

Barriers to using the court?

- Language
- Physical accessibility
- Hasn't worked before
- Bad experiences with systems
- Cultural
- Hard to understand
- Immigration status

What's confusing about the process?



- What forms to use?
- Where to go?
- What are the court's rules?
- Language is hard to understand (Latin!)
- Hard to distinguish between processes
- May be multiple routes to same end (or seem like there are, when there are when there isn't)

Civil vs. Criminal

Civil

Purpose: To resolve disputes and compensate for harm or injury (bodily, financial, property)

Remedies: Possible court order, often for payment of \$ or specific action

Proof: Usually – a preponderance of evidence (more likely than not something occurred). Some cases have higher standard

Lawyers: Each party may hire a private attorney

Criminal

Purpose: To set accountability for acts which are disruptive of social order (breaking laws)

Penalties: Conviction may result in jail or prison, fines, restitution, probation.

Proof: Beyond a reasonable doubt (re guilt)

Lawyers: The state hires prosecutors. Defendants can hire their own attorney and indigent Defendants have a right to court-appointed counsel.

Family Law Cases

- Divorce
- Custody/Parenting time
- Protective Orders
- Adoption
- Name/gender change
- Separation
- Status Quo
- Immediate Danger

Some definitions



- Dissolution-divorce
- Petitioner- the person initiating a civil case
- Respondent- the person whom the petitioner has a case against
- Pro se- Litigants are representing themselves, without an attorney.
- Ex parte- a hearing that allows only one person party to the case to be present.

Divorce/Custody Process

Before Getting Started

- Address any immediate safety concerns
- In domestic violence cases, separation is a dangerous time
- How will other party respond to divorce/custody?
- Begin thinking about safe parenting plans
- Is paternity established?

Getting Started



- Find the paperwork-buy in 211 or print off website
 - If printing for someone, have them sit with you or tell you *exactly* what forms to print
- Complete stage one forms
 - Separate the packet into Stage 1 and Stage 2
 - Including the child support calculator online
- Document review if possible
 - Attorneys, Advocates, Friends, Family



Filing

Rm 210
1021 SW 4th



- File paperwork at the court house
 - Make 2 set of copies of all the completed forms (court staff can do this for \$.25/page)
- It costs about \$250, but people can complete a fee waiver/deferral- this is not fast and requires documentation related to financial situation



18480 SE
Stark St.

Service

- Serve the Respondent
 - You can not serve the other party. The server must be at least 18 years old and live in the state of service. The server **must complete a form that must be returned to the court.**
 - You can pay the sheriff to serve (fee can be waived in fee waiver/deferral)

- “How to Serve Legal Papers”

<http://courts.oregon.gov/Multnomah/docs/FamilyCourt/HowToServeDeliverLegalPapersInOregon.pdf>

Finishing the divorce/custody case

- If there are minor children, a parent education class must be completed
- Family Court Services (in the courthouse) administers the class; it's cheaper if you sign up early)
- The Respondent has 30 days to respond (in paper)

Finishing the Divorce/custody case, possibility 1:

- The respondent **doesn't respond**:
 - Complete a **Default Judgment**
 - Fill out the default judgment paperwork in packet
 - File it with the court
 - The court will mail the signed judgment or return it to be fixed

Finishing the Divorce/custody case, possibility 2:

- The respondent **responds, but agrees:**
 - Complete a **Stipulated Judgment**
 - Fill out the stipulated judgment forms
 - File it with the court
 - A trial will be set, so call the court and cancel
 - The court will mail the signed judgment or return it to be fixed

Finishing the divorce/custody case, possibility 3:

- The Respondent **responds and disagrees:**
 - Go to mediation or get a waiver for mediation if it's unsafe
 - A trial date will be set
 - Go to Trial Assignment
- **Remember:** Your case isn't done until a final judgment is turned in, the petitioner has to do this after court

And . . . in divorce and unmarried parent petitions for custody,

- A motion to MODIFY starts the process all over again about custody, parenting time, or support
 - Service
 - 30 day wait
 - Written Response?



Trial Assignment



- A trial will be set, you'll get notice to come to court on two different days
- Show up at 9 am the first day-start in 211 to find out what court room
- Tell the judge if you're ready for court and how many witnesses you plan to bring (so the judge knows how much time you'll need)
- Your trial will be set for the next business day

Getting Ready for Trial

- Before trial:

- Know how long it takes you to get to court
- Where to park-garage vs. metered
- What to wear

- Childcare (don't bring kids!)

CourtCare

- You can bring notes
- Bring pen and paper to take notes during trial
- Contact the court if you or your witness need an interpreter or ADA accommodations



MULTNOMAH
CourtCare

A project of the Multnomah Bar Foundation, in partnership with Multnomah County, the Oregon Judicial Department, the U.S. District Court Attorney Admission Fund and Volunteers of America Oregon

Emotionally Preparing for Trial

- Highly emotional
 - What will help you be calm in court?
 - Something to focus on in the room (always look at the judge and not partner)
 - Something to touch in your lap
 - Taking deep breathes
- Abuse tactics will continue in court, just more subtle-try to not react
- Help adjust expectations-as clear as it is to the litigant-the judge may disagree or not have a legal basis to grant what is being asked
- Safety plan about getting there, during time in court, and leaving
- Help paint picture of what court will be like (you can always observe court)

During Trial

- There will be limited time-be concise
- Basic court rules
 - Don't interrupt anyone, especially the judge-even if the other party is lying or you don't agree (you'll have a chance to rebut their statements)
 - Turn your phones off



Trial Process

Opening Statements

- Each side can make an opening statement that tells the judge about your case and what you're asking for in the case

Petitioner's Case

- Presents evidence-testifies, calls witnesses, etc.
- Respondent can cross examine (ask questions of) witnesses

Respondent's Case

- Presents evidence-testifies, calls witnesses, etc.
- Petitioner can cross examine (ask questions of) witnesses

Petitioner's Rebuttal

- Can present more evidence or call witnesses, but only to rebut respondent's testimony and evidence

Closing Arguments

- Each side can make Closing Arguments that summarize their case

Unlawful Practice of Law

- **Don't do it! You can be sued.**
- Acting like an attorney when you are not one, some of these actions:
 - Representing yourself as an attorney
 - Giving legal advice – recommending specific choice(s)
 - Advising people about their rights
 - Telling people what matters they should bring before the court
- *Can* provide legal advocacy
- *Can* answer questions about how the court works and give general info about rules and processes

Legal Advocacy vs. Legal Advice

Advocacy

- Answering questions:
 - about deadlines
 - about where to get forms
 - about what goes on at hearings
 - about the general way to complete forms
 - that start with “How do I..?”
- Any time you’re answering general questions about process that does not have anything to do with the *facts* of their case.

Advice

- Answering questions:
 - about what forms to pick out
 - about what the outcome of their case will likely be
 - about what to write on their forms
 - that start with “Should I..?”
- Any time you answer questions or direct people based on the *facts* of their case.

Legal Resources

- Legal Aid Domestic Violence Project – FREE!
 - If she simply anticipates contest, she can call!!
 - Make sure survivor mentions: RO and DV to the receptionist
- Victim Rights Law Center – FREE
 - Representation in any SA related cases
 - No income restrictions
- Oregon Crime Victims Law Center – FREE
 - Helps with civil matters related to victimization, including protective orders
- St. Andrews – SLIDING SCALE
- Modest Means Program – SLIDING SCALE
- Online Resources
- Legal Resource Center on VAW
 - Interstate Custody Issues in DV
 - <http://www.lrcvaw.org/>
- Women's Law
 - Legal Information/DV
 - <http://www.womenslaw.org/>
- Oregon Law Help
 - <http://oregonlawhelp.org>

Preparing for Court Resources

- “What to Expect in Court” (video)
<https://www.youtube.com/watch?v=azQvV6P9-Ps>
- “How to Prepare for Your Divorce, Legal Separation, Custody, or Support Trial” (brochure)
<http://courts.oregon.gov/Multnomah/docs/FamilyCourt/HowToPrepareForYourDivorceLegalSeparationCustodyOrSupportTrial.pdf>
- Multnomah County Circuit Court
http://courts.oregon.gov/Multnomah/General_Info/Family/pages/findinglegalhelp.aspx
- Safety Focused Parenting Plan
<http://courts.oregon.gov/OJD/docs/osca/cpsd/courtimprovement/familylaw/sfppgentirever04-091003.pdf>

Legal Advocacy Resources

- The Gateway Center for Domestic Violence Services
 - Information and support around ROs and other civil legal matters
 - Legal Aid Services of Oregon is an on-site partner
 - Can apply for Restraining Orders on-site.
 - Navigators speak many languages.
- VOA Home Free – Legal Advocacy Program
 - Information and support around ROs and other civil legal matters
 - Accompaniment to court proceedings