

Packet 4A General Instructions
UNMARRIED PARENTS:
Responding to Petition for Custody, Parenting Time and Support
Notice about these instructions and forms.

These instructions are not a complete statement of the law. They cover basic procedure for uncomplicated cases. Neither court nor court staff are permitted to give legal advice. For more 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 by clicking on the form name if you are using the Internet at: www.courts.oregon.gov/linn go into **FORMS**. Linn County Court also has the forms available in Room 107.*

Linn County Court has local rules, programs and procedures that may not be explained in these instructions. Please refer to the "[Linn County Supplementary Local Court Rules](#)."

This set of forms and instructions explain how to file a response to a petition for custody, parenting time and child support. When filling out the forms, follow these directions:

- Please make certain that all sections are complete. The document must be readable. Use black or dark blue print only. If the document is handwritten, please print. If the answer to a question is none, then write "none". Do not use "N/A" for the word none.
- The case heading is the same as listed on the petition you were served. You are the named "respondent" on all court forms and the other parent is the "petitioner". Use full names (first, middle or middle initial, last) and print the names the same on all forms.
- 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.
- Many 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 that you are mailing to the other parent.
- 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 Deferring or Waiving Fees and Costs. 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 back. If the fee is deferred, you will be required to pay the fee pursuant to a payment plan set by the court.

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 the General Judgment of Custody, Parenting Time or Child Support based on what was asked for in the petition.

You may also be served with additional papers in which the other party is asking the court to order temporary relief. Remember to read all the papers carefully. **If you do not respond within the time period allowed, the court may order the relief requested without further notice to you.**

Legal Issues to Consider

Oregon law requires a number of issues be addressed in the General Judgment of Custody, Parenting Time or Child Support . Before you fill out your response, you should review what the other parent 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.

Parenting Plan

A parenting plan is required for cases involving a minor child. The plan sets out the schedule and rules for each parent's time with the child. It may be very detailed, or it may just cover a few issues. It must specify the access and a minimum amount of parenting time (visitation) for the parent who does not have custody of the child. The parenting plan may include safety provisions for the child if domestic violence, substance abuse, child abuse or other circumstances are involved in your case.

A mediator can help parents create a parenting plan. Information about parenting plans are available through the court's parent education program, the courthouse facilitator, or the local law library. **The Oregon Judicial Department and the State Family Law Advisory Committee have created a "Parenting Plan Guide for Parents" with information about how to develop a plan, information about alternative schedules, and ages and stages of your child[ren] which should be considered in creating a plan. A sample parenting plan form is included in the Guide. The Guide may be downloaded from the OJD Family Law Website at www.courts.oregon.gov.** If the parents don't agree on a parenting plan, a judge will order a parenting plan for you.

Oregon law (ORS 107.159) prevents either parent from moving more than 60 additional miles away from the other parent without giving him or her and the court notice of the move. You may ask the judge to waive this requirement by checking the last box in the parenting plan section of the petition. For information about child custody, you may call Tel-Law (1-800-452-4776) tape 1133, or visit www.osbar.org.

Child Support

IMPORTANT! Oregon law now requires that the petitioning party submit a CERTIFICATE stating whether there are any pending child support proceedings or existing child support orders involving the parties' child[ren]. To comply with this requirement, fill out and submit the form called "CERTIFICATE re: PENDING CHILD SUPPORT PROCEEDINGS and/or EXISTING CHILD SUPPORT ORDERS" in this packet. You will be required to attach certified copies of any pre-existing child support orders (certified copies may be obtained from the clerk of the issuing court).

In most cases, the court will order child support if the parties have a child and no child support order already exists. The amount of support, if ordered, will be determined by the Child Support Guidelines. The Guidelines have worksheets to help you figure out who should pay support and how much it should be. Support is typically withheld from wages unless an exception is allowed for direct deposit to the other parent's checking or savings account, or, if support enforcement services are being provided to either parent, as an "electronic funds transfer" to a Department of Justice account. Information about child support, including the Guidelines and Worksheets, is on the Internet at: <http://www.oregonchildsupport.gov>. This website also has a Child Support Calculator which may help you to calculate the amount of child support which should be paid: <http://www.oregonchildsupport.gov>. The legal aid office or child support program **may** also be able to help you calculate the amount of support.

Oregon law presumes the ability of a parent to work full time and to earn at least minimum wage. This would result in an income of not less than **\$1,524.00 per month (\$8.80 X 40 hrs a wk X 4.33 wks a month)** . If a person is unable to earn a minimum of \$1,524.00 a month, an explanation is required in the General Judgment of Custody, Parenting Time or Child Support . The General Judgment of Custody, Parenting Time or Child Support must contain findings to support using an income amount that is less than minimum wage for the computation of child support. A properly completed child support work sheet must be attached to the General Judgment of Custody, Parenting Time or Child Support . A provision for income withholding for the support must be included in the General Judgment of Custody, Parenting Time or Child Support unless a provision for an exception to income withholding, with findings that support the exception, is included in the decree. The parties may agree to not use income withholding.

Insurance

Oregon law requires that the General Judgment of Custody, Parenting Time or Child Support address the issue of health insurance for any minor child involved in your case, and for payment of uninsured medical expenses. It also must provide for security for the payment of support, such as life insurance.

Have your documents reviewed

You may have your documents reviewed by a lawyer or the court's facilitator 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.

Filing the Response

After you have filled out the Response and the **required** Request to Initiate or Waive Mediation , make two copies. One copy is for your records, and the second copy is for the other parent. Mail the other parent's copy and fill out the Respondent's Certificate of Mailing form.

File the original Response and Request to Initiate or Waive Mediation and Respondent's Certificate of Mailing forms with the court clerk along with the required filing fee (unless your fee has been waived or deferred by a judge).

Parenting Classes

If you and the other parent disagree about custody or parenting time of your minor child(ren) you are required to attend a mediation orientation and parenting class unless waived by the Court. A certificate of completion will need to be filed for each party.

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 General Judgment of Custody, Parenting Time or Child Support is signed by a judge. For example, either parent may request an order for child support or file 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 parents present, along with their attorneys if they are represented. 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. **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.**

Custody/Parenting Time Evaluation

If parents can't agree on a parenting plan, sometimes the court refers the case to a custody or parenting time evaluator. After interviewing each parent and doing other research, the evaluator will make a recommendation to the judge about which parent should have custody and what the parenting plan should be. The evaluator will consider factors that might affect a child's safety, such as domestic violence, substance abuse, child abuse or other circumstances. The court does not pay for the evaluation. One or both parties will be required to pay for the evaluation.

STEP 2: FINALIZING YOUR CASE

The General Judgment of Custody, Parenting Time or Child Support finalizes your case and contains all of the issues decided in mediation, hearing, or through your agreement. If both parents agree on all issues, it may be prepared by either parent as long as it is reviewed and signed by both parents. If there are still items that you don't agree on, the court will probably set a date for a "final hearing" or trial. 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.

Forms to Finalize Your Case

The following forms are required to finalize your case:

- *General Judgment of Custody, Parenting Time or Child Support*
- *Affidavit Supporting General Judgment of Custody, Parenting Time or Child Support*

You may also need to file the following additional forms, depending on your circumstances.

- **Parenting Class Certificate of Completion.** When the court requires parents of minor children to attend a parent education class, a certificate of completion must be filed with the court unless this requirement has been waived by order of the court.
- **Child Support Worksheets.** If child support is ordered in your case, child support worksheets need to be filled out and attached to the General Judgment of Custody, Parenting Time or Child Support.
- **Parenting Plan.** Your parenting plan may be completely included in the General Judgment of Custody, Parenting Time or Child Support (see page two of the General Judgment of Custody, Parenting Time or Child Support). If there are additional pages, attach them.
- **Uniform Support Affidavit.** This form is only required if a response was filed and you and the other parent do not agree on child support. You aren't required to complete the schedules on the form unless a "deviation" (different amount than what was calculated using the child support guidelines) from the child support guidelines.
- **Waiver of Personal Service.** After the General Judgment of Custody, Parenting Time or Child Support is signed, if one parent doesn't do what it says, the other parent may ask the judge to enforce the General Judgment of Custody, Parenting Time or Child Support. The parent asking for enforcement is required to personally serve (deliver) the other parent with notice of this request. You are responsible for making sure you get all papers delivered to the address you list. A Waiver of Personal Service form is available from the court clerk.

ADDITIONAL RESOURCES

Oregon Judicial Department - Family Law Forms and Resources: www.courts.oregon.gov

Oregon State Bar www.osbar.org
Lawyer Referral 1-800-452-7636
Modest Means (low income)
Tel-law 1-800-452-4776

Child Support Program: 1-800-850-0228;
www.oregonchildsupport.gov
Division of Child Support: 503-986-6090
www.oregonchildsupport.gov

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: www.osbar.org

OSU Extension Service Publications:
1-541-737-2513
Publications available on marriage, shared custody, financial planning and other topics.

Domestic Violence Help 1-800-799-SAFE