructions and forms.

*These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated divorce cases. For legal information, please talk to a lawyer and/or visit your local law library.*

*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 Oregon Judicial Department website: <http://courts.oregon.gov>.*

This set of forms and instructions explain how to file a response to a petition for separation. Legal separation may be for a set period of time, or may be for an unlimited duration. Even in a separation of unlimited duration, the parties still may get divorced or reconcile (live together as husband and wife), but further court proceedings may be necessary to legally change the relationship. Keep in mind that the final judgment in this case will create rights and obligations that may vest (become permanent). Generally speaking, child/ren custody, parenting time and support may be modified at a later date in certain situations. Property divisions usually can't be modified. You should talk to a lawyer if you have questions about these issues.

### When filling out the forms, follow these directions:

- The case heading is the same as listed on the petition you were served.
- Some forms have to be notarized or signed in the presence of a court clerk. You will need your picture ID for this. Many banks provide notary services.
- Some forms say on the bottom, “I certify that this is a true copy,” and provide a place to sign. Don't sign this line on the original form or on your own copy. You only need to sign this line only on the copies for your spouse.
- Make yourself a copy of any document you are filing with the court. File the original with the court clerk.
- Keep the court informed of your current address so you get notice of all court dates. **You are not required to use your residential address on any court form.** You may use a contact address where you regularly check in. **Your contact address will become public information.** Please make sure that you use an address that is ok for other people, including the respondent, to know. It must be an address in the state where you live where you can receive mail. If you use a contact address, the court will assume that you will receive all notices sent to that address. **Note: If you fear for your safety, you may be able to obtain a non-disclosure order.** Consult with your local court for instructions as well as the appropriate forms.

### STEP 1: FILING YOUR RESPONSE

You have 30 days following the date you were served with the petition to file a written response with the court clerk and pay the filing fee. If you feel you can't afford to pay the fee, you may ask the clerk for an Application for Waiver or Deferral of Fees. You may fill out this form and file it with the court requesting that your filing fee be waived or deferred. If the fee is waived, you don't have to pay the fee. If the fee is deferred, most courts will require that you pay the fee at a later date.

In the response, space is provided for you to state that you disagree with certain items asked for in the petition. You may also write in items that you would like the court to order that were not included in the petition. These are called “counterclaims.” If you agree with everything asked for in the petition, you are not required to file a response. The court will enter judgment based on what was asked for in the petition.

### **Legal Issues to Consider.**

Before you fill out your response, you should review what your spouse asked for in the petition, and think about how you want to handle these issues.

Also, if you were not served with the petition in Oregon, or if you haven’t lived in Oregon for a long period of time, you may be entitled to respond by objecting to service or jurisdiction. However, these are complicated legal determinations and you should talk to an attorney about what kind of response to file if either of these situations apply to you.

**Spousal Support.** Oregon law provides for three different categories of spousal support: transitional, compensatory and spousal maintenance. Transitional support may be ordered for a spouse to get work related education and training. Compensatory spousal support may be ordered if one party has significantly contributed to the education, training, vocational skills, career or earning capacity of the other spouse. Spousal maintenance may be ordered for the support of one spouse. The judge will consider a number of factors when making the award. For more information on what the judge will consider, please refer to ORS 107.105 (to view, visit your local law library or: [www.leg.state.or.us/ors](http://www.leg.state.or.us/ors)).

**Property and Debts – Statutory Restraining Order.** Oregon law requires both Petitioner and Respondent to obey a restraining order preventing *either party* from dissipating (selling, destroying, removing, disposing of) real or personal property, making unilateral (without the agreement of the other party) changes to insurance policies, and making extraordinary expenditures. Expenditures that are necessary for the safety or welfare of the child/ren or the parties are not prohibited. The order is effective on both you and the Petitioner once you have been served with the “*Notice of Statutory Restraining Order Preventing the Dissipation of Assets in Domestic Relations Actions.*” You may request a hearing if you object to the terms of the Statutory Restraining Order (see Packet 1BC for a Request for Hearing Form). If you violate the order, you may be subject to sanctions.

For information about these issues, talk to a lawyer and/or go to the Oregon State Bar’s web site ([www.osbar.org](http://www.osbar.org)), “Legal Links” and read under “Oregon’s Laws” the sections on “Bankruptcy and Credit,” “Real Estate,” and “Taxes.” If either spouse has a retirement plan, you should talk to an attorney before filling out the response. The attorney can advise you if this packet will work for your situation. If the parties own real estate located in Oregon, a “lis pendens” notice (notice of pending suit) may be filed with the county clerk as provided in ORS 93.740 (to view, visit your local law library or [www.leg.state.or.us/ors](http://www.leg.state.or.us/ors)).

### **Confidential Personal Information.**

There is certain personal information that can only be listed in a Confidential Information Form (CIF) and may not be listed in any of the other papers you file with the court. See the CIF information sheet that is part of this packet.

### **Have your documents reviewed.**

You may have your documents reviewed by a lawyer or a courthouse facilitator (if your court has one) before you file. For information about how to find a lawyer, call the Oregon State Bar Lawyer Referral Service. If you are low income, you may get your documents reviewed for a smaller fee through the Oregon State Bar’s Modest Means program, or you may call your local Legal Aid office. Contact numbers are listed in the additional resources section at the end of these instructions, and in the “Local Family Law Practices and Procedures” for your court attached to these instructions.

### **Filing the Response.**

After you have filled out the Response, make two copies. One copy is for your records, and the second copy is for your spouse. **If your spouse does not have an attorney**, mail your spouse's copy **to your spouse's address** and fill out the Certificate of Mailing form, **and file it with the court**. If your spouse is represented by an attorney, **you must instead** mail the copy to your spouse's attorney and provide the attorney's address in the Certificate of Mailing form.

File the original Response, Certificate of Mailing and Acknowledgment about Separation form with the court clerk along with the required filing fee (unless your fee was waived or deferred by a judge).

## **STEP 2: RESOLVING YOUR CASE**

### **Temporary Orders.**

You may ask the court to make temporary orders. Temporary orders are in effect once signed by the judge and last until changed or until the judgment is signed by a judge or the case is dismissed. For example, either spouse may request an order for spousal support, an order preventing one or both spouses from getting rid of property owned by both spouses, or an order requiring one spouse to move out of the family home. To make any of these requests, you will need to file a "motion" asking the court to do what you want. You may need the assistance of an attorney to file these requests.

All courts have restraining order forms for cases involving domestic violence. A restraining order can usually be obtained within a day or two of filing if there has been abuse in the last 180 days, and if there is further danger of abuse. Check with your local court about forms and filing instructions.

### **Conferences with the Judge.**

Many courts will schedule a "status," "pretrial," or "settlement" conference if a response has been filed. These meetings usually take place with a judge with both spouses present, along with their attorneys if they are represented. You must go to any conferences that are scheduled unless you have received permission from the judge not to attend.

At the conference, the judge will probably talk to you about how the case is going to be resolved, may consider requests for temporary orders and will probably set future court dates.

### **Working Toward Agreement.**

The court wants to help you resolve the issues that you and your spouse disagree on. You may discuss these issues with your spouse directly if it is safe for you to do so and if no court order prohibits this contact. You may also discuss them with your spouse's attorney. If you filed a response, and later decide that what your spouse asked for in the petition is okay with you, you may fill out and file a Waiver of Further Appearance and Consent to Entry of Judgment form. The court will then enter judgment based on what was requested in the petition. Ask your local courthouse facilitator for help with this step. If you can't resolve the issues on your own, the court may provide a number of options to help you.

**Mediation.** A mediator is a person trained to help people resolve disagreements. You may meet with a mediator to resolve the financial issues in your case. Many courts have a list of mediators qualified to mediate these cases. Check with your local court clerk to see whether or not there is a fee for this service.

**Arbitration.** Some courts refer spouses who disagree on how to divide their property to an arbitrator. The court may also ask the arbitrator to resolve spousal support issues. An arbitrator is a lawyer appointed by the court who meets with both spouses and their lawyers, if they are represented, and makes a decision about how the property should be divided. Both spouses are required to pay for this service unless the court has specifically waived or deferred the arbitrator's fee. If either spouse disagrees with the arbitrator's decision, s/he can ask the court for a trial. If a trial is not requested, the arbitrator's decision is final unless both spouses agree

on another resolution.

### **STEP 3: THE FINAL PAPERWORK**

Your case is finished the date the judgment of separation is signed by a judge. The judgment contains all of the issues decided in mediation, arbitration, hearing or through your agreement. If both spouses agree on all issues, it may be prepared by either spouse as long as it is reviewed and signed by both spouses. If there are still items that you don't agree on, the court will probably set a date for a "final hearing" or trial. The judge may direct one spouse to prepare the judgment after the hearing. Some judges may also want to meet with you for a "settlement conference" (a private meeting with a judge) to try and help you come to agreement.

If you are responsible for filling out the judgment, make a copy for yourself and one for your spouse, and file the original with the court. If your case involves spousal support, file an extra copy of the proposed judgment with the court.

You may also have to file the forms listed below, depending on your circumstances.

**Uniform Support Affidavit.** This form is required if spousal support is an issue in the case, unless both parties have agreed on the amount of support.

**Waiver of Personal Service.** After the final judgment is signed, if one spouse doesn't follow its provisions, the other spouse may ask the judge to enforce the judgment. The spouse asking for enforcement is required to personally serve the other spouse with notice of this request. If you would like to keep your home address confidential, you may file this form listing another address for service. You are responsible for making sure you get all papers delivered to the address that you list.



## Information about the Confidential Information Form (CIF)

### What is a CIF?

Most court files may be viewed by the public. Uniform Trial Court Rule (UTCRC) 2.130 requires certain confidential personal information to be protected from public disclosure. That is done by providing the information in a separate form. After you file your papers, the court keeps the form separate from the part of the court file that may be viewed by the public. The form is UTCRC Form 2.130.1, known as the Confidential Information Form, or CIF.

### What information does a CIF make confidential?

The information protected by the CIF is social security numbers, birth dates, driver license numbers, and former legal names. Also protected are the name, address, and telephone number of a party's employer.

The CIF should only be used to protect the information described above. There may be other information in your court papers that you do not want the public to be able to see, such as bank account or credit card numbers. The separate process for protecting that information is described in UTCRC 2.100, which can be read at:

<http://courts.oregon.gov/OJD/programs/utcr/utcrrules.page?>

### How do I know when I need to put information in the CIF?

When a document filed with the court requires you to include information protected by a CIF, that information must **only** be provided to the court in a CIF and must not be listed in any other document to be filed. Where you would otherwise provide the information in the document to be filed you must make a note that the information has been provided in the CIF. For example, if a document requires a party's full social security number to be listed, you must not list the social security number, but must instead make a note on the document that the information has been filed under UTCRC 2.130. **The online court forms already have that note on the form.**

### Do I need to file more than one CIF?

In most cases, yes. You must fill out a CIF for yourself, and if the documents you are filing with the court require confidential personal information about the other party, you must also fill out a separate CIF with the other party's information. If your case involves children, you should include their information in *your* CIF. You do not need a separate CIF for your children.

If there is CIF information you do not know when you file your papers, or if the information changes during your case, you must file an amended CIF that provides the new or updated information.

The CIF rule requires you to redact – black out or erase – confidential personal information from any attachments to documents you file with the court and to make a note on the attachment that the information has been provided in the CIF. The only exception is when you are required to attach a court-certified document. Documents that are required to be court certified should not be altered in any way.

**Does the other party get copies of a CIF I file?**

You are not required to serve the CIFs on the other party, though you may share a CIF with the other party if you chose to do so. You *are* required to serve the other party with UTCR Form 2.130.2, which is a notice that a CIF has been filed. You must also file a certificate with the court showing that you served the other party with the notice that a CIF was filed.

There are steps the other party and other people can go through to ask the court to allow them access to a CIF that you have filed. UTCR 2.130 explains that process in detail, and also describes the circumstances under which the court must deny a request by someone else to view a CIF you have filed.

The CIF rule (UTCR 2.130) can be read at:

<http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/familylawforms.page?>

and you can find additional information about the rule at:

<http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/familylaw/familylawforms.page?>

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

In the Matter of: \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 Petitioner     Co-Petitioner, )  
 and )  
 \_\_\_\_\_ )  
 Respondent     Co-Petitioner. )  
 \_\_\_\_\_ )  
 Child At Least 18 But Under 21 )

Case No.: \_\_\_\_\_

**FAMILY LAW CONFIDENTIAL INFORMATION  
FORM (CIF)**

Amended

This document is not accessible to the public or other parties. Exceptions may apply. See UTCR 2.130.

**ATTENTION COURT STAFF: THIS IS A RESTRICTED ACCESS DOCUMENT.**

The information below is about:  Petitioner  Respondent  Co-Petitioner: \_\_\_\_\_

Child At Least 18 But Under 21: \_\_\_\_\_

Other: \_\_\_\_\_

Name (Last, First, Middle): \_\_\_\_\_

**The names of the parties and the children, as well as the children's ages, are NOT confidential.**

Former Legal Name (s) (if applicable):
Date of Birth:
Social Security Number:
Driver License (Number and State):
Name, Address, and Telephone Number of Employer:

Children's Names (Last, First, Middle)


Date of Birth

Social Security No.


Please attach an additional sheet if there are more than five children involved in the proceeding.

**I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use as evidence in court and are subject to penalty for perjury.**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

**COMPLETED AND SUBMITTED BY:**

Petitioner  Respondent  Co-Petitioner: \_\_\_\_\_

Child who is at least 18 and under 21: \_\_\_\_\_

Other: \_\_\_\_\_

**NOTE TO COURT STAFF: Unless ordered or authorized under UTCR 2.130, this Confidential Information Form is not available to the opposing party or his/her attorney, or to the public; except for the state.**

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

In the Matter of: \_\_\_\_\_ ) Case No.: \_\_\_\_\_ )  
 )  
  Petitioner  Co-Petitioner, ) **NOTICE OF FILING OF**  
 and )  **CONFIDENTIAL INFORMATION FORM (CIF)**  
 )  **Amended CIF**  
 )  
 \_\_\_\_\_ )  
  Respondent  Co-Petitioner. )  
 )  
 )  
 \_\_\_\_\_ )  
  Child At Least 18 But Under 21 )

**NOTICE: Confidential Information Form Has Been Filed**

- Uniform Trial Court Rule (UTCR) 2.130 requires that parties to domestic relations cases place certain information about themselves and other parties in a CIF when such information is required in a document filed with the court.
- The CIF is not available for public inspection except as authorized by law.
- Parties are allowed to see a CIF that contains information about them.
- A party who wants to see a CIF that contains information about another party must ask for permission from the court or the other party by following the procedures set out in UTCR 2.130.

**I am the (check one box):**

Petitioner  Respondent  Co-Petitioner: \_\_\_\_\_  
 Child At Least 18 But Under 21: \_\_\_\_\_  
 Other: \_\_\_\_\_

**I filed Confidential Information Forms with the court about the following parties to this case:**

(complete a section for each party for whom you have filled out a CIF)

1) Name (Last, First, Middle): \_\_\_\_\_  
 Petitioner  Respondent  Co-Petitioner  Adult Child  Other: \_\_\_\_\_

Confidential Personal Information contained in CIF (check all that apply):

party's social security number,  party's date of birth,  children's social security number,  
 children's date(s) of birth,  employer's name, address, and telephone number,  driver  
license number,  former legal name(s).

2) Name (Last, First, Middle): \_\_\_\_\_  
 Petitioner  Respondent  Co-Petitioner  Adult Child  Other: \_\_\_\_\_

Confidential Personal Information contained in CIF (check all that apply):

party's social security number,  party's date of birth,  children's social security number,  
 children's date(s) of birth,  employer's name, address, and telephone number,  driver  
license number,  former legal name(s).

3) Name (Last, First, Middle): \_\_\_\_\_  
 Petitioner  Respondent  Co-Petitioner  Adult Child  Other: \_\_\_\_\_

Confidential Personal Information contained in CIF (check all that apply):

party's social security number,  party's date of birth,  children's social security number,  
 children's date(s) of birth,  employer's name, address, and telephone number,  driver  
license number,  former legal name(s).

4) Name (Last, First, Middle): \_\_\_\_\_  
 Petitioner  Respondent  Co-Petitioner  Adult Child  Other: \_\_\_\_\_

Confidential Personal Information contained in CIF (check all that apply):

party's social security number,  party's date of birth,  children's social security number,  
 children's date(s) of birth,  employer's name, address, and telephone number,  driver  
license number,  former legal name(s).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Signature

Print Name

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Contact Address

City, State, Zip

Contact Telephone

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

In the Matter of the  Marriage of: )  
 )  
\_\_\_\_\_, ) Case No. \_\_\_\_\_  
 )  
and Petitioner, )  
 )  
 ) RESPONDENT'S CERTIFICATE  
 ) OF MAILING  
\_\_\_\_\_, )  
 )  
Respondent. )

I certify that on \_\_\_\_\_, 20\_\_\_\_, I placed a true copy of the Response and Notice of CIF Filing in the above case in the United States mail addressed to Petitioner at (*petitioner's address*) \_\_\_\_\_, in a sealed envelope with postage paid.

**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.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Respondent

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address or Contact Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone or Contact Telephone