

Parenting Plan Enforcement Instructions for Packet No. 5A

Notice about these instructions and forms.

These instructions are not a complete statement of the law. Neither court nor court staff are permitted to give legal advice. For legal information, please talk to a lawyer, visit your local law library and/or refer to the "Additional Resources" section on the last page of these instructions.

*The instructions refer to some forms not included in this packet. You may get the forms at: <http://www.courts.oregon.gov/linn> and click on **FORMS**. Linn County Court also has the forms available in Room 107.*

Linn County Court has local rules, programs and procedures which may not be explained in these instructions. Please refer to the "Linn County Supplementary Local Court Rules."

Notice about Enforcement of Orders from Other Courts.

To enforce an out of state order or judgment, the following forms are required: (1) Enforcement of Out of State Child Custody and Parenting Time Judgments and (2) Parenting Time/Plan; Petition for Enforcement of Out of State Order. If the order was entered in another county, you will need to file a request to transfer with the court that entered the order.

STEP 1

Fill out the following forms: Motion for Order to Show Cause Re: Enforcement of Parenting Plan and Order (MOTION AND ORDER) and Affidavit Supporting Motion for Enforcement of Parenting Plan (AFFIDAVIT). If your case involves an out of state order or judgment, you will be filing the petition listed above instead of the motion. The case heading is the same as it was when visitation or parenting time was ordered if you are filing in the same county. For enforcement of out of state orders, you are the petitioner.

Don't fill in the section of the motion that sets the hearing date, and don't fill in the judge's portion of the order.

Wait to sign the affidavit until you are the presence of a court clerk or a notary public. You will sign where it says "I certify that this is a true copy" only on copies to serve on the other party.

Attach a certified copy of the order or judgment that established the parenting time or visitation you are now asking the court to enforce to the original MOTION (or PETITION) and ORDER you just filled out.

Make two copies of the AFFIDAVIT and one copy of the MOTION AND ORDER (or PETITION). 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."

STEP 2

File the original MOTION (or PETITION) and ORDER and the AFFIDAVIT with the court clerk and pay the filing fee or ask for a form to waive or defer the fee.

Fill in the case number on your copy if you don't have one already.

STEP 3

Check back with the court to see if the ORDER was signed. Obtain a court certified copy of the signed ORDER through the records department.

Have the other party served with the second copy of your AFFIDAVIT and the court certified copy of the MOTION and ORDER. You cannot serve the papers yourself. You may ask your local sheriff's office or a private process server to serve the papers for you. Make sure the person who completes service files a proof of service with the court, detailing how service was made.

STEP 4

Sign up for your court's parent education class if you are required to attend. For more information on the class, ask the Linn County Family Court Specialist.

STEP 5

Attend the hearing set in the MOTION and ORDER. Participate in mediation if the court requires it. You may ask the court to waive the parenting class or mediation by filling out the Motion and Order for Waiver; and Affidavit in Support of Motion to Waive Parenting Class or Mediation.

Notice About Sanctions

The remedies the Court may impose as a result of this motion to enforce a parenting plan are listed on pages 1 and 2 of this document, in Section 1, paragraphs “a” through “g”.

When pleaded and shown in a separate legal action, violation of court orders, including parenting time and visitation orders, may also result in a finding of contempt, which can lead to fines, imprisonment, or other penalties, including compulsory community service.

Notice About Mediation

Mediation of the parenting plan enforcement issues may be required in your county. A separate Order will be issued if mediation is required.

The Court may waive the mediation requirement if one of the parties can show a good reason. You may file a written request asking that the Court waive mediation. Forms are available through the Oregon Judicial Department at www.courts.oregon.gov and through your local Circuit Court at www.courts.oregon.gov/linn.

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

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

Case No. _____

AFFIDAVIT OF SERVICE

- Personal Service (ORCP 7D(2)(a))**
- Substitute Service (ORCP 7D(2)(b))**
- Office Service (ORCP 7D(2)(c))**
- Service by Mail, Return Receipt Requested (ORCP 7D(2)(d))**

I, _____, being first duly sworn, state as follows:

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.

(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 **Motion/Petition, Order, and Affidavit Supporting Motion for Enforcement of Parenting Plan** 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 **Motion/Petition, Order, and Affidavit Supporting Motion for Enforcement of Parenting Plan** 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 _____.

(If Substitute Service was used, you must complete the followup mailing section below as required by ORCP 7D(2)(b). If someone other than yourself completed the follow up mailing, s/he must use a separate Affidavit of Service).

On the _____ day of _____, 20____, I personally deposited a true copy of the originals listed above 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).

3. **Office Service.** On the _____ day of _____, 20____, at _____
a.m./p.m., I served true copies of the original **Motion/Petition, Order, and Affidavit Supporting
Motion for Enforcement of Parenting Plan** 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.
*(If Office Service was used, you must complete the followup mailing section below as required by
ORCP 7D(2)(c). If someone other than yourself completed the follow up mailing, s/he must use a
separate Affidavit of Service.)*

On the _____ day of _____, 20____, I personally deposited a true
copy of the originals listed above 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 a true copy of the **Motion/Petition, Order, and Affidavit Supporting Motion for
Enforcement of Parenting Plan** with the United States Postal Service, one via first class mail, **and** the
other 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).

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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.)

Case # _____

[_____]

Attach return receipt here

[_____]

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.

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

Contact Address City, State, Zip Contact Telephone

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

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