

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR _____ COUNTY

In the Matter of _____

_____,

Petitioner,

and

_____,

Respondent.

Court Case No: _____

**ORDER RE: INCOME
WITHHOLDING
- SPOUSAL SUPPORT**

The motion to withhold spousal support is:

☐ denied _____.

☐ granted.

THIS ORDER IS DIRECTED TO:

Your Employee: _____

Social Security Number (last 4): _____ Year of Birth: _____

THE COURT FINDS:

_____ owes spousal or partner support to ☐ Petitioner

☐ Respondent, _____. This obligation is based on an order or judgment issued on _____ (date) and docketed with the court in _____ County, Oregon.

The existing monthly spousal support obligation is \$ _____. The paying party is at least one month in arrears. The current amount in arrears is \$ _____.

☐ _____

THE COURT ORDERS WITHHOLDING AS FOLLOWS:

Beginning no later than five days after the first payday following receipt of this Order, and within seven business days of each pay date, thereafter:

1. Withhold \$ _____ per month for current support and arrears (current support amount plus 20 percent for payment on arrears) as set out in Oregon law. If the pay cycle is other than monthly, withhold a pro-rated amount for each period as indicated in the table below. A copy of ORS 25.414 is attached for reference, labeled "Exhibit 1", and incorporated by reference.

Monthly	Semi-Monthly (2 times per month)	Bi-Weekly (every 2 weeks)	Weekly

2. Remit payment to the recipient by check to the address below, or by electronic funds transfer if available. _____

IT IS ALSO ORDERED THAT:

If any additional information is needed by Employer to comply with this order, Employer shall contact the recipient at the address above or at the phone number provided by the recipient.

If Employer is able or wants to set up electronic funds transfer, employer shall contact the recipient at the address above or at the phone number provided by the recipient.

The recipient or their agent shall notify Employer when, for any reason known to recipient, the amount required to be withheld is to be reduced or discontinued.

Judge Signature:

Certificate of Readiness

This proposed order is ready for judicial signature because service is not required under UTCR 5.100 because this order is submitted **ex parte** as allowed by statute or rule.

Submitted by: ☐ Petitioner ☐ Respondent

Signature

Print Name

ORS 25.414 Standard amount to be withheld; processing fee; rules.

(1) The withholder shall withhold from the obligor's disposable monthly income, other than workers' compensation under ORS chapter 656 or unemployment compensation under ORS chapter 657, the amount stated in the order to withhold. The entity issuing the order to withhold shall compute this amount subject to the following:

(a) If withholding is for current support only, the amount to be withheld is the amount specified as current support in the support order.

(b) If withholding is for current support and there is an arrearage, the amount to be withheld is 120 percent of the amount specified as current support in the support order.

(c) If withholding is only for arrearage, the amount to be withheld is one of the following:

(A) The amount of the last ordered monthly support.

(B) If there is no last ordered monthly support amount, the monthly support amount used to calculate the arrearage amount specified in the order or judgment for arrearage.

(C) If there is no last ordered monthly support amount and if there was no monthly support amount, an amount calculated under the formula established under ORS 25.275. For purposes of this subparagraph, this calculation shall be based on the obligor's current monthly gross income or, if the obligor's current monthly gross income is not known, the Oregon hourly minimum wage converted to a monthly amount based upon a 40-hour workweek, zero income for the obligee, and one joint child, regardless of how many children the parties may actually have. No rebuttals to this calculation may be allowed.

(d) Notwithstanding the amount determined to be withheld under paragraph (c) of this subsection, the obligor must retain disposable monthly income of at least 160 times the applicable federal minimum hourly wage prescribed by section 6 (a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) or any future minimum hourly wages prescribed in that section, if the order to withhold is issued for:

(A) Disability benefits payments from the United States Social Security Administration;

(B) Black lung benefits payments from the United States Department of Labor; or

(C) Disability benefits payments from the United States Department of Veterans Affairs.

(2) The amount to be withheld from unemployment compensation under ORS chapter 657 is calculated as follows:

(a) If withholding is for a current support order, regardless of the existence of arrearage, the amount to be withheld is the lesser of:

(A) Twenty-five percent of the benefits paid; or

(B) The current monthly support obligation. The entity issuing the order to withhold may convert the monthly support obligation amount to a percentage to be withheld from each benefits payment.

(b) If withholding is for arrearage only, the amount to be withheld is the lesser of:

(A) Fifteen percent of the benefits paid; or

(B) The amount of the last ordered monthly support obligation. The entity issuing the order to withhold may convert the last ordered monthly support obligation amount to a percentage to be withheld from each benefits payment.

(c) The withholder may not charge or collect a processing fee when withholding from unemployment compensation.

(3) The amount to be withheld from workers' compensation under ORS chapter 656 is set forth in ORS 656.234.

(4) Notwithstanding any other provision of this section, when withholding is from a lump sum payment or benefit, including but not limited to retroactive workers' compensation benefits, lump sum retirement plan disbursements or withdrawals, insurance payments or settlements, severance pay, bonus payments or any other similar payments or benefits that are not periodic recurring income, the amount subject to withholding for payment of a support obligation may not exceed one-half of the amount of the lump sum payment or benefit.

(5)(a) Notwithstanding any other provision of this section, when the withholding is only for arrearage, the administrator shall set a lesser amount to be withheld if the obligor demonstrates the withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support or the obligor's ability to provide for the obligor's basic needs. The factors to be considered by the administrator in determining whether the obligor can provide for the obligor's basic needs include but are not limited to:

(A) The health expenses of the obligor;

(B) A verified disability affecting the obligor's ability to work;

(C) Whether the obligor's income remaining after withholding would be less than the self-support reserve established by rule of the Department of Justice under paragraph (c) of this subsection;

(D) The available resources of the obligor; and

(E) The number and basic needs of other persons in the obligor's household.

(b) The administrator shall establish a procedure to give advance and periodic notice to the obligor of the provisions of paragraph (a) of this subsection and of the means to reduce the amount stated in the order to withhold.

(c) The Department of Justice shall adopt rules to implement this subsection.

(6) Except as provided in subsection (2) of this section, the withholder may deduct from the obligor's disposable income a monthly processing fee not to exceed \$5. The processing fee is in addition to the amount calculated to be withheld for support, unless the amount to be withheld for support is the maximum allowed under subsection (8) of this section, in which case the fee is deducted from the amount withheld as support.

(7) If there are multiple withholding orders against the same obligor, the amount to be withheld is the sum of each support order calculated independently.

(8) No withholding as calculated under this section, including the processing fee permitted in subsection (6) of this section, shall exceed 50 percent of the obligor's net disposable income. The limit established in this subsection applies whenever withholding is implemented under this section, whether by a single order or by multiple orders against the same obligor.

(9) When the obligor's income is not sufficient for the withholder to fully comply with each withholding order, the withholder shall withhold the maximum amount allowed under this section. If all withholding orders for a particular obligor are payable to or through the department, the withholder shall pay to the department the income withheld and the department shall determine priorities for allocating income withheld to multiple child support cases relative to that obligor. If one or more of the withholding orders for a particular obligor require payment other than to or through the department, the withholder shall use the following to determine priorities for withholding and allocating income withheld to multiple child support cases:

(a) If the amount withheld from the obligor's income is sufficient to pay the current support due to each case but is not enough to fully comply with the withholding order for each case where past due support is owed, the withholder shall:

(A) Pay to each case the amount of support due for the current month; and

(B) Pay the remainder of the amount withheld in equal amounts to each case where past due support is owed. However, no case shall receive more than the total amount of current support and past due support owed to that case at the time the payment is made.

(b) If the amount withheld is not sufficient to pay the current support due to each case, each case shall be paid a proportionate share of the amount withheld. The withholder shall determine this for each case by dividing the monthly amount ordered as current support for that case by the combined monthly amount ordered as current support for all cases relative to the same obligor, and multiplying this percentage by the total amount withheld.

(10) An order to withhold income is not subject to the limitations of ORS 18.385.

(11) A withholder shall withhold funds as directed in the order to withhold, except that when a withholder receives an income-withholding order issued by another state, the withholder shall apply the income-withholding law of the state of the obligor's principal place of employment in determining:

- (a) The withholder's fee for processing an income-withholding order;
- (b) The maximum amount permitted to be withheld from the obligor's income;
- (c) The time periods within which the withholder must implement the income-withholding order and forward the child support payment;
- (d) The priorities for withholding and allocating income withheld for multiple child support obligees; and
- (e) Any withholding terms or conditions not specified in the order. [Formerly 25.351; 2001 c.455 §10; 2003 c.73 §33; 2003 c.572 §9; 2011 c.317 §1]

Additional Employer's Rights and Obligations

1. Withholding under ORS 25.378 has priority over any other legal process under Oregon law against the same income.
2. If any additional information is needed by Employer to comply with this order, Employer shall contact the recipient in writing, at the address provided.
3. If the amount directed to be withheld for each pay period exceeds the maximum amount allowed pursuant to ORS 25.414, Employer shall notify the recipient at the address provided, and Employee at their address on file with Employer.
4. The amounts withheld by Employer pursuant to this Order are not subject to the wage exemptions provided by ORS 18.385.
5. This Order is binding upon Employer even if the employee leaves your employment but later returns.
6. Employer is not subject to civil liability in Oregon to an individual or agency for conduct or actions in compliance with this Order if:
 - A. The Order was personally served upon Employer, registered agent, an officer of the corporation, bookkeeper, accountant, person responsible for payroll or local office manager, or if served by any type of mail that is calculated to give actual notice and is addressed to one of the representatives listed above.
 - B. The Order appears to inform Employer of the following:
 - 1) The amount of Employee's continuing support obligation.
 - 2) The requirement to withhold from the Employee's disposable income for each pay period an amount determined by ORS 25.414.

- 3) The appropriate person to whom to make the withholding payment.
- 4) The information contained in ORS 25.375, 25.387, 25.411, 25.414, 25.417, 25.421, and 25.424.

7. Employer is liable for all amounts not withheld or paid as required by this Order, and amounts withheld or paid over the amount required by this Order. Either Employee or the recipient may bring an action against Employer to:

- A. Recover all amounts that Employer failed to withhold or pay.
- B. Recover all amounts withheld or paid over the amount required.
- C. Recover an additional amount as damages not to exceed the amount ordered above.
- D. Have an additional amount imposed as a fine payable to the Court not to exceed \$250 for each time Employer failed to withhold or pay or withheld or paid an amount exceeding the amount required, and to pay reasonable costs of the action including attorney fees if the failure to withhold was willful or the result of gross negligence by Employer.
- E. Bring an action for contempt for disobedience of this judicial order to withhold in addition to any other permitted actions.

8. It is an unlawful employment practice to discharge an employee, refuse to hire an individual or in any other manner discriminate, retaliate, or take disciplinary action against an employee because of the entry or service of this Order under ORS 25.378 and 25.402, or because of the obligations or additional obligations that this Order imposed upon Employer. This paragraph does not apply to actions taken by Employer pursuant to any condition of employment required by law.

9. If for any reason Employer does not withhold support in any month, Employer shall explain the reason for not withholding. Employer must send the explanation for not withholding to the recipient at the address provided by the recipient. The explanation must be sent on the date that Employer would normally send a payment. If Employer does not send a payment because Employee is no longer employed, Employer may include in the explanation the name and address of Employee's new employer, if known. Under Oregon law, Employer is not liable to the Employee for disclosure of this information.

10. The recipient or their agent shall notify Employer when, for any reason, the amount required to be withheld is to be reduced or discontinued.