

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

Notice about these instructions and forms.

*These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated separation cases. For legal information, please talk to a lawyer or visit your local law library. Each court has local rules, programs and procedures that may not be explained in these instructions. **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 need to sign this line only on the copies for your spouse/partner.
- 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. If you use a contact address, the court will assume that you will receive all notices sent to that address.

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 a Motion and Affidavit for Waiver or Deferral of Filing Fee. 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.

Oregon law requires a number of issues be addressed in the final separation judgment. Before you fill out your response, you should review what your spouse/partner 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).

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.

Social Security Numbers

Oregon law requires **social security numbers** to be provided in certain circumstances but kept confidential from the public in dissolution, separation and annulment proceedings. **Do not place any social security numbers on your pleadings.** If a social security number is required on any form, fill out the UTCR 2.130 Confidential Information Form. This form is available in this packet or on Linn County Court’s website, www.courts.oregon.gov/linn .

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 after the petition is filed. Temporary orders are in effect once signed by the judge and last until changed by the judge or until the final judgment is signed by a judge. For example, either spouse may request an order for spousal or child support, an order preventing one or both parties from getting rid of

property owned by both spouses, an order requiring one spouse to move out of the family home or an order preventing either party from interfering with the child/ren's regular living arrangement and schedule. To make any of these requests, you file a "motion" (request) asking the court to do what you want. You may need the assistance of an attorney to file these requests.

You may use Packet 6B, Status Quo Order Application Packet, to ask the court to order that neither parent change the child/ren's usual place of residence, change the child/ren's regular routine, or interfere with the other parent's usual contact with the child. In addition, there are restraining order forms available 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 the court clerk about forms and filing instructions.

Conferences with the Judge.

Linn County court will schedule an early resolution 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 attend all conferences that are scheduled unless you have received permission from the judge not to attend. If you fail to appear at the conferences or court appearances, your pleadings may be stricken and a judgment entered against you.**

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 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 that contact. If you can't resolve the issues on your own, the court may provide a number of options to help you, including arbitration.

Arbitration. The court may refer spouses who disagree on how to divide their property to an arbitrator. The parties 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, he or she 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: FINALIZING YOUR SEPARATION

A separation is "final" the date the judgment is signed by a judge. The judgment contains all of the issues decided in mediation, arbitration, hearing or through your agreement. If both spouses/partners agree on all issues, it may be prepared by either spouse/partners as long as it is reviewed and signed by both spouses/partners. 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/partner to prepare the judgment after the hearing. Some judges may want you to attend a "settlement conference" (a meeting between the parties to discuss settlement, usually led by a different judge than your trial judge) to help you come to agreement.

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

Uniform Support Declaration. 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.

ADDITIONAL RESOURCES

Oregon Judicial Department - Family Law Forms and

Resources: <http://courts.oregon.gov>

Oregon State Bar <http://osbar.org>

Lawyer Referral 1-800-452-7636

Modest Means (low income) “ ”

Tel-law 1-800-452-4776

Division of Child Support: 1-800-850-0228

<http://oregonchildsupport.gov> or

<http://justice.oregon.gov/guidelines>

Legal Aid Service of Oregon (must have low income)

Child Support Help Line 1-800-383-1222

Local offices: Look on the “Local Family Law Practices and Programs” form for your court, the telephone book, or in the “legal links” section of the Oregon State Bar’s web site: <http://osbar.org>

Domestic Violence Help 1-800-799-SAFE