The Oregon Judicial Department guide to

DIVORCE AND CUSTODY TRIALS IN OREGON

Information from judges, lawyers, and court staff on preparing for your divorce, custody, or other family law trial and what to expect when you go to court.

2019 EDITION

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Caution. The information in this booklet is not legal advice. This material is intended for educational purposes only in order to help you get ready for court. Family law cases can be complex, and the law changes all the time. You should talk to a lawyer if you have questions. If you need help finding a lawyer, call the Oregon State Bar at 503-684-3763 or toll free at 1-800-452-7636. Oregon Law Center and Legal Aid Services may also be able to help you for free. To find your local legal aid office and for free legal information, visit *OregonLawHelp.org*.

Acknowledgment. This brochure was created by the State Family Law Advisory Committee (S F L A C) Education Subcommittee, based on an original version developed by the Douglas County Local Family Law Advisory Committee and the Douglas County Legal Aid Office in 2001. The SFLAC and Subcommittee acknowledge with gratitude the Douglas County efforts and thank them for permitting use of their materials in creation of this brochure. Special thanks to Christine Zenthoefer of Legal Aid Services of Oregon for the design and formatting.

Introduction

The focus of this brochure is preparing for and completing the trial in your family law case. Family law cases include cases such as divorce and custody. A family law case is started when one person, the "petitioner," files a petition asking the court for specific things, like custody of their child or children or division of property. If the other person, the "respondent," files a response, it means that the case is contested. The petitioner and respondent are also referred to as "a party" or "the parties" in a case. When one of the parties is not represented by a lawyer, that person is referred to as a "self-represented litigant" or "pro se litigant."

If you have minor children and have not agreed on a parenting plan, most courts will expect you to participate in mediation.

Parent education and mediation

If you have minor children, many courts require that you participate in a co-parenting education class. There should be a notice of that requirement attached to the papers you received. Check with your local court about this requirement if you have questions, lose the notice, or never got a notice. You cannot finalize your case until you satisfy this requirement.

If you have minor children and have not agreed on a parenting plan, most courts will also expect you to participate in mediation. Mediation is a process of sitting down with a neutral, trained third party to attempt to work out issues such as custody and parenting time. Many custody and parenting time cases resolve in mediation without the need for a trial, which is often good for the parents and children. In some circumstances, mediation can be "waived" (not required) by the court, such as when one party has a restraining order against the other. Some courts may require that you attempt to resolve the entire case by mediation or arbitration (a lawyer acting as the judge) before the judge will hear your trial. Check with the clerk of the court where the case is filed to learn about these requirements.

Finding family law statutes and court rules

The main family laws are contained in the Oregon Revised Statutes (ORS), Chapters 107-109. There are also rules of evidence, supplementary local rules, and rules of civil procedure that apply to your case.

Law library

You can find copies of the family law statutes and other court rules at your county law library. The law librarian can help you find the books you want and explain how to use the books. The law librarian cannot give you legal advice. If you want to copy any of the materials in the library, bring money in small bills to pay for the copies. The law library cannot make change for large bills.

Online

You can also find the family law statutes, court rules, and local rules online on a variety of websites:

- **Family law statutes**: ***https://www.oregonlegislature.gov/bills_laws/ors/ors107.html*** or ***https://www.oregonlaws.org/ors/chapter/107***
- **Uniform Trial Court rules**: ***https://www.courts.oregon.gov/programs/utcr/Pages/currentrules.aspx***
- **Oregon Rules of Evidence**: ***https://www.oregonlegislature.gov/bills_laws/ors/ors040.html*** or ***https://www.oregonlaws.org/ors/chapter/40***

- **Oregon Rules of Civil Procedure**: ***https://www.oregonlegislature.gov/bills_laws/Pages/orcp.aspx*** or ***https://oregoncivpro.com/***
- **Supplementary local rules**: Each county in Oregon also has county-specific rules. ***https://www.courts.oregon.gov/rules/pages/slr.aspx***

General information about divorce and custody trials

What is a trial?

A trial is a hearing before a judge. The judge listens to testimony, reviews physical evidence or documents and makes decisions regarding the issues that are in dispute. There is no jury in a divorce or family law trial. The reason a trial is held is because you and the other party cannot agree on all the issues. At the trial, the judge will hear from both parties to gather information in order to decide child custody, parenting time, child and spousal/partner support (alimony), responsibility for debts, and property division.

Trials are open to the public. Consider watching a trial to familiarize yourself with the trial process. You may view your county's eCourt calendars at ***https://www.courts.oregon.gov/services/online/Pages/records-calendars.aspx*** or by calling your local court.

If your case is scheduled for trial, you should confirm your trial is going forward the afternoon before your trial is scheduled as trials are often rescheduled at the last minute.

Why was my case set for trial?

Unless both parties can come to an agreement on their own or through the assistance of a mediator, the case will go to trial. The trial may be set even as the parties are working on an agreement. At the trial, a judge will hear both parties and then decide the issues in the case. There are two types of trials available, which will be discussed later in this brochure.

How is a trial scheduled?

Each court may have a different process for the parties to obtain a trial date. Some courts may automatically set a court date or send information to the parties on how to set a trial date after a response is filed, whereas others may require a party to request a trial date or a court hearing to move the case forward. It is important to check with the clerk at your local circuit court to understand how to obtain a trial date in your case.

Two different types of trials are available for resolving domestic relations cases. The two types of trials are called Informal Domestic Relations Trial and traditional trial.

Can you reschedule a trial date?

If your case is set for trial and you do not appear at the trial, the other party may receive everything they requested. If there is a serious reason why you cannot proceed to trial on the scheduled date, you will be required to file a written request with the court to ask that your trial be postponed or set over. A copy of all communications with the court must be sent to the other party. The request will be forwarded to a judge for review. If the judge approves the request to reschedule, a new trial date will be set. If you have not received confirmation from the court that your request was approved, you will be expected to appear at the originally scheduled trial date and time. You may call the court clerk in the days before the hearing to learn if your request was approved.

What are the types of trials?

Two different types of trials are available for resolving family law cases. The two types of trials are called Informal Domestic Relations Trial and traditional (or formal) trial. You will need to choose the type of trial that you think is best for your case.

These two options may also apply to modification hearings. See Appendix E.

For more information on choosing which type of trial is right for your case, review the "Traditional trial vs. Informal Domestic Relations Trial" table below.

Traditional trial

In a traditional trial, parties usually present information to the judge by testifying, asking questions of witnesses, and giving the judge documents or other evidence. Each side gets to ask follow-up questions (cross-examination) of the other person and their witnesses. The judge may have questions as well. The Rules of Evidence apply in a traditional trial. The rules place limits on the things a witness can talk about and the kind of documents that can be given to the judge to read. If you or the other person has a lawyer in a traditional trial, the lawyer will make opening statements and closing arguments to the judge and will ask questions of you, the other party, and other witnesses. If you represent yourself, you will be expected to follow the Rules of Evidence. You will be the one to make opening statements, closing arguments, questioning witnesses, and providing other evidence to the judge. See the "Finding family law statutes and court rules" section for information on how to find court rules.

Informal Domestic Relations Trial

In a Informal Domestic Relations Trial you and the other party speak directly to the judge about the issues that are disputed, such as child custody and dividing property or debts. Only the judge asks questions of each person. This happens even if you or the other person has a lawyer. Usually, other witnesses are not allowed to testify. You can, however, ask the judge to let an expert witness testify, such as a doctor, counselor, or custody evaluator, but even then, the judge will typically handle the questioning of the witness.

The Rules of Evidence do not apply in an Informal Domestic Relations Trial. This means you can tell the judge anything that you think is important about the issues in your case, and the judge must decide what information to consider. You can also give the judge any documents or papers you want the judge to re-

Traditional trials vs. Informal Domestic Relations Trial

	Traditional trial	Informal Domestic Relations Trial
Rules of Evidence	The Rules of Evidence apply. These rules prohibit certain types of evidence from being admissible in court and they dictate how to present evidence in court.	The Rules of Evidence do not apply. Each party can talk to the judge freely and show the judge anything that they think is helpful to their case.
Testifying	You will have to testify at trial. The other party (or their lawyer) can object to your testimony if it does not comply with rules of evidence. The other side can also cross-examine you after you testify.	You can talk freely to the judge about anything you think is helpful. The other side does not get to object to your testimony or cross-examine you.
Witnesses	You will need most likely need to call witnesses to testify in support of you. Your witnesses need to appear in person (or by phone, if permission is granted). Witnesses cannot write letters instead of testifying.	Witnesses are generally not allowed to testify at an Informal Domestic Relations Trial, unless they are considered an "expert," such as a doctor, psychiatrist, or a therapist. You can offer letters from witnesses if you think it's helpful.
Documents	Any documents you want the judge to look at must be admissible under the rules of evidence and you will need to have a witness testify about the authenticity of each document before showing it to the judge.	Since the rules of evidence do not apply, you can show the judge anything that you think is helpful to your case. You do not have to worry about whether the document is admissible under the rules of evidence.

view. The judge will decide the importance of what you and the other person say and the papers you each give to the judge. In an Informal Domestic Relations Trial, lawyers are only allowed to say what the issues in the case are, respond when the judge asks if there are other areas their client wants the court to have information about, and make short arguments about the law at the end of the case.

The Informal Domestic Relations Trial is a voluntary process. In other words, you decide whether it is something you want to do. An Informal Domestic Relations Trial will only be used if both people involved in the case agree to it. Both people must complete a form that says what type of trial they choose.

How do you prepare your case for trial?

At the trial, you will need to "prove your case" to the judge. "Your case" is your reasoning about why the judge should grant you the things you are requesting (relief), such as custody, child support, or supervised parenting time. To prove your case, you will need to supply evidence in the form of your testimony, witnesses, documents, photographs, etc. that support your request. Your own testimony is usually the best piece of evidence in a case.

For more information about what you need to prove at trial, refer to the following appendices:

- Child Custody and Parenting Time (Appendix A)
- Child Support (Appendix B)
- Spousal Support (Appendix C)
- Division of Property and Debts (Appendix D)
- Modification of Custody, Parenting Time, Child Support, or Spousal Support (Appendix E)

One of the most difficult tasks in preparing your case is gathering the information you need to present to the judge. Whether you will have an Informal Domestic Relations Trial or a traditional trial, you should prepare for your case by going through each issue the parties disagree on, identifying what you want the judge to know about each issue, and gathering the evidence and witnesses to support your requests.

You may need written evidence to prove your case. This can include photos, pay stubs, income tax returns, bank and credit card statements, proof of medical insurance for the children, medical bills, other bills and debts, pension or retirement plan documents, or letters from the other party discussing issues important to your case.

You have the right to get information and documents from the other party. This process is called "discovery."

All of the information you provide to the judge must be relevant to the issues. In general, the judge will focus on making a plan for the future, not punishing parties for things they did in the past.

Gathering information and the discovery process

You have the right to request documents from the other party. This process is called "discovery," and it must be completed before trial.

The easiest way to request documents from the other party is to serve a Discovery Notice on the other side. This form is found online at: ***https://www.courts.oregon.gov/forms/Documents/DiscoveryNotice.pdf***.

You must give the other party 30 days to respond to your request (or 45 days if you serve the request with your initial petition). If there are other documents you think you may need, you can add additional requests to this list. For example, if you have

concerns about the other party's alcohol consumption, you may want to request records relating to any alcohol treatment programs they have participated in. Or, if you have concerns about the safety of the other party's home, you could request photos of their home.

If the other party refuses to provide documents or does not respond within the time allowed, you should contact them to ask if they are going to give you the information. If they refuse or still do not respond, you can file a "Motion to Compel Production" with the court. This is a request to the judge explaining what you need and why the information is relevant. The judge might then order them to provide the documents.

If you or any of your witnesses need an interpreter, have difficulty hearing, or have other special needs, the court can provide accommodations.

Disability accommodations and interpretation services

If you or any of your witnesses has limited English proficiency and needs an interpreter or has disabilities and needs a reasonable accommodation, the court can provide certain accommodations, such as a certified interpreter or electronic devices to help hear what is happening. If you or your witnesses need an interpreter or an accommodation, you should notify the court as soon as possible prior to the hearing. In some counties, the court may have to make special arrangements for interpreters to travel from other counties.

You do not have to pay for interpreters or hearing assistive devices. The courts will provide these services for free.

Can you contact the judge about your case?

The judge cannot speak to you about your case except in the presence of the other party. This applies to written communications as well.

Should my child testify?

In most cases, a child is not a necessary witness. Instead, a child's counselor can testify and bring the child's concerns to court. Consider carefully before requiring a child to be a witness against the other parent. The experience can be very traumatic. It is possible that the things people talk about during the trial are not appropriate to be shared with your child. It may be best to leave the child at home with a babysitter or relative. While a judge cannot prohibit a party from calling a child to testify, it may hurt that party's case more than it helps.

If it necessary for a child to testify, the judge may handle their testimony differently than other witnesses. A judge can exclude both parents from the courtroom, the judge may question the child themselves, the judge could talk to the child in their chambers (office), or the judge may require the parents to stay in the courtroom to hear what the child has to say. You should also bring someone who can watch your child when they are not testifying. Until they testify, your child must wait outside the courtroom. A few courthouses have daycare available on site. Check with your local court for details.

Preparing for an Informal Domestic Relations Trial

Preparing for an Informal Domestic Relations Trial is easier than preparing for a traditional trial. In general, you do not need to call witnesses. Instead, each party will have an opportunity to talk to the judge to explain their side. However, if there are experts involved in your case, such as a doctor, counselor, or custody evaluator, it may be appropriate to have

them come to court to provide "expert" witness testimony.

Additionally, you do not have to present formal exhibits to the judge. Instead, you may simply bring any documents that you think are important with you and then the judge will review the documents. For information on what type of documents you should gather, please refer to the appendices for each issue that is disputed in your case.

During an informal trial, the judge will listen to what each party has to say and review each party's documents. Then, the judge will decide the importance of the testimony and evidence presented and make a decision about the issues in the case.

Preparing for a traditional trial

Preparing for a traditional trial takes more time and preparation. If you know that you are having an Informal Domestic Relations Trial, you may skip ahead to the "What you need to know the day of trial" section.

If you are having a traditional trial, you will have to follow the Oregon Rules of Evidence. These rules limit the evidence that can be considered by the judge. Everything you give the judge and that witnesses say must be relevant and reliable to the issues in your case. Relevant means that it speaks directly to one of the issues of the case. Reliable means that it comes from an official source (such as police reports, medical records, or school records) or that it is otherwise trustworthy.

In a traditional trial, if you plan to show documents to the judge, you should make two copies of each original document. You should give a copy of all your documents to the other side at the beginning of trial, hand the originals to the court clerk, and then keep a copy for yourself to reference during trial.

Collecting evidence

In a traditional trial, you will need evidence for your trial. When evidence is presented at trial, each piece of evidence is referred to as an "exhibit." Anytime you offer an exhibit at trial, you will need a witness to explain where the item came from, before offering the exhibit into evidence. It is best to print out your exhibits. Avoid bringing your evidence on your phone. Below are some common examples of evidence you may use (also refer to the appendices for specific documents you should bring depending on the particular issues in your case):

- **Written communications.** You can bring emails, texts, Facebook messages, or other written messages to or from you or the other party if it has to do with the issues in your case. You cannot use written communications from third-parties, unless that person appears in person to testify at your trial. The best way to present written communications is to print them out. You will need to have a witness explain who sent the email, who received it, the date it was sent, and how they received it.
- **Photographs.** If you want to show the judge a photograph of something, you (or your witness) should explain who took the photo, when it was taken, where it was taken, and what is in the photo and whether the photo accurately captures what you are trying to show.
- **Police reports, medical records, and school records.** You may bring original copies of official documents. Ask the police, hospital, or school to also give you a letter saying that the record is real (authentic). Explain what it is and where it came from before you give it to the judge.
- **Financial records.** You can bring bank records, retirement account records, credit card statement, property deeds, or other financial documents. You should explain what each item is, how you got it, and explain what it shows.
- **Uniform Support Declaration.** A Uniform Support Declaration is a document that outlines your income, sources of income and your financial responsibilities. This document allows the judge to understand whether either party needs support and how much such support should be. If you or

the other party are requesting child or spousal support (or both), you should bring a copy of this document with you even if you have already provided it to the court. You may find the form here: ***https://www.courts.oregon.gov/forms/Documents/Uniform%20Support%20Declaration.pdf***

Note that the Rules of Evidence may limit what documents the judge is able to review.

Labeling your exhibits

In a traditional trial, the judge will require you to number each of your exhibits. Each separate exhibit should have its own number, with the petitioner having numbers 1-99 and the respondent, numbers 101-199. You can get the stickers from court staff the day of trial. The number is just for tracking purposes and it does not matter the order you refer to the exhibits. A bank statement containing multiple pages is a single exhibit and gets just one number, not one for each page. It may be a good idea to number the pages, especially with large documents, so that it is easy to find what you may need to present.

For additional information, see ***https://www.ncjfcj.org/10-Steps-Presenting-Evidence***

Who can be a witness?

Witnesses are people, including yourself, with first-hand knowledge about important things you need to prove in your case. For example, if custody of your child is contested (not agreed to by the parties), you must prove it is in the best interests of the child to be with you. People who have seen you interacting with your child and how well you take care of your child can help the judge make this decision.

Witnesses can only testify about things that they personally saw or heard. If there is a witness to the other party's abuse of you or your child, the judge will want to hear from that person. Make sure that a witness personally knows the information that is important to your case before you ask them to appear at trial. Talk to them first to find out what they know. Contact them well in advance of the trial so they can make arrangements to be available on that day.

A witness's background may affect the importance the judge gives to their testimony. Witnesses may have to disclose prior convictions and drug or alcohol problems to the judge. It is best to select a witness who is neutral, such as your child's teachers or counselors, as they tend to be more believable than other witnesses, such as friends or family, who may have a bias for or against a party.

Witnesses can only testify about things that they personally saw or heard.

Can witnesses stay in the courtroom?

A party can request that witnesses be excluded from the courtroom. Some judges will automatically exclude all witnesses. Excluding witnesses ensures that their testimony does not change based on the prior testimony of other witnesses. After a witness testifies, they may remain in the courtroom.

What types of questions should you ask a witness?

When a witness testifies at a traditional trial, this testimony is done in a question and answer style in front of the judge. You ask the witness questions, one at a time, and then they answer each question. It might be helpful to write a list of questions to ask witnesses.

You can only ask witnesses questions about events they have observed directly. If a witness is considered a professional in a particular field, like a teacher or doctor, you may ask their professional opinion on a particular matter in their field of expertise.

Ask your witnesses open-ended questions. The best questions are ones that start with when, why, what, who, where, who, and how. You should not ask leading questions, which are questions that prompt the witness to respond in a particular way or suggest the answer to the question.

Ask your witnesses open-ended questions. The best questions are ones that start with when, why, what, who, where, who, and how.

What is hearsay testimony?

In a traditional trial, a witness cannot repeat statements made by people outside of the courtroom. This kind of testimony is known as "hearsay" testimony and, in most cases, the judge will disregard the testimony. There are some exceptions to the hearsay rule, for example, statements made by the other party can be considered by the judge. (In an Informal Domestic Relations Trial, hearsay is permitted, though it may carry less weight with the judge.)

How do you get the witnesses you need to come to court?

Unless a witness is under subpoena, they have no obligation to show up for court. A subpoena is an order from the court to appear. If you need a witness to testify, but they are unwilling to appear voluntarily you should subpoena them. Additionally, some witnesses may need a subpoena to show their employer why they need to be absent from work. Most courts will have subpoena forms available at the courthouse. You must go to the courthouse to have the clerk issue the subpoena (unless you have a lawyer representing you). A subpoena must be personally served (handed to the witness) by an adult who is not a party to your case, unless the witness agrees to accept service of the subpoena. When you serve the subpoena, you must also provide the witness with a check for their witness fee. Each witness is entitled to a fee of $30.00 per day plus mileage at the rate of $0.25/mile (Note: rates as of 2019).

Subpoenas for police officers

If law enforcement has been involved in your case and you would like to subpoena a police officer or sheriff's deputy, you must serve a subpoena on the department at least 10 days before trial. You will also need to verify that the officer is available on the day of your trial. Most police or sheriff's departments have a special process for serving subpoenas. Call your local police or sheriff's office for more information.

What if my witness cannot come to court?

You may be able to have your witness testify by phone (remote testimony) during the trial. You should ask the other side if they object to this as soon as possible. If the other party does not agree to allow your witness to testify by phone, then you must file a formal motion with the court and serve a copy on the other party at least 30 days before the trial, unless you can provide a good reason ("good cause") for not filing your motion 30 days before trial. You must provide a proposed order for the judge to sign. The judge will only allow witnesses to testify by phone if it would be an "undue hardship" for them to come in person. If your request is granted, the court will not pay for long distance phone calls. Contact your local court for information about specific procedures.

What you need to know the day of trial

Where is the courthouse located?

It is important to know where your local circuit court is located and understand where you can park for the duration of your trial. Some communities

may have municipal courthouses that are not in the same building as the court. There may be restrictions for how long you can park in certain spaces and you may need to be prepared to pay for the entire day to park.

What to expect when you arrive at court for your trial

Arrive early enough to give yourself time to go through security, find the courtroom, meet with your witnesses, and get organized. You should plan to arrive at least 30 minutes before your trial. If you go into the courtroom early, be quiet and polite to the court and other people who are having a case heard by the judge.

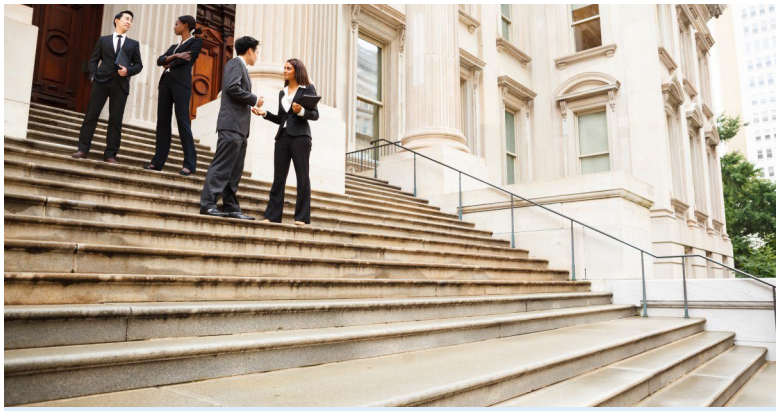
Most courthouses have a metal detector at the entrance. You will be required to pass through this metal detector to enter. Knives, weapons and pepper spray are not allowed. Your belongings will be sent through an x-ray machine and may be searched by court security. It is important to arrive several minutes early to pass through security, and even longer if the courthouse is in a more populated county.

Look at your "Notice of Scheduled Court Proceeding." It will tell you the courtroom, day, and time of your trial. On the day of your trial, come to the courthouse and check which courtroom you are in on the monitors in the lobby or at the information windows in the courthouse.

Each circuit court has a different process for how judges are assigned to your case and what the check-in process is the day of trial. It is also important to understand whether your court sets a hearing prior to your trial where parties report on their readiness for trial (often called "Trial Call" or a "Trial Readiness" hearing). You should ask a court clerk about any special procedures in your court.

What if you feel unsafe around the other party or their witnesses?

If you feel unsafe around the other party, their witnesses, their associates or family members, alert courthouse security. They may be able to provide security during your hearing, depending on the courthouse and the nature of the concern.



Arrive early enough to give yourself time to go through security, find the courtroom, meet with your witnesses, and get organized.

What if my case settles before trial?

If you and the other party resolve your case before it is scheduled to go to trial, please contact your local family law facilitator or family law department as soon as possible. If you and the other party have settled your case the morning of your trial. You still need to attend your trial. When the judge calls your case, let them know that you have settled your case. The judge may ask you to recite the terms of your settlement agreement on the record or refer you and the other party to the family law facilitator to assist you in preparing an agreed or "stipulated" judgment. An appointment may be necessary in order to complete the judgment.

How do you pay the trial fees?

You should ask a court clerk or family law facilitator whether there are trial fees in your court and how much the trial fees are in your case. In there is a trial fee, you will need to pay the fee prior to the trial starting. If you cannot afford to pay the amount required, you may apply for a fee deferral or waiver. You can download the fee deferral or waiver packet at: ***https://www.courts.oregon.gov/forms/Pages/fee-waiver.aspx***

What is the layout of the courtroom?

The "bench" is where the judge sits. The judge's assistant ("clerk") sits near the judge. There are at least two tables in front of the bench. These are for the parties and their lawyers, if any. This is where you will sit when your name is called.

Your witnesses will sit in the audience section or outside the courtroom until they are needed. The place where witnesses testify is called the "witness stand." It is located next to the bench. The judge will tell you whether you can testify from your seat at the table or whether you will need to move to the witness stand.

Who will be at the trial?

- **Court staff.** The judge and judicial staff.
- **The other party and their lawyer (if they have one).** If the other party's lawyer is present, you are not required to talk to them unless you are on the witness stand (in a traditional trial), or the judge tells you to talk to the lawyer.
- **Witnesses.** In a traditional trial, your witnesses should be there, and the other party's witnesses will be there as well. Witnesses will generally be asked to wait outside the courtroom when your trial starts.
- **Sheriff deputy (upon request).** If the other party, or their witnesses, is making you feel uncomfortable or unsafe, tell the judicial staff immediately. They may be able to have a deputy remain in the courtroom during your trial.
- **Family and friends.** You may have family or friends sit in the courtroom with you during your trial for support. If they are not witnesses in your case, they may remain in the courtroom for your entire trial.
- **Other people.** Occasionally there may be other people in the courtroom waiting for their own case to be heard or observing court cases.

How should you act at a trial?

- **Be prepared and be on time.** Bring all documents or exhibits that you need for your trial. Bring an extra copy for the judge and the other party. You may use written notes during the trial.
- **Clothing.** Wear clean, neat clothing like you would wear to an important job interview. Avoid casual clothing like jeans, shorts, t-shirts, and tank tops. Remove hats and sunglasses in the courtroom.
- **Food and drinks.** No food or drinks are allowed in the courtroom. Do not chew gum or tobacco. Most courtrooms will have a pitcher of water and cups for you to use.
- **Electronic devices.** Generally, courts will require you to turn off all cell phones and electronic devices. You are not allowed to record or take photos in the courtroom.
- **Formalities.** Stand when the judge enters the courtroom. Sit down when the judge or clerk asks you to sit.
- **Addressing the judge.** When you speak to the judge, call them, "Your Honor." Never interrupt the judge when they speak or argue with them. Stop speaking if the judge interrupts you.
- **Testifying.** Prepare an outline for your testimony. Be truthful on all matters, even if you think the truth might hurt your case. The truth can help you overall.
- **Answering questions.** The other party (or their lawyer) will ask you questions. The judge may also ask you questions. Do not answer a question unless you fully understand it. Do not guess. Take your time answering questions and explain your answer if you think it is necessary. If you do not understand a question, whether asked by the judge, the other party or the other party's lawyer, tell the judge.
- **Be polite and respectful.** Be courteous to all participants in the trial and court staff. Your behavior

during trial is observed by the judge. Do not interrupt the other party. Do not use the courtroom as a place to have or continue arguments with the other side. Do not try to threaten or intimidate the other party or engage with anyone in a negative way.

- **Witnesses.** Witnesses may be required to remain outside the courtroom until they are called in to testify. You may ask the judge or the court clerk where your witnesses should wait.
- **Observers.** Instruct your witnesses and supporters in the audience to remain quiet while they are observing your trial. You and your associates in the courtroom should not react verbally or make faces in reaction to the judge's decisions or statements by the other party or their witnesses.

The evidentiary portion of a trial is the parties' opportunity to present evidence. The petitioner (party who started the case) presents their case first.

What to expect during a traditional trial

A traditional trial is organized into three parts, (1) opening statements, (2) evidentiary portion, and (3) closing arguments. These parts are discussed in the sections below.

Opening statements

At the start of a traditional trial, the judge may ask each side for their "opening statement." An opening statement is a brief summary of your requests to the judge and gives a brief overview of the witnesses and evidence you will be presenting at trial. This is not the time to present your entire case to the judge or go into details of what has happened. An opening statement is not testimony or evidence. Your opening statement should very briefly provide the judge with an overview of the information you will be presenting during the trial. Opening statements in family law cases are usually only a few minutes.

Evidentiary portion

The evidentiary portion is the parties' opportunity to present evidence. The petitioner (party who started the case) presents their case first. Then the respondent presents their case. You should have a written outline of everything you need to prove and how you are going to prove it with witnesses and other evidence, if you have any.

Witness testimony

During the evidentiary portion of the trial, each side will call witnesses. There are four parts to a witness's testimony: (1) oath, (2) direct examination, (3), cross-examination, and (4) redirect:

1. **Oath**. The clerk will ask the witness to take an oath to swear to tell the truth.
2. **Direct examination**. This is the main portion of a witness's testimony. During direct examination, the witness will provide the judge with all the relevant information they have about the case. If you are testifying as a witness, you should prepare an outline of the information you want to cover during your testimony. If you are calling witnesses, prepare a list of questions you want to ask them before your trial. You should first ask your witnesses to explain how they know you, your child or children or the other party. Then you can ask them about things they personally saw or heard. For example, you can ask them if they saw you bringing your child to school every day, or if they heard the other party yelling, but you cannot ask them about things that happened when they were not around. When it is the other party's opportunity to call witnesses, sit quietly and do not react to their testimony. You may use this portion of the trial to take notes and write down questions you want to ask the witness after they are done giving their direct testimony.
3. **Cross-examination.** This is the opportunity for the other side to question a witness after they offer direct testimony. If you are the witness being cross-examined, listen carefully to the questions asked of you. Do not answer a question if you do not fully understand it. Do not be afraid to say, "I

don't know," when you do not know the answer to a question. Be brief in your answers, unless you need to explain something important to the judge. When it is your turn to cross-examine a witness, be sure you are asking the person questions and not making your own statements or testifying. The best cross-examination questions usually start with: "Isn't it true that…" For example, "isn't it true that you saw the other party spank our child?" For additional information, see ***https://www.lsnjlaw.org/Courts/NJ-State-Courts/Superior-Court-of/Pages/Cross-Examine-Witness.aspx***

4. **Redirect**. After a witness is cross-examined, the party who did the direct examination, has a second chance to ask a few follow-up questions. The questions must be related to the cross-examination testimony.

Physical evidence

If you have physical evidence, you should introduce this evidence during your testimony or during your witness's testimony. The witness should explain what the piece of evidence is, how they obtained it, and provide additional information about the authenticity of the evidence. If you want the judge to consider a document or some other piece of physical evidence, you must "offer" it into evidence as an "exhibit." When you offer an exhibit, you will need to show it to the other side. The exhibit should also be labeled with a number. Refer to the "Labeling your exhibits" section for more information on how to properly number exhibits. The other party may object to the judge considering your exhibit. The judge will decide whether to consider it.

The other side may also offer exhibits. If they did not provide you with a copy of their exhibits at the beginning of trial, they should show you the exhibit when they offer it. If you believe the exhibit is irrelevant, misleading or unreliable, tell the judge why you think so when the other party offers it to the judge.

Rebuttal case

Once the respondent presents all their evidence, the judge may allow the petitioner to "rebut" or present additional information that may contradict the testimony and evidence presented by the respondent. If the judge permits rebuttal evidence, the petitioner or any of their witnesses may re-take the stand or offer other evidence.

Closing arguments

After all the testimony has been heard and the evidence has been seen by the judge, the judge may not need to hear anything else. However, you may be asked if you want to give a "closing argument," which is a summary of the testimony and evidence that supports your requests to the court and the time for you to raise any legal arguments if you have any. If the judge allows you to make a closing argument, the other side will also have a chance to present their view of the case in closing argument.

What to expect during a Informal Domestic Relations Trial

Beginning

When the Informal Domestic Relations Trial begins, both people will be asked if they understand the rules and how the trial works, and, if they agreed to participate in the Informal Domestic Relations Trial voluntarily. It is possible for either party to change their mind the day of trial. If so, the judge will decide about when to continue with a traditional trial.

Testimony

The party who started the case will speak first. That person swears to tell the truth and may speak about anything they wish. They are not questioned by a lawyer. Instead, the judge will ask some questions in order to understand the issues and make a better decision. If the judge would like more information or clarification of an issue, the judge may ask the other party for such information.

If a party has a lawyer, then that lawyer may ask the judge to ask their client questions on specific topics. This process is repeated for the other person.

If there are any experts, the expert's report may be given to the judge. Either party may also ask to have the expert testify and be questioned by the judge or the other party.

Physical evidence

Each party may submit documents and other evidence that they want the judge to see. The judge will look at each document and decide whether it is trustworthy and should be considered.

Closing argument

Each party may briefly respond to comments made by the other party. Each party or their lawyer may make a short legal argument about how the laws apply to their case. Any of the above steps may be modified by the judge to make sure the trial is fair for both parties.

The judge's ruling

After hearing testimony from both parties and their witnesses, the judge may either make a ruling from the bench while you are present in court or take the case "under advisement" and send both sides a letter explaining their decision. The judge may ask one of the parties to prepare an order or a judgment. The forms are available from your family law facilitator or online at: ***https://www.courts.oregon.gov/programs/family/forms/Pages/default.aspx***. Lawyers who provide limited assistance representation may also help you prepare an order or a judgment. You may need to schedule an appointment with your family law facilitator for help preparing the order or judgment.

After hearing testimony from both parties and their witnesses, the judge may either make a ruling from the bench while you are present in court or take the case "under advisement" and send both sides a letter explaining their decision.

If you wish to appeal the judge's ruling (ask a higher court to review it), appeal paperwork must be filed within 30 days of the filing of the judgment with the court. The appeals process is very complicated, and you are encouraged to speak with a lawyer if you are considering an appeal. The family law facilitator and court clerks cannot help you with an appeal. You will need to talk to a lawyer who can help you with your appeal immediately so that you do not miss the 30 day deadline.

Finalizing your divorce or custody case

You will not be divorced or separated, or have a final custody order, until a judgment is signed by the judge. If the other party has a lawyer, usually the lawyer will be asked to prepare the judgment. If neither party has a lawyer, the court will most likely prepare the judgment for you. After the judgment is signed by the judge, you should request a copy from the court for your records.

Additional Family Law Resources in Oregon

Oregon Child Support Program

The Oregon Child Support Program helps Oregon parents receive child support. The program helps parents establish paternity, child support orders, and helps enforce child support orders. The child support program website has the child support calculator, child support guideline rules, office locations, and more. ***oregonchildsupport.gov***

Oregon Judicial Department (OJD) Family Law Program

The OJD website contains family law forms, information, parenting plans, self-help videos, and family law resources. ***https://www.courts.oregon.gov/programs/family/Pages/default.aspx*** . Forms and resources are also available on your local court's website.

Oregon State Bar Family Law Resource page

This website contains helpful information about marriage, adoption, divorce, child custody, and other family law topics in Oregon. ***https://www.osbar.org/public/legalinfo/family.html***

OregonLawHelp.org

This website contains helpful legal information on family law issues, as well as other civil legal issues. The materials are written by Oregon lawyers. ***https://oregonlawhelp.org/***

Legal Aid

You may be eligible for free legal help if you are a low-income Oregonian. To find out if you qualify for free legal help, you should call your local legal aid office. To find your local office, visit: ***https://oregonlawhelp.org//resource/oregon-legal-aid-offices***

St. Andrew Legal Clinic

St. Andrew Legal Clinic provides reduced-rate legal services to low-to-moderate income Oregonians in Multnomah and Washington counties. Prospective clients may use the online form to request services: ***https://www.salcgroup.org/request***

Oregon State Bar Modest Means Program

The Modest Means program provides moderate-income individuals with reduced rate legal services in divorce or custody cases. Eligibility depends on income, legal issue, and availability of lawyers. For more information, visit: ***https://www.osbar.org/public/ris/#mm***

Oregon State Bar Lawyer Referral Service

The lawyer referral service helps connect individuals to private lawyers in their area who can help with their particular legal issue. 503-684-3763 or toll-free in Oregon at 800-452-7636 or ***https://www.osbar.org/public/ris/***

Oregon Mediation Association

Professional mediators may be able to help parties resolve divorce or custody disputes without a costly trial. For a directory of mediators in Oregon, visit: ***http://ormediation.org/***

Problem Solvers

Problem Solvers is a program for individuals age 13 to 17. Teens can call in and request a referral to speak to a volunteer lawyer about their legal issue. Portland: (503) 684-3763 or elsewhere in Oregon: (800) 452-7636.

State of Oregon Vital Records

The state entity that produces birth, death, marriage, and domestic partnership records. ***https://www.oregon.gov/oha/ph/pages/index.aspx***

Oregon Coalition Against Domestic and Sexual Violence

If domestic violence is an issue in your case, a list of resources is available at: ***https://www.ocadsv.org/***

How to prepare for trial: child custody and parenting time

If you and the other party do not agree on who should have custody and what the parenting time (visitation) schedule for your children should be, you will need to provide the judge with information about your children, so they can decide these issues for you and the other party.

What is custody?

The parent with custody makes "major life decisions'" for the child, including the child's education, medical treatments, and religious upbringing. Custody does not determine where the children spend their time.

How is custody determined?

The judge will make a decision on custody based on what is in the best interests of the children. A judge in Oregon cannot order "joint custody" unless both parents agree to that arrangement. If the parties do not agree to joint custody, a judge must award sole custody to one parent. The judge cannot give preference to the mother only because she is the mother or to the father only because he is the father. If the other parent does not agree with your request for custody, the judge must hear information (evidence) about what would be best for the child. You and your witnesses (if possible) should testify about the following information:

- The emotional ties between the children and family members;
- Each parent's interest in or attitude towards the children;
- The desirability of continuing an existing relationship with both parents;
- Whether one parent has abused the other parent;
- Who is the primary caregiver of the children;
- Conduct, marital status, income, social environment or lifestyle of either parent only if any of these factors are causing or may cause emotional or physical harm to the children;
- The presence of extended family members in the area; and
- The willingness and ability of a parent to facilitate and encourage a relationship between the children and the other parent, if appropriate.

Definitions and other information about types of custody and parenting time are available at ***oregonlawhelp.org/topics/family/custody-parents-rights-and-visitation.*** You should be familiar with this infor- mation prior to coming to court.

The parent with custody makes "major life decisions'" for the child, including the child's education, medical treatments, and religious upbringing.

What is parenting time?

Parenting time refers to the amount of time that the children spend with each parent. The Court will order a parenting time schedule that is based on the best interests of the children.

What is a parenting plan?

A parenting plan is a document that lays out the parenting time schedule for each parent, including holi-

day visits. Parties can customize parenting plans to suit their needs. A parenting plan can be brief, or it can be very detailed with rules for parenting time and detailed schedules.

You should prepare and file with the court a proposed parenting plan outlining the time you believe that each parent should have with the children. Check with your local court to see if your county has a model (sample) parenting time plan. They might be available on the court's website. Guides with information about creating parenting plans and sample plans are also available on the Oregon Judicial Department's family law website ***https://www.courts.oregon.gov/programs/family/children/Pages/parenting-plans.aspx***. There is also information and forms for a "Safety-Focused Parenting Plan" if you are concerned about your or your children's safety.

Supervised parenting time

If you want the other parent to have a relationship with your children, but you have serious concerns about the children's safety if they are alone with the other parent, you may ask the judge to order "supervised" parenting time.

Find out ahead of time if your community has an agency or center that provides supervised parenting time or parenting time exchanges. You may also consider whether someone you trust is willing to supervise (watch) the other parent and your children during their time together.

Tell the judge who the supervisor will be so that if there is an order for supervised parenting time, it will include the name of the agreed-upon supervisor. Your court's family law facilitator also may have information on agencies or individuals who are willing to supervise parenting time. If you are requesting supervised time, you should be prepared to present information (evidence) on why that is appropriate in your circumstances.

If any of the following has occurred, it may be a basis for the judge to award supervised parenting time:

- The other parent has harmed or threatened harm to the children;
- The other parent has threatened to keep or hide the children;
- The other parent has a history of neglecting or physically or sexually abusing other children;
- The other parent lacks parenting skills or has had little contact with the children;
- The other parent leaves young children without supervision;
- The child is afraid of the other parent;
- The other parent has drug, alcohol, or criminal problems that are a danger to the safety of the children; or
- The other parent has subjected you to domestic violence.

If the judge decides that there are some valid concerns, but not enough to order supervised parenting time, you can ask the judge to make some conditions to keep the children safe, such as:

- The other parent cannot use drugs or alcohol before or during parenting time;
- The other parent must complete a parenting class or substance abuse program or mental health counseling; or
- Parenting time exchanges occur at a neutral, safe location and/or are facilitated by a neutral third party.

No parenting time

In rare circumstances, the judge may decide that it is not in the children's best interests for a parent to have parenting time until they have addressed safety concerns. For example, if the other parent physically or sexually abused you or the children or has serious mental health issues that prevent them from being a safe parent.

How to prepare for trial: child support

The judge will consider the following basic issues when determining what the appropriate child support should be in your case:

- Each parties' income. If a party is not working, the court will consider their "potential income," which is what they would make if they were working;
- Whether a party receives or pays spousal support;
- The availability and cost of health care coverage for the children;
- The cost for the parent's own health care coverage;
- Whether the parties have minor children with someone else that they have a duty to support (non-joint children);
- The number of joint children and their ages;
- The amount of overnight parenting time the children have with the other parent;
- Whether the children receive Veterans or Social Security benefits based on one or both of the parent's retirement or disability; and
- Monthly childcare costs (childcare costs only include daycare, nanny, or babysitter costs).

You must present information to the judge about all of the factors listed above.

Uniform Support Declaration

When child support is at issue, both parties must file a "Uniform Support Declaration" before trial (if possible) or bring the form to trial. This is a document that provides the court with detailed financial information about both parties. This form is available online at ***https://www.courts.oregon.gov/forms/Documents/Uniform%20Support%20Declaration.pdf*** or at your local court.

What documents should you bring?

- **Proof of income**—pay stubs, tax returns, Social Security/Disability Benefits amounts;
- **Health insurance information**—cost of insurance and name of company; and
- **Child care costs—**receipts for daycare or babysitting costs.

What rules apply?

The Oregon Administrative Rules that apply to child support (Oregon Administrative Rules, Chapter 137, Divisions 50 and 55) are available at ***https://www.doj.state.or.us/child-support/for-professionals/child-support-laws/***

The judge uses a formula set out in the law called the "child support guidelines" to calculate the amount of child support the law presumes is appropriate.

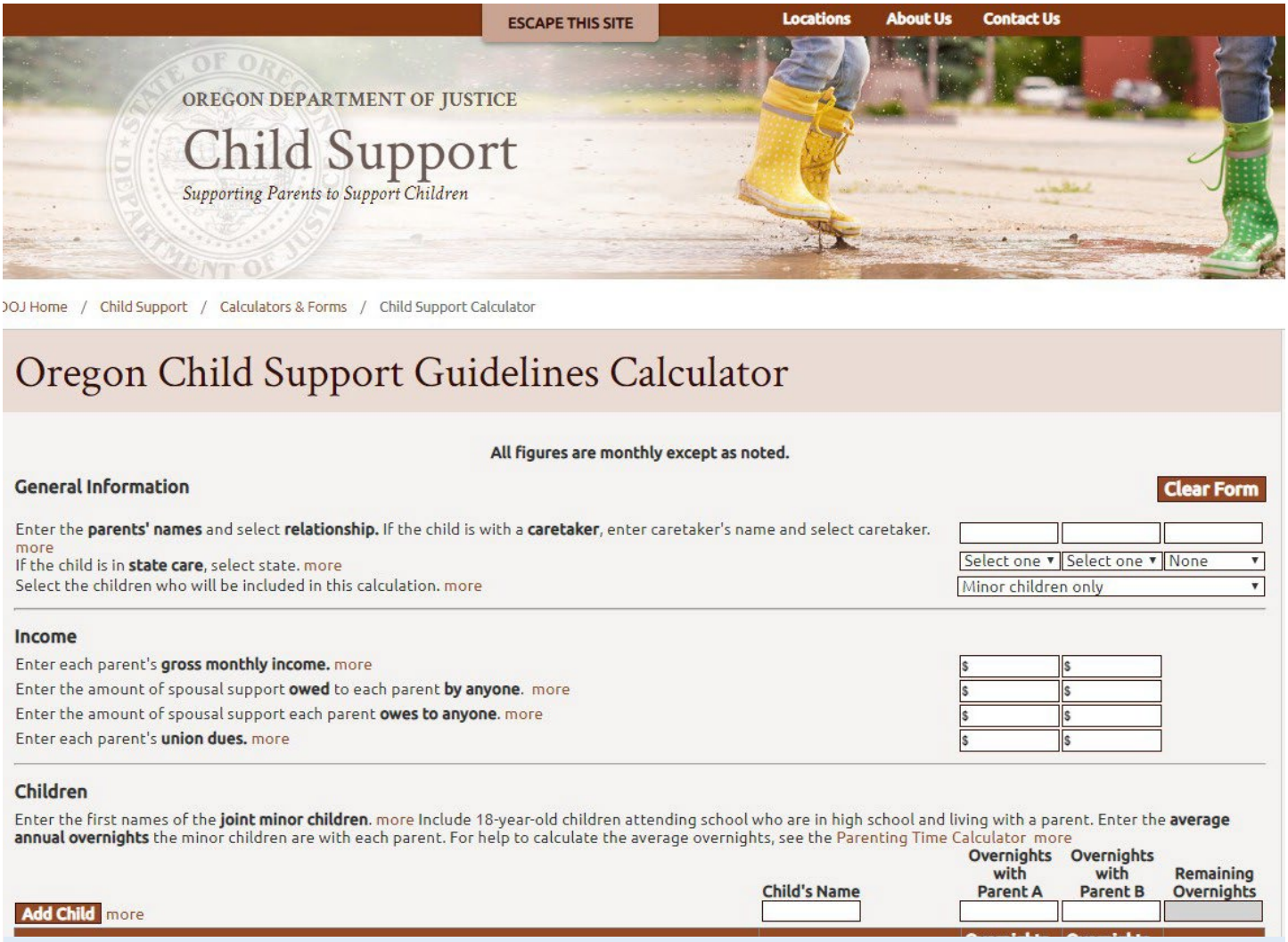
How is child support calculated?

The judge uses a formula set out in the law called the "child support guidelines" to calculate the amount of child support the law presumes is appropriate. The judge can increase or decrease this presumed amount if convinced by the evidence that it is fair to do so.

Once you have the necessary financial information, you may access the child support calculators online. The child support calculator is available at ***oregonchildsupport.gov/calculator***. Your court's family law facilitator may be able to refer you to resources to help you with your calculations. In addition, your public library may have public computers that you may use.

The child support guidelines also let the judge consider other circumstances that may either increase or decrease the child support amount. In the guidelines these are called "rebuttals." For example, the judge may increase the support for a child who has special needs so each parent shares in the payment of costs for the child. The rebuttal factors are listed in ORS 25.280 and the Oregon Administrative Rules Chapter 137, Division 50 (see above). You should look at both. If you include a rebuttal factor, you must be prepared to prove it is true by presenting information or documentation to support your position.

Additional child support resources and information is available on the Oregon Department of Justice Child Support webpage: ***oregonchildsupport.gov***



Once you have the necessary financial information, you may use the Child Support Program's child support calculator to calculate the presumed amount of support. The calculator is available at ***oregonchildsupport.gov/calculator***.

How to prepare for trial: spousal support

Spousal support (formerly called "alimony") is an order that one spouse or domestic partner pay money to the other, usually on a monthly basis. Only married couples or registered domestic partners can receive spousal support. Spousal support is intended to help one party cover the costs of basic needs, transition to a new living situation, or keep a standard of living similar to that existing during the relationship.

Spousal support (formerly called "alimony") is an order that one spouse or domestic partner pay money to the other, usually on a monthly basis.

Three types of spousal support

There are three types of spousal support:

Maintenance support

Maintenance support is designed to help a person financially for a specific number of months or years or an indefinite period of time. When there is a substantial difference in the parties' income, the judge may award maintenance support to make sure both parties have sufficient living expenses. The judge may look at the following factors:

- How long the marriage has lasted;
- Age of the parties;
- Health of the parties (physical, mental, emotional);
- Standard of living (lifestyle) established during the marriage;
- Income and earning abilities of each of the parties;
- Training and employment skills;
- Both parties' work experience;
- Financial needs and resources of each party;
- Tax consequences to each party;
- Both parties' responsibilities to take care of and support the children; and
- Any other factors the judge considers fair.

Transitional support

Transitional support allows the person receiving support to obtain the education and training needed to go back to work or get ahead in the job market. It is temporary support. The judge considers evidence (information) on the following issues:

- How long the marriage has lasted;
- Both parties' training and employment skills;
- Both parties' work experience;
- Financial needs and resources of each party;
- Tax consequences to each party;
- Both parties' custodial and child support responsibilities; and
- Any other factor the judge considers fair.

Compensatory support

Compensatory support is rarely awarded. It is meant to compensate (pay back) a party who has made a significant financial or other contribution to the education, training, vocational skills, career, or earning

capacity of the other party. The judge may consider the following factors:

- How long the marriage has lasted;
- Amount, length, and importance of the contribution;
- Relative earning abilities of each party;
- How much the marital estate has already benefitted from the contribution;
- Tax consequences to each party; and
- Any other factor the judge considers fair.

Evidence

Be ready to present evidence (testimony, documents, photos, etc.) on each of the issues listed under the type of spousal support you are requesting. You may request more than one type of spousal support. Evidence that may be helpful to the judge may include:

- **Proof of income**—pay stubs (for both parties, if possible), tax returns, benefit statements from disability benefits (if applicable);
- **Proof of education expenses** (if you supported your spouse while they went to school);
- **Information about each parties' education and work history**—school records, tuition information, or resumes;
- **Asset information**—bank account records, real property information, retirement accounts, and savings accounts;
- **Proof of disabilities**—medical records, or disability benefit information; and
- **Uniform Support Declaration**—(see below).

Uniform Support Declaration

When spousal support is at issue, both parties must file a "Uniform Support Declaration" before trial (if possible) or bring the form to trial. This is a document that provides the court with detailed financial information about both parties. This form is available online at ***https://www.courts.oregon.gov/forms/Documents/Uniform%20Support%20Declaration.pdf*** or at your local court.

How to prepare for trial: division of property and debts

In a divorce trial, the judge must decide how to divide the marital property owned by you and the other party. This division of property also includes all the debts of the parties. The judge will address who gets to take each item of property that you and the other party own, including land, houses, RVs, motor vehicles, furnishings, money in bank accounts, stocks and bonds, pensions and retirement benefits, and personal property, including any debts owed.

The rule of equitable division

All property and debts acquired during your marriage are considered marital property. The law creates a presumption that marital property should be split equally, regardless of whose name is on the debt or who owns the piece of property. A judge may also divide property owned by one party before the marriage or relationship began, although it is usually given to the party who originally owned it.

A judge can order a division that is different than 50/50 if the judge finds it is "just and proper" given other considerations. For example, a judge may decide that the parent awarded custody may keep the family home so the parties children do not have to move, even if it means the other party does not get a fair share of the equity in that home. Or, a judge could decide that it is fair that one party pay a greater share of the debts because they acquired those debts and spent money unwisely.

When to talk to a lawyer

You should get the advice of a lawyer if retirement benefits, pensions, or real property (land or a house) will be issues in your divorce because this type of property can involve very complicated legal issues.

Dividing retirement and pension benefits

If you have retirement benefits or a pension, you will need to bring information about these accounts to trial to show the judge. If the judge decides to split the accounts in some way, you should be aware that the company that holds your investment may require an additional court order to allow you access the funds or to divide the money in the account. This additional order is called a Qualified Domestic Relations Order. You should seek the advice of a lawyer in the event you need this additional order. You may want to tell the judge if you need this order because often there can be additional costs associated with it.

If you and the other party have debts and assets to be divided, you must prepare a Statement of Assets and Liabilities. The Statement of Assets and Liabilities tells the court what items of property you and your spouse own, how much the property is worth (or your best estimate), and who should be awarded the property or debt in the divorce.

Dividing debts

The judge will also decide which party pays which debts. Even if only one of you made the purchase during the marriage or relationship, the other party may also be responsible for the debt and can be sued by the creditor (the person or entity to whom the debt is owed). There may be some reasons that one party is not responsible for certain debts like business expenses and loans of money. If you and the other party were separated when one of you signed for the debt, the other party likely is not responsible

to the creditor unless the debt is for the children's education, health, or support needs.

What documents to bring

If you and the other party have debts and assets to be divided, you must prepare a Statement of Assets and Liabilities.

A packet of forms and instructions to prepare the statement is available on the Oregon Judicial Department's website at ***https://www.courts.oregon.gov/forms/Documents/Assets-Liab-wInstr-2019-04-01.pdf***

The Statement of Assets and Liabilities tells the court what items of property you and your spouse own, how much the property is worth (or your best estimate), and who should be awarded the property or debt in the divorce.

You should support your proposal for dividing the property and debts by providing information and evidence to the judge as follows:

- Where the property came from (gift, inheritance, purchase, debt) and when ownership or obligation occurred;
- The estimated value of the property or amount of the debt;
- If one of the parties owned it before the marriage;
- If the parties kept their money in joint bank accounts or separate;
- How much money each party makes now and is expected to make in the future;
- Whether it would make sense for a specific item to go to the parent with custody;
- How much the value of the property increased during the time the parties were together;
- Any other information you believe is important to know about the property or how the debt was acquired or managed during the period of the relationship; and
- Whether you have reached any agreements on which property or debts should be assigned to which party.

Important information about debts

Most debts are contracts with third-parties, like car payments, mortgages, or credit card companies. Even if the judge says the other party should pay a debt incurred by you while you were together, the prior contract you entered into for the debt still allows the creditor (car company, mortgage company, or credit card company) to seek payment from either one of you. If the creditor is not paid by the other party, they can file a lawsuit against you, the other party, or both of you, for the unpaid amount. If this happens, you may be able to get reimbursement from the party who the judge ordered to pay the debt by filing a case against the nonpaying party. This can be very complicated, and you should seek the advice of a lawyer.

Some courts require you to participate in a process called "alternative dispute resolution" before a trial on financial issues such as division of marital property and debts, will be held. Alternative dispute resolution is similar to mediation. Check with your local court for more details.

For more information about property and debt issues, talk to a lawyer or visit the following websites:

- Oregon Law Help: ***https://oregonlawhelp.org/topics/family/divorce-separation-and-annulment/oregons-divorce-laws***
- Oregon Judicial Department's family law website: ***https://www.courts.oregon.gov/programs/family/marriage/Pages/Default.aspx***

How to prepare for trial: modification of custody, parenting time, child support, or spousal support

Changing custody

The parent with custody will make "major life decisions" for the child, including the child's education, medical treatments, and religious affiliation. A parent may change the terms of the judgment with the agreement of the other parent or by asking the court to modify custody. If only one parent wants to change custody, a hearing (similar to a trial) may be set to decide this matter. Check with your local court to learn about the procedure.

Substantial change in circumstances standard

The parent seeking a change in custody must show that there has been a "substantial change of circumstances" since the last custody order and that the change in custody is in the best interest of the child. Examples of substantial change in circumstances include:

- Safety concerns regarding the children;
- Relocation of a parent (in some situations);
- Developmental needs of the children; or
- Inability or unwillingness to continue to cooperate with the other parent when the parties have a joint custody arrangement.

If the judge decides that a substantial change in circumstances exists, the judge will consider the "best interest factors" listed in the next section to determine who should have custody of the children. If the judge decides that there is no substantial change in circumstances, the judge will not change custody. Note that "joint custody," where both parents share the decision-making on major life decisions, can only be ordered if both parties agree to it.

Changing parenting time

One parent may change the terms of the parenting time judgment with the agreement of the other parent or by asking the court to modify parenting time.

If only one parent wants to change parenting time, a hearing may be set to decide this matter. Check with your local court to learn about the procedure.

The parent seeking a change in custody must show that there has been a "substantial change of circumstances" since the last custody order and that the change in custody is in the best interest of the child.

Best Interest standard

A parent seeking a change in parenting time must show that the change is in the child's best interests. A substantial change in circumstances is not required. The court will consider the following factors when determining which custody and parenting time arrangement is in a child's best interests:

- The emotional ties between the children and family members;
- The parent's interest or attitude towards the children;
- The desirability of continuing an existing relationship;
- Whether one parent has abused the other;
- Who is the primary caregiver of the children; or

- The presence of extended family members in the area; or
- The willingness and ability of a parent to facilitate and encourage a relationship between the children and the other parent (unless there has been domestic violence or child abuse, then the court should not consider this factor).

The judge cannot give preference to the mother only because she is the mother, or to the father only because he is the father. In addition, the court may not consider a parent's disability or conduct, marital status, income, social environment or lifestyle unless it is likely to endanger the child or cause emotional or physical damage to the child.

Mediation requirement

Some courts require the parties to participate in mediation before a hearing on modification of custody or parenting time will be held. In some circumstances, mediation may be "waived" (not required) by the court, such as when one party has a restraining order against the other. Check with your local court for any such requirements.

If only one parent wishes to change child support, that parent must show that there has been a "substantial change of circumstances" since the previous order was finalized.

Modifying (changing) child support

A parent may change the terms of a child support judgment or order with the agreement of the other parent or by asking the court to modify child support. If only one parent wants to change child support, a hearing may be set to decide this matter. Check with your local court to learn about procedure.

Substantial change of circumstances standard

If only one parent wishes to change child support, that parent must show that there has been a "substantial change of circumstances" since the previous order was finalized. Examples of substantial change in circumstances include:

- The child is living with the other parent the majority of the time;
- The child's needs have changed;
- The number of children involved has changed; and
- Income of one or both parents has changed;

Modifying child support through the Oregon Child Support Program

Another way to modify child support is to ask the Oregon Child Support Program to "review" the child support terms of your order. If it has been at least three years since the date the court order was entered, or you can provide proof that there has been a substantial change in circumstances, the program may modify your support order for you. You do not need to file any paperwork with the court to request this change. If you qualify, the program will confirm the parties' contact and financial information and create a proposed modification order. The Oregon Child Support Program will then serve both parties with the proposed modification. Both parents may correct information, agree to the modification, or request a hearing if they disagree. During the hearing, an administrative law judge will determine the appropriate amount of support payments. Related forms can be found at ***oregonchildsupport.gov/forms.***

Modifying (changing) spousal support

A party may change the terms of a spousal support judgment with the agreement of the other party, or either ex-spouse/partner can ask the court to modify the support judgment if there is a substantial change in economic circumstances of a party. The support order can be increased, lowered, extended, or ended. The motion to modify support must be filed in court

and served on the other party before the original support order ends or is paid in full.

If the change is to "compensatory support," the ex-spouse or partner requesting the change must also show that the change of economic circumstances is involuntary, extraordinary, and unanticipated (at the time of the original judgment) that reduces the ability of the paying party to earn income. One example is when the party paying support is forced to retire early due to a medical condition. However, a voluntary early retirement would not be considered a change in economic circumstances for the purpose of modifying compensatory support. An increase in the income of the paying party is generally not a basis for a spousal support modification.

Uniform Support Declaration (USD)

A Uniform Support Declaration is a document that outlines your income, sources of income and your financial responsibilities. This document allows the judge to understand whether either party needs support and how much such support should be. If you or the other party are requesting a modification of either child or spousal support (or both), you should bring a copy of your Uniform Support Declaration to trial, even if you have already provided it to the court. Be sure to bring a copy for the other party as well. You may find the Uniform Support Declaration form here: ***https://www.courts.oregon.gov/forms/Documents/Uniform%20Support%20Declaration.pdf***

You cannot modify any portion of a judgment/order that divides property or debts. However, if you discover that there were assets (property, money or something of value) that were left out of the final judgment, you may be able to reopen the case to address those assets. This should be done as soon as possible after the missing asset(s) is/are discovered. The court does not offer forms for this process and you may need to speak with a lawyer for further information.