

# DRAFT

## SUMMARY

Modifies terminology in domestic relations proceedings regarding custody of and parenting time with children.

### A BILL FOR AN ACT

Relating to children in domestic relations proceedings; creating new provisions; and amending ORS 3.260, 19.270, 24.190, 25.080, 25.125, 25.164, 25.240, 25.280, 40.262, 107.036, 107.095, 107.097, 107.102, 107.105, 107.106, 107.108, 107.135, 107.137, 107.138, 107.145, 107.154, 107.164, 107.169, 107.179, 107.415, 107.425, 107.431, 107.437, 107.710, 107.716, 107.718, 107.722, 107.725, 107.732, 107.735, 107.755, 107.765, 107.775, 108.015, 108.045, 108.120, 109.030, 109.056, 109.096, 109.098, 109.100, 109.103, 109.165, 109.175, 109.672, 109.697, 416.400, 416.407, 416.416, 416.417, 416.425 and 416.443.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 107.**

**SECTION 2. As used in this chapter:**

**(1)(a) “Custody” means the legal relationship in which one person is given decision-making responsibility concerning the child, including, but not limited to, the child’s residence, education, health care and religious training.**

**(b) “Custody” does not mean parenting time.**

**(2) “Joint custody” means an agreement, approved by the court, by which parents share rights and responsibilities for major decisions concerning the child, including, but not limited to, the child’s resi-**

1 **dence, education, health care and religious training.**

2 **(3) “Parenting time” means the time during which a person is ex-**  
3 **ercising supervision and physical care of the child pursuant to an or-**  
4 **der or judgment for custody or parenting time under this chapter or**  
5 **ORS chapter 108.**

6 **SECTION 3.** ORS 107.169 is amended to read:

7 107.169. [(1) As used in this chapter, “joint custody” means an arrangement  
8 by which parents share rights and responsibilities for major decisions con-  
9 cerning the child, including, but not limited to, the child’s residence, educa-  
10 tion, health care and religious training.]

11 **(1)** An order [providing for] **approving a joint custody agreement** may:

12 **(a)** Specify one home as the primary residence of the child; and  
13 [designate]

14 **(b) Allocate decision-making responsibilities between the parents,**  
15 **including designation of** one parent to have sole [power] **authority** to  
16 make decisions about specific matters while both parents retain equal rights  
17 and responsibilities for other decisions.

18 **(2)** The existence of an order [of] **approving a joint custody agreement**  
19 shall not, by itself,]:

20 **(a)** Determine the responsibility of each parent to provide for the support  
21 of the child[.]; **or**

22 **(b) Allocate parenting time equally between the parents.**

23 **(3)** The court shall not [order] **approve a joint custody agreement**, un-  
24 less both parents agree to the terms and conditions of the [order]  
25 **agreement.**

26 **(4)** When parents have agreed to joint custody in an order or a judgment,  
27 the court may not overrule that agreement by ordering [sole] custody to one  
28 parent.

29 **(5)** Modification of [a] **an order approving a joint custody [order]**  
30 **agreement** shall require a showing of changed circumstances and a showing  
31 that the modification is in the best interests of the child such as would

1 support modification of a [*sole*] custody order. Inability or unwillingness to  
2 continue to cooperate shall constitute a change of circumstances sufficient  
3 to modify [*a*] **an order approving a joint custody [*order*] agreement.**

4 (6)(a) The inability of a parent to comply with the terms and conditions  
5 of [*a*] **an order approving a joint custody [*order*] agreement** due to the  
6 parent's temporary absence does not constitute a change of circumstances if  
7 the parent's temporary absence is caused by the parent being:

8 (A) Called into state active duty as defined in the Oregon Code of Mili-  
9 tary Justice; or

10 (B) Called into active federal service under Title 10 of the United States  
11 Code as a member of the Oregon National Guard.

12 (b) As used in this subsection, "temporary absence" means a period not  
13 exceeding 30 consecutive months.

14 **(7) Solely for the purposes of all state and federal statutes that re-**  
15 **quire a designation or determination of custody or a custodian, an**  
16 **order approving a joint custody agreement shall designate the parent**  
17 **who is allocated the majority of decision-making responsibilities. This**  
18 **designation does not affect parents' rights and responsibilities under**  
19 **the order approving the joint custody agreement.**

20 **SECTION 4.** ORS 107.036 is amended to read:

21 107.036. (1) The doctrines of fault and of in pari delicto are abolished in  
22 suits for the annulment or dissolution of a marriage or for separation.

23 (2) The court shall not receive evidence of specific acts of misconduct,  
24 excepting where [*child*] custody **of, or parenting time with, a child** is an  
25 issue and such evidence is relevant to that issue, or excepting at a hearing  
26 when the court finds such evidence necessary to prove irreconcilable differ-  
27 ences.

28 (3) In dividing, awarding and distributing the real and personal property  
29 (or both) of the parties (or either of them) between the parties, or in making  
30 such property or any of it subject to a trust, and in fixing the amount and  
31 duration of the contribution one party is to make to the support of the other,

1 the court shall not consider the fault, if any, of either of the parties in  
2 causing grounds for the annulment or dissolution of the marriage or for  
3 separation.

4 (4) Where satisfactory proof of grounds for the annulment or dissolution  
5 of a marriage or for separation has been made, the court shall render a  
6 judgment for the annulment or dissolution of the marriage or for separation.  
7 A judgment of separation shall state the duration of the separation.

8 **SECTION 5.** ORS 107.095 is amended to read:

9 107.095. (1) After the commencement of a suit for marital annulment,  
10 dissolution or separation and until a general judgment therein, the court  
11 may provide as follows:

12 (a) That a party pay to the other party such amount of money as may be  
13 necessary to enable the other party to prosecute or defend the suit, including  
14 costs of expert witnesses, and also such amount of money to the other party  
15 as may be necessary to support and maintain the other party.

16 (b) For the care, custody, support and maintenance, by one party or  
17 jointly, of the minor children as described in ORS 107.105 (1)(a) and for the  
18 parenting time rights **of each parent** as described in ORS 107.105 (1)(b) [*of*  
19 *the parent not having custody of such children*].

20 (c) For the restraint of a party from molesting or interfering in any  
21 manner with the other party or the minor children.

22 (d) That if minor children reside in the family home and the court con-  
23 siders it necessary for their best interest to do so, the court may require ei-  
24 ther party to move out of the home for such period of time and under such  
25 conditions as the court may determine, whether the home is rented, owned  
26 or being purchased by one party or both parties.

27 (e) Restraining and enjoining either party or both from encumbering or  
28 disposing of any of the real or personal property of either or both of the  
29 parties, except as ordered by the court.

30 (f) For the temporary use, possession and control of the real or personal  
31 property of the parties or either of them and the payment of installment liens

1 and encumbrances thereon.

2 (g) That even if no minor children reside in the family home, the court  
3 may require one party to move out of the home for such period of time and  
4 under such conditions as the court determines, whether the home is rented,  
5 owned or being purchased by one party or both parties if that party assaults  
6 or threatens to assault the other.

7 (2) A limited judgment under ORS chapter 18 may be entered in an action  
8 for dissolution or annulment of a marriage providing for a support award,  
9 as defined by ORS 18.005, or other money award, as defined by ORS 18.005.  
10 Notwithstanding ORS 19.255, a limited judgment entered under this sub-  
11 section may not be appealed. Any decision of the court in a limited judgment  
12 subject to this subsection may be appealed as otherwise provided by law  
13 upon entry of a general judgment.

14 (3) The court shall not require an undertaking in case of the issuance of  
15 an order under subsection (1)(c), (d), (e), (f) or (g) of this section.

16 (4) In a suit for annulment or dissolution of marriage or for separation,  
17 wherein the parties are copetitioners or the respondent is found by the court  
18 to be in default or the respondent having appeared has waived further ap-  
19 pearance or the parties stipulate to the entry of a judgment, the court may,  
20 when the cause is otherwise ready for hearing on the merits, in lieu of such  
21 hearing, enter a judgment of annulment or dissolution or for separation  
22 based upon a current affidavit or declaration under penalty of perjury in the  
23 form required by ORCP 1 E, executed by the petitioner or copetitioners,  
24 setting forth a prima facie case, and covering such additional matters as the  
25 court may require. If custody of, **or parenting time with**, minor children  
26 is involved, then the affidavit or declaration under penalty of perjury must  
27 also include the name of the party with whom the children currently reside  
28 and the length of time they have so resided.

29 (5) When a court orders relief under subsection (1)(c) or (d) of this sec-  
30 tion, the court may include in its order an expiration date for the order to  
31 allow entry of the order into the Law Enforcement Data System and the

1 databases of the National Crime Information Center of the United States  
2 Department of Justice as provided in ORS 107.720. If the person being re-  
3 strained was provided notice and an opportunity to be heard, the court shall  
4 also include in the order, when appropriate, terms and findings sufficient  
5 under 18 U.S.C. 922 (d)(8) or (g)(8) to affect the person's ability to possess  
6 firearms and ammunition or engage in activities involving firearms.

7 **SECTION 6.** ORS 107.097 is amended to read:

8 107.097. (1) Except as otherwise provided in subsection (3) of this section,  
9 a court may not enter ex parte a temporary order under ORS 107.095, 109.103  
10 or 109.119 providing for the custody of, or parenting time with, a child.

11 (2)(a) A party may apply to a court for a temporary protective order of  
12 restraint by filing with the court an affidavit or a declaration under penalty  
13 of perjury in the form required by ORCP 1 E, conforming to the requirements  
14 of ORS 109.767.

15 (b) Upon receipt of an application under this subsection, the court may  
16 issue a temporary protective order of restraint restraining and enjoining  
17 each party from:

18 (A) Changing the child's usual place of residence;

19 (B) Interfering with the present placement and daily schedule of the child;

20 (C) Hiding or secreting the child from the other party;

21 (D) Interfering with the other party's usual contact and parenting time  
22 with the child;

23 (E) Leaving the state with the child without the written permission of the  
24 other party or the permission of the court; or

25 (F) In any manner disturbing the current schedule and daily routine of  
26 the child until custody or parenting time has been determined.

27 (c) A copy of the order and the supporting affidavit or declaration under  
28 penalty of perjury must be served on the other party in the manner of service  
29 of a summons under ORCP 7. The order must include the following state-  
30 ment:

31

1 Notice: You may request a hearing on this order as long as it remains in  
2 effect by filing with the court a request for a hearing. In the request you  
3 must tell the court and the other party that you object to the order and  
4 specifically why you disagree with the representation of the status quo de-  
5 scribed in the order. In the request you must also inform the court of your  
6 telephone number or contact number and your current residence, mailing or  
7 contact address.

8

---

9 (3)(a) A court may enter ex parte a temporary order providing for the  
10 custody of, or parenting time with, a child if:

11 (A) The party requesting an order is present in court and presents an af-  
12 fidavit or a declaration under penalty of perjury, alleging that the child is  
13 in immediate danger; and

14 (B) The court finds, based on the facts presented in the party's testimony,  
15 the party's affidavit or declaration under penalty of perjury and the testi-  
16 mony of the other party, if the other party is present, that the child is in  
17 immediate danger.

18 (b) The party requesting an order under this subsection shall provide the  
19 court with telephone numbers where the party can be reached at any time  
20 during the day and a contact address.

21 (c) A copy of the order and the supporting affidavit or declaration under  
22 penalty of perjury must be served on the other party in the manner of service  
23 of a summons under ORCP 7. The order must include the following state-  
24 ment:

25

---

26 Notice: You may request a hearing on this order as long as it remains in  
27 effect by filing with the court a request for a hearing. In the request you  
28 must tell the court and the other party that you object to the order on the  
29 ground that the child was not in immediate danger at the time the order was  
30 issued. In the request you must also inform the court of your telephone  
31 number or contact number and your current residence, mailing or contact

1 address.

2

---

3 (4)(a) A party against whom an order is entered under subsection (2) or  
4 (3) of this section may request a hearing by filing with the court a hearing  
5 request described in subsection (2) or (3) of this section at any time while  
6 the order is in effect.

7 (b) The court shall make reasonable efforts to hold a hearing within 14  
8 days and shall hold a hearing no later than 21 days after receipt of the re-  
9 quest for the hearing. The court shall notify each party of the time, date and  
10 place of the hearing.

11 (c) An order issued under subsection (2) or (3) of this section remains in  
12 effect through the date of the hearing. If the party against whom the order  
13 was entered fails to appear at the hearing without good cause, the court  
14 shall continue the order in effect. If the party who obtained the order fails  
15 to appear at the hearing without good cause, the court shall vacate the or-  
16 der.

17 (d) The issue at a hearing to contest:

18 (A) A temporary protective order of restraint is limited to a determination  
19 of the status quo at the time the order was issued. If the child's usual place  
20 of residence cannot be determined, the court may make any further order the  
21 court finds appropriate in the best interests of the child.

22 (B) A temporary order for the custody of, or parenting time with, a child  
23 is limited to whether the child was in immediate danger at the time the order  
24 was issued.

25 (5) The State Court Administrator shall prescribe the content and form  
26 of a request for a hearing described in subsections (2) and (3) of this section.

27 (6) As used in this section:

28 (a) "Child's usual place of residence" has the meaning given that term in  
29 ORS 107.138.

30 (b) "Party's usual contact and parenting time," "present placement and  
31 daily schedule of the child" and "current schedule and daily routine of the



1 child” have the meanings given “parent’s usual contact and parenting  
2 time,” “present placement and daily schedule of the child” and “current  
3 schedule and daily routine of the child” in ORS 107.138.

4 **SECTION 7.** ORS 107.102 is amended to read:

5 107.102. (1) In any proceeding to establish or modify a judgment providing  
6 for parenting time with a child, except for matters filed under ORS 107.700  
7 to 107.735, there shall be developed and filed with the court a parenting plan  
8 to be included in the judgment. A parenting plan may be either general or  
9 detailed.

10 (2) A general parenting plan may include a general outline of how par-  
11 ental responsibilities and parenting time will be shared and may allow the  
12 parents to develop a more detailed agreement on an informal basis. However,  
13 a general parenting plan must set forth the minimum amount of parenting  
14 time and access [*a noncustodial*] **each** parent is entitled to have.

15 (3) A detailed parenting plan may include, but need not be limited to,  
16 provisions relating to:

17 (a) Residential schedule;

18 (b) Holiday, birthday and vacation planning;

19 (c) Weekends, including holidays, and school in-service days preceding or  
20 following weekends;

21 (d) **Any delegation of decision-making [*and responsibility*] by the parent**  
22 **having decision-making responsibility to the parent exercising par-**  
23 **enting time;**

24 (e) **Responsibilities of the parent exercising parenting time;**

25 [(e)] (f) Information sharing and access;

26 [(f)] (g) Relocation of parents;

27 [(g)] (h) Telephone access;

28 [(h)] (i) Transportation; and

29 [(i)] (j) Methods for resolving disputes.

30 (4)(a) The court shall develop a detailed parenting plan when:

31 (A) So requested by either parent; or

1 (B) The parent or parents are unable to develop a parenting plan.

2 (b) In developing a parenting plan under this subsection, the court may  
3 consider only the best interests of the child and the safety of the parties.

4 **SECTION 8.** ORS 107.105 is amended to read:

5 107.105. (1) Whenever the court renders a judgment of marital annulment,  
6 dissolution or separation, the court may provide in the judgment:

7 (a) For the future care and custody, by one party or jointly, of all minor  
8 children of the parties born, adopted or conceived during the marriage and  
9 for minor children born to the parties prior to the marriage, as the court  
10 may deem just and proper under ORS 107.137. [*The court may hold a hearing*  
11 *to decide the custody issue prior to any other issues.*] When appropriate, the  
12 court shall recognize the value of close contact with both parents and en-  
13 courage joint [*parental*] custody and joint responsibility for the welfare of  
14 the children.

15 (b) For parenting time rights of the [*parent not having custody of such*  
16 *children*] **parents** and for visitation rights pursuant to a petition filed under  
17 ORS 109.119. When a parenting plan has been developed as required by ORS  
18 107.102, the court shall review the parenting plan and, if approved, incorpo-  
19 rate the parenting plan into the court's final order. When incorporated into  
20 a final order, the parenting plan is determinative of parenting time rights.  
21 If the parents have been unable to develop a parenting plan or if either of  
22 the parents requests the court to develop a detailed parenting plan, the court  
23 shall develop the parenting plan in the best interest of the child, ensuring  
24 [*the noncustodial*] **each** parent sufficient access to the child to provide for  
25 appropriate quality parenting time and ensuring the safety of the parties, if  
26 implicated. The court shall deny parenting time to a parent under this par-  
27 agraph if the court finds that the parent has been convicted of rape under  
28 ORS 163.365 or 163.375 or other comparable law of another jurisdiction and  
29 the rape resulted in the conception of the child. Otherwise, the court may  
30 deny parenting time to [*the noncustodial*] **a** parent under this subsection only  
31 if the court finds that parenting time would endanger the health or safety

1 of the child. In the case of a [*noncustodial*] parent who has a disability as  
2 defined by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et  
3 seq.), the court may consider the [*noncustodial*] parent's disability in deter-  
4 mining parenting time only if the court finds that behaviors or limitations  
5 related to the [*noncustodial*] parent's disability are endangering or will likely  
6 endanger the health, safety or welfare of the child. The court shall recognize  
7 the value of close contact with both parents and encourage, when practica-  
8 ble, joint responsibility for the welfare of such children and extensive con-  
9 tact between the minor children of the divided marriage and the parties. If  
10 the court awards parenting time to a [*noncustodial*] parent who has com-  
11 mitted abuse, other than being convicted for rape as described in this para-  
12 graph, the court shall make adequate provision for the safety of the child  
13 and the other parent in accordance with the provisions of ORS 107.718 (6).

14 (c) For the support of the children of the marriage by the parties. In or-  
15 dering child support, the formula established under ORS 25.275 shall apply.  
16 The court may at any time require an accounting from the [*custodial*] parent  
17 **receiving child support** with reference to the use of the money received as  
18 child support. The court is not required to order support for any minor child  
19 who has become self-supporting, emancipated or married or for any child who  
20 has ceased to attend school after becoming 18 years of age. A general judg-  
21 ment entered under this section may include an amount for support as re-  
22 quested in a petition filed under ORS 107.085 or under a motion for relief  
23 made pursuant to ORS 107.095 (1)(b) for which a limited judgment was not  
24 entered, payment of which commences no earlier than the date the petition  
25 or motion was served on the nonrequesting party, and the amount shall be  
26 considered a request for relief that has been decided by the general judgment  
27 for purposes of ORS 18.082 (3).

28 (d) For spousal support, an amount of money for a period of time as may  
29 be just and equitable for one party to contribute to the other, in gross or in  
30 installments or both. Unless otherwise expressly provided in the judgment  
31 and except for any unpaid balance of previously ordered spousal support, li-

1 ability for the payment of spousal support shall terminate on the death of  
2 either party, and there shall be no liability for either the payment of spousal  
3 support or for any payment in cash or property as a substitute for the pay-  
4 ment of spousal support after the death of either party. The court may ap-  
5 prove an agreement for the entry of an order for the support of a party. A  
6 general judgment entered under this section may include an amount for  
7 support as requested in a petition filed under ORS 107.085 or under a motion  
8 for relief made pursuant to ORS 107.095 (1)(b) for which a limited judgment  
9 was not entered, payment of which commences no earlier than the date the  
10 petition or motion was served on the nonrequesting party, and the amount  
11 shall be considered a request for relief that has been decided by the general  
12 judgment for purposes of ORS 18.082 (3). In making the spousal support or-  
13 der, the court shall designate one or more categories of spousal support and  
14 shall make findings of the relevant factors in the decision. The court may  
15 order:

16 (A) Transitional spousal support as needed for a party to attain education  
17 and training necessary to allow the party to prepare for reentry into the job  
18 market or for advancement therein. The factors to be considered by the court  
19 in awarding transitional spousal support include but are not limited to:

- 20 (i) The duration of the marriage;  
21 (ii) A party's training and employment skills;  
22 (iii) A party's work experience;  
23 (iv) The financial needs and resources of each party;  
24 (v) The tax consequences to each party;  
25 (vi) A party's [*custodial*] **parenting time** and child support responsibil-  
26 ities; and  
27 (vii) Any other factors the court deems just and equitable.

28 (B) Compensatory spousal support when there has been a significant fi-  
29 nancial or other contribution by one party to the education, training, voca-  
30 tional skills, career or earning capacity of the other party and when an order  
31 for compensatory spousal support is otherwise just and equitable in all of the

1 circumstances. The factors to be considered by the court in awarding  
2 compensatory spousal support include but are not limited to:

- 3 (i) The amount, duration and nature of the contribution;
- 4 (ii) The duration of the marriage;
- 5 (iii) The relative earning capacity of the parties;
- 6 (iv) The extent to which the marital estate has already benefited from the  
7 contribution;
- 8 (v) The tax consequences to each party; and
- 9 (vi) Any other factors the court deems just and equitable.

10 (C) Spousal maintenance as a contribution by one spouse to the support  
11 of the other for either a specified or an indefinite period. The factors to be  
12 considered by the court in awarding spousal maintenance include but are not  
13 limited to:

- 14 (i) The duration of the marriage;
- 15 (ii) The age of the parties;
- 16 (iii) The health of the parties, including their physical, mental and emo-  
17 tional condition;
- 18 (iv) The standard of living established during the marriage;
- 19 (v) The relative income and earning capacity of the parties, recognizing  
20 that the wage earner's continuing income may be a basis for support distinct  
21 from the income that the supported spouse may receive from the distribution  
22 of marital property;
- 23 (vi) A party's training and employment skills;
- 24 (vii) A party's work experience;
- 25 (viii) The financial needs and resources of each party;
- 26 (ix) The tax consequences to each party;
- 27 (x) A party's [*custodial*] **parenting time** and child support responsibil-  
28 ities; and
- 29 (xi) Any other factors the court deems just and equitable.

30 (e) For the delivery to one party of such party's personal property in the  
31 possession or control of the other at the time of the giving of the judgment.

1 (f) For the division or other disposition between the parties of the real  
2 or personal property, or both, of either or both of the parties as may be just  
3 and proper in all the circumstances. In determining the division of property  
4 under this paragraph, the following apply:

5 (A) A retirement plan or pension or an interest therein shall be consid-  
6 ered as property.

7 (B) The court shall consider the contribution of a party as a homemaker  
8 as a contribution to the acquisition of marital assets.

9 (C) Except as provided in subparagraph (D) of this paragraph, there is a  
10 rebuttable presumption that both parties have contributed equally to the  
11 acquisition of property during the marriage, whether such property is jointly  
12 or separately held.

13 (D)(i) Property acquired by gift to one party during the marriage and  
14 separately held by that party on a continuing basis from the time of receipt  
15 is not subject to a presumption of equal contribution under subparagraph (C)  
16 of this paragraph.

17 (ii) For purposes of this subparagraph, “property acquired by gift” means  
18 property acquired by one party through gift, devise, bequest, operation of  
19 law, beneficiary designation or inheritance.

20 (E) Subsequent to the filing of a petition for annulment or dissolution of  
21 marriage or separation, the rights of the parties in the marital assets shall  
22 be considered a species of co-ownership, and a transfer of marital assets un-  
23 der a judgment of annulment or dissolution of marriage or of separation en-  
24 tered on or after October 4, 1977, shall be considered a partitioning of jointly  
25 owned property.

26 (F) The court shall require full disclosure of all assets by the parties in  
27 arriving at a just property division.

28 (G) In arriving at a just and proper division of property, the court shall  
29 consider reasonable costs of sale of assets, taxes and any other costs rea-  
30 sonably anticipated by the parties.

31 (H)(i) If a party has been awarded spousal support in lieu of a share of

1 property, the court shall so state on the record and shall order the obligor  
2 to provide for and maintain life insurance in an amount commensurate with  
3 the obligation and designating the obligee as beneficiary for the duration of  
4 the obligation.

5 (ii) The obligee or attorney of the obligee shall cause a certified copy of  
6 the judgment to be delivered to the life insurance company or companies.

7 (iii) If the obligee or the attorney of the obligee delivers a true copy of  
8 the judgment to the life insurance company or companies, identifying the  
9 policies involved and requesting such notification under this section, the  
10 company or companies shall notify the obligee, as beneficiary of the insur-  
11 ance policy, whenever the policyholder takes any action that will change the  
12 beneficiary or reduce the benefits of the policy. Either party may request  
13 notification by the insurer when premium payments have not been made. If  
14 the obligor is ordered to provide for and maintain life insurance, the obligor  
15 shall provide to the obligee a true copy of the policy. The obligor shall also  
16 provide to the obligee written notice of any action that will reduce the  
17 benefits or change the designation of the beneficiaries under the policy.

18 (g) For the creation of trusts as follows:

19 (A) For the appointment of one or more trustees to hold, control and  
20 manage for the benefit of the children of the parties, of the marriage or  
21 otherwise such of the real or personal property of either or both of the par-  
22 ties, as the court may order to be allocated or appropriated to their support  
23 and welfare, and to collect, receive, expend, manage or invest any sum of  
24 money awarded for the support and welfare of minor children of the parties.

25 (B) For the appointment of one or more trustees to hold, manage and  
26 control such amount of money or such real or personal property of either  
27 or both of the parties, as may be set aside, allocated or appropriated for the  
28 support of a party.

29 (C) For the establishment of the terms of the trust and provisions for the  
30 disposition or distribution of such money or property to or between the  
31 parties, their successors, heirs and assigns after the purpose of the trust has

1 been accomplished. Upon petition of a party or a person having an interest  
2 in the trust showing a change of circumstances warranting a change in the  
3 terms of the trust, the court may make and direct reasonable modifications  
4 in its terms.

5 (h) To change the name of either spouse to a name the spouse held before  
6 the marriage. The court shall order a change if it is requested by the affected  
7 party.

8 (i) For a money award for any sums of money found to be then remaining  
9 unpaid upon any order or limited judgment entered under ORS 107.095. If a  
10 limited judgment was entered under ORS 107.095, the limited judgment shall  
11 continue to be enforceable for any amounts not paid under the limited  
12 judgment unless those amounts are included in the money award made by the  
13 general judgment.

14 (j) For an award of reasonable attorney fees and costs and expenses rea-  
15 sonably incurred in the action in favor of a party or in favor of a party's  
16 attorney.

17 **(2) The court may hold a hearing to decide the custody issues or**  
18 **parenting time rights under subsection (1)(a) or (b) of this section**  
19 **prior to any other issues.**

20 [(2)] (3) In determining the proper amount of support and the proper di-  
21 vision of property under subsection (1)(c), (d) and (f) of this section, the court  
22 may consider evidence of the tax consequences on the parties of its proposed  
23 judgment.

24 [(3)] (4) Upon the filing of the judgment, the property division ordered  
25 shall be deemed effective for all purposes. This transfer by judgment, which  
26 shall affect solely owned property transferred to the other spouse as well as  
27 commonly owned property in the same manner as would a declaration of a  
28 resulting trust in favor of the spouse to whom the property is awarded, is  
29 not a taxable sale or exchange.

30 [(4)] (5) If an appeal is taken from a judgment of annulment or dissolution  
31 of marriage or of separation or from any part of a judgment rendered in



1 pursuance of the provisions of ORS 107.005 to 107.086, 107.095, 107.105,  
2 107.115 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540 and 107.610, the  
3 court rendering the judgment may provide in a supplemental judgment for  
4 any relief provided for in ORS 107.095 and shall provide that the relief  
5 granted in the judgment is to be in effect only during the pendency of the  
6 appeal. A supplemental judgment under this subsection may be enforced as  
7 provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judg-  
8 ment under this subsection may be appealed in the same manner as provided  
9 for supplemental judgments modifying a domestic relations judgment under  
10 ORS 19.275.

11 [(5)] (6) If an appeal is taken from the judgment or other appealable order  
12 in a suit for annulment or dissolution of a marriage or for separation and  
13 the appellate court awards costs and disbursements to a party, the court may  
14 also award to that party, as part of the costs, such additional sum of money  
15 as it may adjudge reasonable as an attorney fee on the appeal.

16 [(6)] (7) If, as a result of a suit for the annulment or dissolution of a  
17 marriage or for separation, the parties to such suit become owners of an  
18 undivided interest in any real or personal property, or both, either party may  
19 maintain supplemental proceedings by filing a petition in such suit for the  
20 partition of such real or personal property, or both, within two years from  
21 the entry of the judgment, showing among other things that the original  
22 parties to the judgment and their joint or several creditors having a lien  
23 upon any such real or personal property, if any there be, constitute the sole  
24 and only necessary parties to such supplemental proceedings. The procedure  
25 in the supplemental proceedings, so far as applicable, shall be the procedure  
26 provided in ORS 105.405 for the partition of real property, and the court  
27 granting the judgment shall have in the first instance and retain jurisdiction  
28 in equity therefor.

29 **SECTION 9.** ORS 107.106 is amended to read:

30 107.106. (1) An order or judgment providing for the custody, parenting  
31 time, visitation or support of a child under ORS chapter 25, 107, 108, 109 or

1 110 or ORS 419B.400 or 419C.590 shall include:

2 (a) Provisions addressing the issues of:

3 (A) Payment of uninsured medical expenses of the child;

4 (B) Maintenance of insurance or other security for support; and

5 (C) Medical support for the child under ORS 25.321 to 25.343.

6 (b) A statement in substantially the following form:

7

---

8 The terms of child support and parenting time [*visitation*] are designed  
9 for the child's benefit and not the parents' benefit. You must pay support  
10 even if you are not receiving [*visitation*] **parenting time**. You must comply  
11 with [*visitation*] **parenting time** orders even if you are not receiving child  
12 support.

13 Violation of child support orders and [*visitation*] **parenting time** orders  
14 is punishable by fine, imprisonment or other penalties.

15 Publicly funded help is available to establish, enforce and modify child  
16 support orders. Paternity establishment services are also available. Contact  
17 your local district attorney or the Department of Justice at (503) 373-7300 for  
18 information.

19 Publicly funded help may be available to establish, enforce and modify  
20 [*visitation*] **parenting time** orders. Forms are available to enforce visitation  
21 orders. Contact the domestic relations court clerk or civil court clerk for  
22 information.

23

---

24 (2) The court or administrative law judge shall ensure the creation and  
25 filing of an order or judgment that complies with this section.

26 (3) This section does not apply to an action undertaken by the Division  
27 of Child Support of the Department of Justice or a district attorney under  
28 ORS 25.080.

29 **SECTION 10.** ORS 107.108 is amended to read:

30 107.108. (1) As used in this section:

31 (a) "Child attending school" means a child of the parties who:

- 1 (A) Is unmarried;  
2 (B) Is 18 years of age or older and under 21 years of age;  
3 (C) Is making satisfactory academic progress as defined by the school that  
4 the child attends; and

5 (D) Has a course load that is no less than one-half of the load that is  
6 determined by the school to constitute full-time enrollment.

7 (b) "Regularly scheduled break" means:

8 (A) A summer semester or term;

9 (B) A period of time not exceeding four months between graduation from  
10 or completion of school and the beginning of the next regularly scheduled  
11 term, semester or course of study at school;

12 (C) A period of time between the end and beginning of regularly scheduled  
13 consecutive school semesters, terms or courses of study; or

14 (D) Any other scheduled break between courses of study that is defined  
15 by the school as a regularly scheduled break.

16 (c) "School" means:

17 (A) An educational facility such as a high school, community college,  
18 four-year college or university;

19 (B) A course of professional, vocational or technical training, including  
20 the Job Corps, designed to fit the child for gainful employment; or

21 (C) A high school equivalency course, including but not limited to a  
22 General Educational Development (GED) program, an educational program  
23 for grade 12 or below and home schooling.

24 (2) A support order entered or modified under this chapter or under ORS  
25 chapter 25, 108, 109, 110, 125, 416, 419B or 419C may require either parent,  
26 or both of them, to provide for the support or maintenance of a child at-  
27 tending school.

28 (3) Notwithstanding ORS 416.407, a child attending school is a party to  
29 any legal proceeding related to the support order. A child attending school  
30 may:

31 (a) Apply for services under ORS 25.080:

1 (A) If a support order provides for the support or maintenance of the child  
2 attending school; or

3 (B) In accordance with rules adopted by the Department of Justice;

4 (b) Request a judicial or administrative modification of the child support  
5 amount or may receive notice of and participate in any modification pro-  
6 ceeding; and

7 (c) Agree, in the same manner as an obligee under ORS 25.020 (12), that  
8 payments not made to the Department of Justice should be credited for  
9 amounts that would have been paid to the child attending school if the  
10 payments had been made to the department.

11 (4) Regardless of whether the child is a child attending school, an un-  
12 married child who is 18 years of age or older and under 21 years of age:

13 (a) Is a necessary party to a judicial proceeding under ORS 107.085,  
14 107.135, 107.431, 108.110, 109.103 or 109.165 in which the child's parents are  
15 parties and the court has authority to order or modify support for a child  
16 attending school; and

17 (b) May request notice of any proceeding initiated by the administrator  
18 to modify a support order that may affect the child's rights as a child at-  
19 tending school. To receive notice, the child shall provide an address to the  
20 administrator, and the administrator shall notify the child of any modifica-  
21 tion proceeding by first class mail. To be a party to a proceeding, the child  
22 must send a written request to the administrator within 30 days after the  
23 date of the notice of the proceeding.

24 (5)(a) If a support order provides for the support or maintenance of a child  
25 attending school and the child qualifies as a child attending school, unless  
26 good cause is found for the distribution of the payment to be made in some  
27 other manner, support shall be distributed to the child if services are being  
28 provided under ORS 25.080 or shall be paid directly to the child if those  
29 services are not being provided.

30 (b) Unless otherwise ordered by the court, administrator or administrative  
31 law judge, when there are multiple children for whom support is ordered, the

1 amount distributed or paid directly to a child attending school is a prorated  
2 share based on the number of children for whom support is ordered. How-  
3 ever, if[, *due to a parenting time or split custody arrangement,*] support was  
4 not paid to the parent having [*primary physical custody of*] **the majority of**  
5 **the parenting time with** the child before the child [*turned*] **has reached**  
6 18 years of age, support may not be distributed or paid directly to the child  
7 attending school unless the support order is modified.

8 (c) The Department of Justice shall adopt rules to define good cause and  
9 circumstances under which the administrator or administrative law judge  
10 may allocate support by other than a prorated share and to determine how  
11 support is to be allocated in those circumstances.

12 (6)(a) For support payments to continue to be distributed or paid directly  
13 to the child attending school, the child shall provide to each parent ordered  
14 to pay support and, if services are being provided under ORS 25.080, to the  
15 department:

16 (A) Written notice of the child's intent to attend or continue to attend  
17 school. The child shall provide the notice before reaching 18 years of age.  
18 The notice must include the name of the school and the expected graduation  
19 date or date when the child will stop attending classes. If the child changes  
20 schools, the child shall provide the information required by this subsection  
21 concerning the subsequent school before the expected graduation date or date  
22 when the child will stop attending classes at the previous school.

23 (B) Written consent that:

24 (i) Is directed to the child's school and is in a form consistent with state  
25 and federal requirements that restrict disclosure of student records;

26 (ii) Gives the school authority to disclose to each parent ordered to pay  
27 support the child's enrollment status, whether the child is maintaining sat-  
28 isfactory academic progress, a list of courses in which the child is enrolled  
29 and the child's grades; and

30 (iii) States that the disclosure is for the purpose of permitting each parent  
31 to verify the child's compliance with the requirements of this section.

1 (b) The child shall provide the written consent form described in para-  
2 graph (a)(B) of this subsection within 30 days after the beginning of the first  
3 term or semester after the child reaches 18 years of age, at the beginning  
4 of each academic year thereafter and as otherwise required by the school to  
5 disclose the information under this section.

6 (c) If an order of nondisclosure of information has been entered concern-  
7 ing the child under ORS 25.020, the child may provide the information de-  
8 scribed in paragraph (a)(B) of this subsection in the manner established by  
9 the department by rule.

10 (7) Each parent ordered to pay support shall continue to make support  
11 payments, to be distributed or paid directly, to the child during regularly  
12 scheduled breaks as long as the child intends to continue attending school  
13 the next scheduled term or semester.

14 (8) A parent's obligation to pay support to a child attending school is  
15 suspended when:

16 (a) The child has reached 18 years of age and has not provided written  
17 notice of the child's intent to attend or continue to attend school, or the  
18 child has graduated or reached the date to stop attending classes, as provided  
19 under subsection (6)(a)(A) of this section;

20 (b)(A) Services are not being provided under ORS 25.080;

21 (B) The parent has provided the child with a written notice of the  
22 parent's intent to stop paying support directly to the child because the child  
23 is no longer a child attending school or the child has not provided the  
24 written consent required by subsection (6)(a)(B) of this section; and

25 (C) Thirty days have passed since the parent provided the notice to the  
26 child and the parent has not received:

27 (i) Written confirmation from the school that the child is enrolled in the  
28 school and is a child attending school; or

29 (ii) The written consent from the child as required by subsection (6)(a)(B)  
30 of this section;

31 (c)(A) Services are being provided under ORS 25.080;

1 (B) A parent ordered to pay support has provided the department with  
2 written notice that the child is no longer a child attending school or that  
3 the child has not provided the written consent required by subsection  
4 (6)(a)(B) of this section;

5 (C) The department has provided written notice to the child requiring:

6 (i) Written confirmation, on a form developed by the department, from the  
7 school that the child is enrolled in the school and is a child attending school;  
8 and

9 (ii) Proof that the written consent required by subsection (6)(a)(B) of this  
10 section has been provided to the parent ordered to pay support; and

11 (D) Thirty days have passed since the department provided the notice to  
12 the child and the department has not received:

13 (i) Written confirmation from the school that the child is enrolled in the  
14 school and is a child attending school; or

15 (ii) Proof that the written consent required by subsection (6)(a)(B) of this  
16 section has been provided to the parent ordered to pay support.

17 (9) When a parent's support obligation has been suspended under sub-  
18 section (8) of this section, the obligation is reinstated:

19 (a) If services are not being provided under ORS 25.080, effective on the  
20 date the parent receives written confirmation from the school that the child  
21 is enrolled in the school and is a child attending school and receives the  
22 written consent from the child as required by subsection (6)(a)(B) of this  
23 section; or

24 (b) If services are being provided under ORS 25.080, effective on the date  
25 the department receives written confirmation from the school that the child  
26 is enrolled in the school and is a child attending school and receives proof  
27 that the written consent required by subsection (6)(a)(B) of this section has  
28 been provided to the parent ordered to pay support.

29 (10) If a parent ordered to pay support is paying a prorated share under  
30 subsection (5) of this section and that obligation is suspended under sub-  
31 section (8) of this section, the parent shall pay to the obligee the amount

1 previously paid to the child attending school until such time as the support  
2 order is modified. The suspension of a parent's obligation to pay support to  
3 a child attending school is a substantial change of circumstances for pur-  
4 poses of modifying a support order. In a proceeding to modify a support or-  
5 der, the court, administrator or administrative law judge may order a  
6 modified amount of support and may order an amount of support to be paid  
7 in the event that a support obligation is reinstated under subsection (9) of  
8 this section.

9 (11)(a) If services are being provided under ORS 25.080 and the department  
10 has suspended a support obligation under subsection (8) of this section or  
11 reinstated a support obligation under subsection (9) of this section, a party  
12 may request administrative review of the action within 30 days after the date  
13 of the notice that the department has suspended or reinstated the support  
14 obligation.

15 (b) The department may adopt rules specifying the issues that may be  
16 considered on review.

17 (c) A party may appeal the department's decision on review under ORS  
18 183.484.

19 (12)(a) Notwithstanding any other provision of this section, if a parent  
20 who is required to provide for the support or maintenance of a child at-  
21 tending school has established a higher education savings plan for the child's  
22 continued education, the court may order payment in accordance with the  
23 plan instead of ordering support that would otherwise be distributed or paid  
24 directly to the child under this section.

25 (b) If the court orders payment in accordance with the plan, the court  
26 may not order compliance with or payment of that provision of the order  
27 through the department.

28 (c) As used in this subsection, "higher education savings plan" means a  
29 tax-advantaged account established by a parent on behalf of a child for the  
30 purpose of paying qualified higher education expenses of the child at eligible  
31 educational institutions.



1 (13) A support order that provides for the support or maintenance of a  
2 child attending school is subject to this section regardless of when the sup-  
3 port order was entered.

4 (14) A support order that provides for the support or maintenance of a  
5 child attending school is intended to recognize the importance of continuing  
6 education for a child over 18 years of age who does not benefit from an in-  
7 tact family or who has been removed from the household. While support may  
8 serve to supplement the resources available to the child attending school, it  
9 is not intended to replace other resources or meet all of the financial needs  
10 of a child attending school.

11 **SECTION 11.** ORS 107.135 is amended to read:

12 107.135. (1) The court may at any time after a judgment of annulment or  
13 dissolution of marriage or of separation is granted, upon the motion of either  
14 party and after service of notice on the other party in the manner provided  
15 by ORCP 7, and after notice to the Division of Child Support when required  
16 under subsection (9) of this section:

17 (a) Set aside, alter or modify any portion of the judgment that provides  
18 for the appointment and duties of trustees, for the custody, parenting time,  
19 visitation, support and welfare of the minor children and the children at-  
20 tending school, as defined in ORS 107.108, including any health or life in-  
21 surance provisions, for the support of a party or for life insurance under ORS  
22 107.820 or 107.830;

23 (b) Make an order, after service of notice to the other party, providing  
24 for the future custody, **parenting time**, support and welfare of minor chil-  
25 dren residing in the state, who, at the time the judgment was given, were  
26 not residents of the state, or were unknown to the court or were erroneously  
27 omitted from the judgment;

28 (c) Terminate a duty of support toward any minor child who has become  
29 self-supporting, emancipated or married;

30 (d) After service of notice on the child in the manner provided by law for  
31 service of a summons, suspend future support for any child who has ceased

1 to be a child attending school as defined in ORS 107.108; and

2 (e) Set aside, alter or modify any portion of the judgment that provides  
3 for a property award based on the enhanced earning capacity of a party that  
4 was awarded before October 23, 1999. A property award may be set aside,  
5 altered or modified under this paragraph:

6 (A) When the person with the enhanced earning capacity makes a good  
7 faith career change that results in less income;

8 (B) When the income of the person with the enhanced earning capacity  
9 decreases due to circumstances beyond the person's control; or

10 (C) Under such other circumstances as the court deems just and proper.

11 (2) When a party moves to set aside, alter or modify the child support  
12 provisions of the judgment:

13 (a) The party shall state in the motion, to the extent known:

14 (A) Whether there is pending in this state or any other jurisdiction any  
15 type of support proceeding involving children of the marriage, including one  
16 brought under ORS 25.287, 107.431, 109.100, 125.025, 416.400 to 416.465,  
17 419B.400 or 419C.590 or ORS chapter 110; and

18 (B) Whether there exists in this state or any other jurisdiction a support  
19 order, as defined in ORS 110.503, involving children of the marriage, other  
20 than the judgment the party is moving to set aside, alter or modify.

21 (b) The party shall include with the motion a certificate regarding any  
22 pending support proceeding and any existing support order other than the  
23 judgment the party is moving to set aside, alter or modify. The party shall  
24 use a certificate that is in a form established by court rule and include in-  
25 formation required by court rule and paragraph (a) of this subsection.

26 (3) In a proceeding under this section to reconsider the spousal or child  
27 support provisions of the judgment, the following provisions apply:

28 (a) A substantial change in economic circumstances of a party, which may  
29 include, but is not limited to, a substantial change in the cost of reasonable  
30 and necessary expenses to either party, is sufficient for the court to recon-  
31 sider its order of support, except that an order of compensatory spousal

1 support may only be modified upon a showing of an involuntary, extraor-  
2 dinary and unanticipated change in circumstances that reduces the earning  
3 capacity of the paying spouse.

4 (b) If the judgment provided for a termination or reduction of spousal  
5 support at a designated age in anticipation of the commencement of pension,  
6 Social Security or other entitlement payments, and if the obligee is unable  
7 to obtain the anticipated entitlement payments, that inability is sufficient  
8 change in circumstances for the court to reconsider its order of support.

9 (c) If Social Security is considered in lieu of spousal support or partial  
10 spousal support, the court shall determine the amount of Social Security the  
11 party is eligible to collect. The court shall take into consideration any pen-  
12 sion, retirement or other funds available to either party to effect an equita-  
13 ble distribution between the parties and shall also take into consideration  
14 any reduction of entitlement caused by taking early retirement.

15 (4) In considering under this section whether a change in circumstances  
16 exists sufficient for the court to reconsider spousal or child support pro-  
17 visions of a judgment, the following provisions apply:

18 (a) The court or administrator, as defined in ORS 25.010, shall consider  
19 income opportunities and benefits of the respective parties from all sources,  
20 including but not limited to:

21 (A) The reasonable opportunity of each party, the obligor and obligee re-  
22 spectively, to acquire future income and assets.

23 (B) Retirement benefits available to the obligor and to the obligee.

24 (C) Other benefits to which the obligor is entitled, such as travel benefits,  
25 recreational benefits and medical benefits, contrasted with benefits to which  
26 the obligee is similarly entitled.

27 (D) Social Security benefits paid to a child, or to a representative payee  
28 administering the funds for the child's use and benefit, as a result of the  
29 obligor's disability or retirement if the benefits:

30 (i) Were not previously considered in the child support order; or

31 (ii) Were considered in an action initiated before May 12, 2003.

1 (E) Apportioned Veterans' benefits or Survivors' and Dependents' Educa-  
2 tional Assistance under 38 U.S.C. chapter 35 paid to a child, or to a repre-  
3 sentative payee administering the funds for the child's use and benefit, as a  
4 result of the obligor's disability or retirement if the benefits:

5 (i) Were not previously considered in the child support order; or

6 (ii) Were considered in an action initiated before May 12, 2003.

7 (b) If the motion for modification is one made by the obligor to reduce  
8 or terminate support, and if the obligee opposes the motion, the court shall  
9 not find a change in circumstances sufficient for reconsideration of support  
10 provisions, if the motion is based upon a reduction of the obligor's financial  
11 status resulting from the obligor's taking voluntary retirement, partial vol-  
12 untary retirement or any other voluntary reduction of income or self-imposed  
13 curtailment of earning capacity, if it is shown that such action of the obligor  
14 was not taken in good faith but was for the primary purpose of avoiding the  
15 support obligation. In any subsequent motion for modification, the court  
16 shall deny the motion if the sole basis of the motion for modification is the  
17 termination of voluntarily taken retirement benefits and the obligor previ-  
18 ously has been found not to have acted in good faith.

19 (c) The court shall consider the following factors in deciding whether the  
20 actions of the obligor were not in "good faith":

21 (A) Timing of the voluntary retirement or other reduction in financial  
22 status to coincide with court action in which the obligee seeks or is granted  
23 an increase in spousal support.

24 (B) Whether all or most of the income producing assets and property were  
25 awarded to the obligor, and spousal support in lieu of such property was  
26 awarded to the obligee.

27 (C) Extent of the obligor's dissipation of funds and assets prior to the  
28 voluntary retirement or soon after filing for the change of circumstances  
29 based on retirement.

30 (D) If earned income is reduced and absent dissipation of funds or large  
31 gifts, whether the obligor has funds and assets from which the spousal sup-

1 port could have been paid.

2 (E) Whether the obligor has given gifts of substantial value to others,  
3 including a current spouse, to the detriment of the obligor's ability to meet  
4 the preexisting obligation of spousal support.

5 (5) Upon terminating a duty of spousal support, a court shall make spe-  
6 cific findings of the basis for the termination and shall include the findings  
7 in the judgment.

8 (6) Any modification of child or spousal support granted because of a  
9 change of circumstances may be ordered effective retroactive to the date the  
10 motion for modification was served or to any date thereafter.

11 (7) The judgment is final as to any installment or payment of money that  
12 has accrued up to the time the nonmoving party, other than the state, is  
13 served with a motion to set aside, alter or modify the judgment. The court  
14 may not set aside, alter or modify any portion of the judgment that provides  
15 for any payment of money, either for minor children or for the support of a  
16 party, that has accrued before the motion is served. However:

17 (a) The court may allow a credit against child support arrearages for pe-  
18 riods of time, excluding reasonable parenting time unless otherwise provided  
19 by order or judgment, during which the obligor, with the knowledge and  
20 consent of the obligee or pursuant to court order, [*has physical custody of the*  
21 *child*] **exercises parenting time in excess of the amount of parenting**  
22 **time contemplated by the child support order;** and

23 (b) The court may allow, as provided in the rules of the Child Support  
24 Program, a dollar-for-dollar credit against child support arrearages for any  
25 Social Security or Veterans' benefits paid retroactively to the child, or to a  
26 representative payee administering the funds for the child's use and benefit,  
27 as a result of an obligor's disability or retirement.

28 (8) In a proceeding under subsection (1) of this section, the court may  
29 assess against either party a reasonable attorney fee and costs for the benefit  
30 of the other party. If a party is found to have acted in bad faith, the court  
31 shall order that party to pay a reasonable attorney fee and costs of the de-

1 fending party.

2 (9) Whenever a motion to establish, modify or terminate child support or  
3 satisfy or alter support arrearages is filed and the child support rights of one  
4 of the parties or of a child of both of the parties have been assigned to the  
5 state, a true copy of the motion shall be served by mail or personal delivery  
6 on the Administrator of the Division of Child Support of the Department of  
7 Justice or on the branch office providing support services to the county in  
8 which the motion is filed.

9 (10)(a) Except as provided in ORS 109.701 to 109.834, the courts of Oregon,  
10 having once acquired personal and subject matter jurisdiction in a domestic  
11 relations action, retain such jurisdiction regardless of any change of  
12 domicile.

13 (b) The courts of Oregon, in a proceeding to establish, enforce or modify  
14 a child support order, shall recognize the provisions of the federal Full Faith  
15 and Credit for Child Support Orders Act (28 U.S.C. 1738B).

16 (11) In a proceeding under this section to reconsider provisions in a  
17 judgment relating to custody or parenting time, the court may consider re-  
18 peated and unreasonable denial of, or interference with, parenting time to  
19 be a substantial change of circumstances.

20 (12) In a proceeding under this section to reconsider provisions in a  
21 judgment relating to parenting time, the court may suspend or terminate a  
22 parent's parenting time with a child if the court finds that the parent has  
23 abused a controlled substance and that the parenting time is not in the best  
24 interests of the child. If a court has suspended or terminated a parent's  
25 parenting time with a child for reasons described in this subsection, the  
26 court may not grant the parent future parenting time until the parent has  
27 shown that the reasons for the suspension or termination are resolved and  
28 that reinstated parenting time is in the best interests of the child. Nothing  
29 in this subsection limits the court's authority under subsection (1)(a) of this  
30 section.

31 (13) In a proceeding under this section to reconsider provisions in a

1 judgment relating to [*custody*] **parenting time**, temporary placement of the  
2 child by the [*custodial*] parent **with parenting time** pursuant to ORS 109.056  
3 (3) with the [*noncustodial*] **other** parent as a result of military deployment  
4 of the [*custodial*] parent **with parenting time** is not, by itself, a change of  
5 circumstances. Any fact relating to the child and the parties occurring sub-  
6 sequent to the last [*custody judgment*] **parenting plan**, other than [*the cus-*  
7 *todial*] a parent's temporary placement of the child pursuant to ORS 109.056  
8 (3) with the [*noncustodial*] **other** parent, may be considered by the court  
9 when making a change of circumstances determination.

10 (14) Within 30 days after service of notice under subsection (1) of this  
11 section, the party served shall file a written response with the court.

12 (15)(a) It is the policy of this state:

13 (A) To encourage the settlement of cases brought under this section; and

14 (B) For courts to enforce the terms of settlements described in paragraph  
15 (b) of this subsection to the fullest extent possible, except when to do so  
16 would violate the law or would clearly contravene public policy.

17 (b) In a proceeding under subsection (1) of this section, the court may  
18 enforce the terms set forth in a stipulated order or judgment signed by the  
19 parties, an order or judgment resulting from a settlement on the record or  
20 an order or judgment incorporating a settlement agreement:

21 (A) As contract terms using contract remedies;

22 (B) By imposing any remedy available to enforce an order or judgment,  
23 including but not limited to contempt; or

24 (C) By any combination of the provisions of subparagraphs (A) and (B)  
25 of this paragraph.

26 (c) A party may seek to enforce an agreement and obtain remedies de-  
27 scribed in paragraph (b) of this subsection by filing a motion, serving notice  
28 on the other party in the manner provided by ORCP 7 and, if a remedy under  
29 paragraph (b)(B) of this subsection is sought, complying with the statutory  
30 requirements for that remedy. All claims for relief arising out of the same  
31 acts or omissions must be joined in the same proceeding.

1 (d) Nothing in paragraph (b) or (c) of this subsection limits a party's  
2 ability, in a separate proceeding, to file a motion to modify an order or  
3 judgment under subsection (1) of this section or to seek enforcement of an  
4 ancillary agreement to the order or judgment.

5 **SECTION 12.** ORS 107.137 is amended to read:

6 107.137. (1) Except as provided in subsection (6) of this section, in deter-  
7 mining custody of, **or allocating parenting time with,** a minor child under  
8 ORS **107.102**, 107.105 or 107.135, the court shall give primary consideration  
9 to the best interests and welfare of the child. In determining the best inter-  
10 ests and welfare of the child, the court shall consider the following relevant  
11 factors:

- 12 (a) The emotional ties between the child and other family members;
- 13 (b) The interest of the parties in and attitude toward the child;
- 14 (c) The desirability of continuing an existing relationship;
- 15 (d) The abuse of one parent by the other;
- 16 (e) The preference for the [*primary caregiver*] **parent with primary re-**  
17 **sponsibility for the supervision and physical care** of the child, if [*the*  
18 *caregiver*] **that parent** is deemed fit by the court; and
- 19 (f) The willingness and ability of each parent to facilitate and encourage  
20 a close and continuing relationship between the other parent and the child.  
21 However, the court may not consider such willingness and ability if one  
22 parent shows that the other parent has sexually assaulted or engaged in a  
23 pattern of behavior of abuse against the parent or a child and that a con-  
24 tinuing relationship with the other parent will endanger the health or safety  
25 of either **the** parent or the child.

26 (2) The best interests and welfare of the child in a custody **or parenting**  
27 **time** matter shall not be determined by isolating any one of the relevant  
28 factors referred to in subsection (1) of this section, or any other relevant  
29 factor, and relying on it to the exclusion of other factors. However, if a  
30 parent has committed abuse as defined in ORS 107.705, other than as de-  
31 scribed in subsection (6) of this section, there is a rebuttable presumption



1 that it is not in the best interests and welfare of the child to award [*sole*]  
2 **custody** or joint custody of, **or parenting time with**, the child to the par-  
3 ent who committed the abuse.

4 (3) If a party has a disability as defined by the Americans with Disabili-  
5 ties Act of 1990 (42 U.S.C. 12101 et seq.), the court may not consider that  
6 party's disability in determining custody **or parenting time** unless the court  
7 finds that behaviors or limitations of the party that are related to the party's  
8 disability are endangering or will likely endanger the health, safety or wel-  
9 fare of the child.

10 (4) In determining custody of, **or parenting time with**, a minor child  
11 under ORS **107.102**, 107.105 or 107.135, the court shall consider the conduct,  
12 marital status, income, social environment or lifestyle of either party only  
13 if it is shown that any of these factors are causing or may cause emotional  
14 or physical damage to the child.

15 (5) No preference in custody **or parenting time** shall be given to the  
16 mother over the father for the sole reason that she is the mother, nor shall  
17 any preference be given to the father over the mother for the sole reason  
18 that he is the father.

19 (6)(a) The court determining custody of, **or parenting time with**, a mi-  
20 nor child under ORS **107.102**, 107.105 or 107.135 shall not award [*sole*] **cus-**  
21 **tody** or joint custody of, **or parenting time with**, the child to a parent if:

22 (A) The court finds that the parent has been convicted of rape under ORS  
23 163.365 or 163.375 or other comparable law of another jurisdiction; and

24 (B) The rape resulted in the conception of the child.

25 (b) A denial of custody **or parenting time** under this subsection does not  
26 relieve the parent of any obligation to pay child support.

27 **SECTION 13.** ORS 107.138 is amended to read:

28 107.138. (1)(a) A court, upon the motion of a party, may enter a temporary  
29 status quo order to either party in a proceeding to modify a judgment that  
30 awards custody of, **or parenting time with**, a child after:

31 (A) Notifying the other party; and

1 (B) Giving the other party an opportunity to contest issuance of the or-  
2 der.

3 (b) The motion for a temporary status quo order must be supported by an  
4 affidavit or a declaration under penalty of perjury in the form required by  
5 ORCP 1 E, setting forth with specificity the information required by ORS  
6 109.767 and the person with whom the child has lived during the preceding  
7 year and the child's current schedule, daily routine and usual place of resi-  
8 dence.

9 (c) Notice to the party against whom the motion for the order is sought  
10 must be served at least 21 days before the date set for the hearing. The issue  
11 at the hearing is limited to a determination of the status quo at the time the  
12 motion for the order was filed.

13 (2) A temporary status quo order restrains and enjoins each parent from:

14 (a) Changing the child's usual place of residence;

15 (b) Interfering with the present placement and daily schedule of the child;

16 (c) Hiding or secreting the child from the other parent;

17 (d) Interfering with the other parent's usual contact and parenting time  
18 with the child;

19 (e) Leaving the state with the child without the written permission of the  
20 other parent or the permission of the court; or

21 (f) In any manner disturbing the current schedule and daily routine of the  
22 child until the motion for modification has been granted or denied.

23 (3) For purposes of this section:

24 (a) "Child's usual place of residence" means the place where the child is  
25 living at the time the motion for the temporary order is filed and has lived  
26 continuously for a period of three consecutive months, excluding any periods  
27 of time during which the [*noncustodial*] **other** parent did exercise, or would  
28 otherwise have exercised, parenting time.

29 (b) "Parent's usual contact and parenting time," "present placement and  
30 daily schedule of the child" and "current schedule and daily routine of the  
31 child" mean the contact, parenting time, placement, schedule and routine at

1 the time the motion for the temporary order is filed.

2 **SECTION 14.** ORS 107.145 is amended to read:

3 107.145. (1) The Legislative Assembly finds and declares that:

4 (a) Establishing a fair, efficient and expeditious process to resolve  
5 [*child*] custody, **parenting time** and visitation issues when a parent is de-  
6 ployed with the Armed Forces of the United States, National Guard or other  
7 reserve component is in the best interests of the child of such a deployed  
8 parent; and

9 (b) Courts should, to the extent feasible within existing resources and  
10 court practices, prioritize the scheduling for hearing of family law matters  
11 involving a deployed parent or a parent whose deployment is imminent, avoid  
12 unnecessary delays or continuances and ensure that deployed parents are not  
13 denied access to their children because of their deployment.

14 (2) As used in this section and ORS 107.146:

15 (a) “Deployed parent” means a parent of a minor child whose parental  
16 rights have not been terminated who is deployed with the Armed Forces of  
17 the United States, National Guard or other reserve component.

18 (b) “Deployment” or “deployed”:

19 (A) Means military service in compliance with written orders received by  
20 an active duty or reserve member of the Armed Forces of the United States,  
21 National Guard or other reserve component to report for combat operations,  
22 contingency operations, peacekeeping operations, temporary duty, a remote  
23 tour of duty or other active military service;

24 (B) Includes the period of time from which the deployed parent receives  
25 and is subject to written orders to deploy to the actual date of deployment;  
26 and

27 (C) Includes any period of time in which the deployed parent is awaiting  
28 travel to or from a deployment destination or remains deployed because of  
29 sickness, wounds, leave or other lawful cause.

30 (3) Notwithstanding ORS 107.135 and except as provided in subsection (4)  
31 of this section, a court may not set aside, alter or modify any portion of a

1 judgment of annulment, separation or dissolution of marriage that provides  
2 for the custody, parenting time, visitation, support and welfare of a minor  
3 child of a deployed parent until 90 days after the completion of the deployed  
4 parent's deployment unless a motion to set aside, alter or modify was filed  
5 with, heard by and decided by the court before the commencement of the  
6 deployed parent's deployment.

7 (4)(a) Notwithstanding ORS 107.138 and 107.139, a court may enter a  
8 temporary order modifying the terms of a preexisting judgment of annulment,  
9 separation or dissolution of marriage that provides for the custody, parenting  
10 time, visitation, support and welfare of a minor child of a deployed parent  
11 to reasonably accommodate the circumstances of the deployed parent's de-  
12 ployment in the best interests of the child, upon motion filed by either party  
13 and after service of notice on the other party in the manner provided by  
14 ORCP 7, and after notice to the Administrator of the Division of Child  
15 Support of the Department of Justice or the branch office providing support  
16 services when required by subsection (6) of this section. The nondeployed  
17 parent bears the burden of proof that the provisions of a temporary order  
18 made under this subsection are not in the best interests of the child.

19 (b) A temporary order entered under this subsection must include the  
20 following provisions:

21 (A) Parenting time for the deployed parent during periods of approved  
22 leave in the best interests of the child;

23 (B) Parenting time for the deployed parent during periods of deployment  
24 in the best interests of the child including but not limited to contact by  
25 telephone, electronic mail and other electronic means such as video and  
26 visual imaging;

27 (C) Modification of the child support provisions of the preexisting judg-  
28 ment to reflect the changed circumstances of the parents and the child dur-  
29 ing the period of deployment;

30 (D) A requirement that the nondeployed parent provide the court and the  
31 deployed parent with written notice 30 days prior to a change of address or

1 telephone number during the period of deployment;

2 (E) That the temporary order entered under this subsection terminates  
3 by operation of law upon completion of deployment and that the provisions  
4 of the preexisting judgment that have been modified by the temporary order  
5 are automatically reinstated unless a request is made and granted under  
6 subsection (7) of this section;

7 (F) That all other provisions of the preexisting judgment not modified by  
8 the temporary order remain in effect; and

9 (G) That deployment is considered completed for purposes of reinstating  
10 the provisions of the preexisting judgment that have been modified by the  
11 temporary order 10 days after the date on which the deployed parent serves  
12 the nondeployed parent and provides to the court and to the Administrator  
13 of the Division of Child Support of the Department of Justice or the branch  
14 office providing support services to the county in which the motion is filed  
15 copies of written orders or other official notification that the deployed par-  
16 ent is no longer deployed.

17 (5) A temporary order entered under subsection (4) of this section may  
18 include a provision allowing or requiring reasonable visitation between the  
19 child of a deployed parent and a stepparent, grandparent or other family  
20 member related to the child with whom the child has an ongoing relationship  
21 as defined in ORS 109.119. In determining the best interests of the child, the  
22 court shall consider the factors set forth in ORS 109.119 (4) and whether  
23 awarding visitation will facilitate the child's contact with the deployed par-  
24 ent. For purposes of this subsection, a [*legal*] parent is presumed to act in  
25 the best interests of the child. In making an order under this subsection, the  
26 court shall apply a preponderance of the evidence standard.

27 (6) A true copy of a motion under subsection (4) of this section shall be  
28 served by the moving party by mail or personal delivery on the Administra-  
29 tor of the Division of Child Support of the Department of Justice or on the  
30 branch office providing support services to the county in which the motion  
31 is filed.

1 (7) Prior to reinstatement of the provisions of a preexisting judgment, a  
2 parent may request ex parte a temporary order alleging that the child will  
3 be irreparably harmed or placed in immediate danger if the provisions of the  
4 preexisting judgment are automatically reinstated upon completion of de-  
5 ployment.

6 (8) When a court has entered a temporary order under subsection (4) of  
7 this section, the absence of a child from this state during a deployed parent's  
8 deployment is considered a temporary absence for purposes of the Uniform  
9 Child Custody Jurisdiction and Enforcement Act and this state shall retain  
10 exclusive continuing jurisdiction in accordance with ORS 109.701 to 109.834.

11 (9) The court may award attorney fees and costs reasonably incurred in  
12 a proceeding under this section if the court finds that a party caused un-  
13 reasonable delays, failed to provide information as required by this section  
14 or acted to unreasonably interfere with or frustrate contact between a de-  
15 ployed parent and a minor child.

16 **SECTION 15.** ORS 107.154 is amended to read:

17 107.154. Unless otherwise ordered by the court, an order [*of sole*] **award-**  
18 **ing** custody to one parent shall not deprive the other parent of the following  
19 authority:

20 (1) To inspect and receive school records and to consult with school staff  
21 concerning the child's welfare and education, to the same extent as the  
22 [*custodial*] parent **with decision-making authority** may inspect and receive  
23 [*such*] **school** records and consult with [*such*] **school** staff;

24 (2) To inspect and receive governmental agency and law enforcement re-  
25 cords concerning the child to the same extent as the [*custodial*] parent **with**  
26 **decision-making authority** may inspect and receive such records;

27 (3) To consult with any person who may provide care or treatment for the  
28 child and to inspect and receive the child's medical, dental and psychological  
29 records, to the same extent as the [*custodial*] parent **with decision-making**  
30 **authority** may consult with such person and inspect and receive such re-  
31 cords;

1 (4) To authorize emergency medical, dental, psychological, psychiatric or  
2 other health care for the child if the [*custodial*] parent **with decision-**  
3 **making authority** is, for practical purposes, unavailable; or

4 (5) To apply to be the child's conservator, guardian ad litem or both.

5 **SECTION 16.** ORS 107.164 is amended to read:

6 107.164. Unless otherwise ordered by the court, both parents shall have  
7 a continuing responsibility, once a custody, **parenting time** or protective  
8 order concerning the child is issued, to provide addresses and contact tele-  
9 phone numbers to the other parent and to immediately notify the other par-  
10 ent of any emergency circumstances or substantial changes in the health of  
11 the child.

12 **SECTION 17.** ORS 107.179 is amended to read:

13 107.179. (1) When either party to a [*child*] custody issue, other than one  
14 involving temporary custody, whether the issue arises from a case of marital  
15 annulment, dissolution or separation, or from a determination of parentage,  
16 requests the court to grant joint custody of the minor children of the parties  
17 under ORS 107.105, the court, if the other party objects to the request for  
18 joint custody, shall proceed under this section. The request under this sub-  
19 section must be made, in the petition or the response, or otherwise not less  
20 than 30 days before the date of trial in the case, except for good cause  
21 shown. The court in such circumstances, except as provided in subsection (3)  
22 of this section, shall direct the parties to participate in mediation in an ef-  
23 fort to resolve their differences concerning custody. The court may order  
24 such participation in mediation within a mediation program established by  
25 the court or as conducted by any mediator approved by the court. Unless the  
26 court or the county provides a mediation service available to the parties, the  
27 court may order that the costs of the mediation be paid by one or both of  
28 the parties, as the court finds equitable upon consideration of the relative  
29 ability of the parties to pay those costs. If, after 90 days, the parties do not  
30 arrive at a resolution of their differences, the court shall proceed to deter-  
31 mine custody.

1 (2) At its discretion, the court may:

2 (a) Order mediation under this section prior to trial and postpone trial  
3 of the case pending the outcome of the mediation, in which case the issue  
4 of custody shall be tried only upon failure to resolve the issue of custody  
5 by mediation;

6 (b) Order mediation under this section prior to trial and proceed to try  
7 the case as to issues other than custody while the parties are at the same  
8 time engaged in the mediation, in which case the issue of custody shall be  
9 tried separately upon failure to resolve the issue of custody by mediation;  
10 or

11 (c) Complete the trial of the case on all issues and order mediation under  
12 this section upon the conclusion of the trial, postponing entry of the judg-  
13 ment pending outcome of the mediation, in which case the court may enter  
14 a limited judgment as to issues other than custody upon completion of the  
15 trial or may postpone entry of any judgment until the expiration of the me-  
16 diation period or agreement of the parties as to custody.

17 (3) If either party objects to mediation on the grounds that to participate  
18 in mediation would subject the party to severe emotional distress and moves  
19 the court to waive mediation, the court shall hold a hearing on the motion.  
20 If the court finds it likely that participation in mediation will subject the  
21 party to severe emotional distress, the court may waive the requirement of  
22 mediation.

23 (4) Communications made by or to a mediator or between parties as a part  
24 of mediation ordered under this section are privileged and are not admissible  
25 as evidence in any civil or criminal proceeding.

26 **SECTION 18.** ORS 107.415 is amended to read:

27 107.415. (1) If a party is required by a judgment of a court in a domestic  
28 relations suit, as defined in ORS 107.510, to contribute to the support,  
29 nurture or education of a minor child while the other party [*has custody*  
30 *thereof*] **is exercising parenting time**, the [*custodial*] parent **exercising**  
31 **parenting time** shall notify the party contributing such money when the



1 minor child receives income from the gainful employment of the child, or is  
2 married or enters the military service.

3 (2) Any [*custodial*] parent **exercising parenting time** who does not pro-  
4 vide notice, as required by subsection (1) of this section, may be required by  
5 the court to make restitution to the contributing party of any money paid,  
6 as required by the judgment. The court may enter a supplemental judgment  
7 or satisfy all or part of the support award to accomplish the restitution.

8 **SECTION 19.** ORS 107.425 is amended to read:

9 107.425. (1) In suits or proceedings described in subsection (4) of this  
10 section in which there are minor children involved, the court may cause an  
11 investigation to be made as to the character, family relations, past conduct,  
12 earning ability and financial worth of the parties for the purpose of pro-  
13 tecting the children's future interest. The court may defer the entry of a  
14 general judgment until the court is satisfied that its judgment in such suit  
15 or proceeding will properly protect the welfare of such children. The inves-  
16 tigative findings shall be offered as and subject to all rules of evidence. Costs  
17 of the investigation may be charged against one or more of the parties or  
18 as a cost in the proceedings but shall not be charged against funds appro-  
19 priated for public defense services.

20 (2) The court, on its own motion or on the motion of a party, may order  
21 an independent physical, psychological, psychiatric or mental health exam-  
22 ination of a party or the children and may require any party and the children  
23 to be interviewed, evaluated and tested by an expert or panel of experts. The  
24 court may also authorize the expert or panel of experts to interview other  
25 persons and to request other persons to make available to the expert or panel  
26 of experts records deemed by the court or the expert or panel of experts to  
27 be relevant to the evaluation. The court may order the parties to authorize  
28 the disclosure of such records. In the event the parties are unable to stipu-  
29 late to the selection of an expert or panel of experts to conduct the exam-  
30 ination or evaluation, the court shall appoint a qualified expert or panel of  
31 experts. The court shall direct one or more of the parties to pay for the ex-

1 amination or evaluation in the absence of an agreement between the parties  
2 as to the responsibility for payment but shall not direct that the expenses  
3 be charged against funds appropriated for public defense services. If more  
4 than one party is directed to pay, the court may determine the amount that  
5 each party will pay based on financial ability.

6 (3)(a) In addition to an investigation, examination or evaluation under  
7 subsections (1) and (2) of this section, the court may appoint an individual  
8 or a panel or may designate a program to assist the court in creating par-  
9 enting plans or resolving disputes regarding parenting time and to assist  
10 parents in creating and implementing parenting plans. The services provided  
11 to the court and to parents under this section may include:

12 (A) Gathering information;

13 (B) Monitoring compliance with court orders;

14 (C) Providing the parents, their attorneys, if any, and the court with  
15 recommendations for new or modified parenting time provisions; and

16 (D) Providing parents with problem solving, conflict management and  
17 parenting time coordination services or other services approved by the court.

18 (b) Services provided under this section may require the provider to pos-  
19 sess and utilize mediation skills, but the services are not comprised exclu-  
20 sively of mediation services under ORS 107.755 to 107.795. If only mediation  
21 services are provided, the provisions of ORS 107.755 to 107.795 apply.

22 (c) The court may order one or more of the parties to pay for services  
23 provided under this subsection, if the parties are unable to agree on their  
24 respective responsibilities for payment. The court may not order that ex-  
25 penses be charged against funds appropriated for public defense services.

26 (d) The presiding judge of each judicial district shall establish qualifica-  
27 tions for the appointment and training of individuals and panels and the  
28 designation of programs under this section. In establishing qualifications, a  
29 presiding judge shall take into consideration any guidelines recommended  
30 by the statewide family law advisory committee.

31 (4) The provisions of this section apply when:

1 (a) A person files a domestic relations suit, as defined in ORS 107.510;

2 (b) A motion to modify an existing judgment in a domestic relations suit  
3 is before the court;

4 (c) A parent of a child born to a person who is not married initiates a  
5 civil proceeding to determine custody or support **of, or parenting time**  
6 **with, the child** under ORS 109.103;

7 (d) A person petitions or files a motion for intervention under ORS  
8 109.119;

9 (e) A person or the administrator files a petition under ORS 109.125 to  
10 establish parentage and parentage is established; or

11 (f) A habeas corpus proceeding is before the court.

12 (5) Application of the provisions of subsection (1), (2) or (3) of this section  
13 to the proceedings under subsection (4) of this section does not prevent ini-  
14 tiation, entry or enforcement of an order of support.

15 (6) The court, on its own motion or on the motion of a party, may appoint  
16 counsel for the children. However, if requested to do so by one or more of  
17 the children, the court shall appoint counsel for the child or children. A  
18 reasonable fee for an attorney so appointed may be charged against one or  
19 more of the parties or as a cost in the proceedings but shall not be charged  
20 against funds appropriated for public defense services.

21 (7) Prior to the entry of an order, the court on its own motion or on the  
22 motion of a party may take testimony from or confer with the child or chil-  
23 dren of the marriage and may exclude from the conference the parents and  
24 other persons if the court finds that such action would be likely to be in the  
25 best interests of the child or children. However, the court shall permit an  
26 attorney for each party to attend the conference and question the child, and  
27 the conference shall be reported.

28 **SECTION 20.** ORS 107.431 is amended to read:

29 107.431. (1) At any time after a judgment of annulment or dissolution of  
30 a marriage or a separation is granted, the court may set aside, alter or  
31 modify so much of the judgment relating to parenting time with a minor

1 child as it deems just and proper or may terminate or modify that part of the  
2 order or judgment requiring payment of money for the support of the minor  
3 child with whom parenting time is being denied after:

4 (a) Motion to set aside, alter or modify is made by the parent having  
5 parenting time rights;

6 (b) Service of notice on the parent or other person having custody of the  
7 minor child is made in the manner provided by law for service of a summons;

8 (c) Service of notice on the Administrator of the Division of Child Sup-  
9 port of the Department of Justice when the child support rights of one of the  
10 parties or of a child of both of the parties have been assigned to the state.  
11 As an alternative to the service of notice on the administrator, service may  
12 be made upon the branch office of the division [*which*] **that** provides service  
13 to the county in which the motion was filed. Service may be accomplished  
14 by personal delivery or first class mail; and

15 (d) A showing that [*the*] **a** parent or other person having custody of the  
16 child or a person acting in that parent or other person's behalf has interfered  
17 with or denied without good cause the exercise of [*the*] **a** parent's parenting  
18 time rights.

19 (2) When a party moves to set aside, alter or modify the child support  
20 provisions of the judgment:

21 (a) The party shall state in the motion, to the extent known:

22 (A) Whether there is pending in this state or any other jurisdiction any  
23 type of support proceeding involving the child, including a proceeding  
24 brought under ORS 25.287, 107.135, 109.100, 125.025, 416.400 to 416.465,  
25 419B.400 or 419C.590 or ORS chapter 110; and

26 (B) Whether there exists in this state or any other jurisdiction a support  
27 order, as defined in ORS 110.503, involving the child, other than the judg-  
28 ment the party is moving to set aside, alter or modify.

29 (b) The party shall include with the motion a certificate regarding any  
30 pending support proceeding and any existing support order other than the  
31 judgment the party is moving to set aside, alter or modify. The party shall

1 use a certificate that is in a form established by court rule and include in-  
2 formation required by court rule and paragraph (a) of this subsection.

3 (3) The court may request the appearance of the administrator in any  
4 proceeding under this section in which it finds that the child support rights  
5 of one of the parties or of a child of both of the parties have been assigned  
6 to the state.

7 (4) This section does not apply when the child to whom a duty of support  
8 is owed is in another state that has enacted the Uniform Child Custody Ju-  
9 risdiction Act or the Uniform Child Custody Jurisdiction and Enforcement  
10 Act and a court in that state would have subject matter and personal juris-  
11 diction under that Act to determine custody and parenting time rights.

12 **SECTION 21.** ORS 107.437 is amended to read:

13 107.437. (1) A person entitled to [*physical custody of*] **parenting time**  
14 **with** a child may make an ex parte application for an order of assistance to  
15 a court of any county:

16 (a) In which a child is located if the person is entitled to [*the physical*  
17 *custody of*] **parenting time with** the child under a valid and current order  
18 issued in this state; or

19 (b) In which a valid and current [*foreign custody*] **parenting time** order  
20 has been filed with a petition as provided in subsection (3) of this section.

21 (2) The application must include a certified copy of the [*custody*] **par-**  
22 **enting time** order. The order of assistance may direct a law enforcement  
23 agency having jurisdiction where the child is located to use any reasonable  
24 means and force to deliver the child as directed by the court, including di-  
25 recting forcible entry into specified premises. The court may issue an order  
26 of assistance upon an affidavit or a declaration under penalty of perjury in  
27 the form required by ORCP 1 E, executed by the applicant and a finding of  
28 the court that:

29 (a) The applicant is entitled to [*physical custody of*] **parenting time with**  
30 the child under a valid and current [*custody*] **parenting time** order; and

31 (b) The child is being held by another person in substantial violation of

1 the *[custody]* **parenting time** order.

2 (3) When the application for an order of assistance is made to a court in  
3 which the *[custody]* **parenting time** order has been entered or registered, the  
4 applicant shall make the application in the form of a motion. In all other  
5 cases, the applicant shall make the application in the form of a petition. The  
6 court may not charge a filing fee for a motion or petition filed under this  
7 section.

8 (4) The law enforcement agency to which an order of assistance is di-  
9 rected shall make a return to the court specifying whether the order was  
10 executed, and if so, a statement reflecting the date on which the order was  
11 executed and any other information required by the court in the order of  
12 assistance.

13 *[(5) A court may not issue an order of assistance for the purpose of en-  
14 forcing parenting time or visitation rights.]*

15 *[(6)]* (5) Except for intentional torts committed outside the scope of the  
16 peace officer's duties, a peace officer is not civilly or criminally liable for  
17 any action taken in recovering *[the custody of]* a child pursuant to an order  
18 issued under this section.

19 **SECTION 22.** ORS 107.710 is amended to read:

20 107.710. (1) Any person who has been the victim of abuse within the pre-  
21 ceding 180 days may petition the circuit court for relief under ORS 107.700  
22 to 107.735, if the person is in imminent danger of further abuse from the  
23 abuser. The person may seek relief by filing a petition with the circuit court  
24 alleging that the person is in imminent danger of abuse from the respondent,  
25 that the person has been the victim of abuse committed by the respondent  
26 within the 180 days preceding the filing of the petition and particularly de-  
27 scribing the nature of the abuse and the dates thereof. The abuse must have  
28 occurred not more than 180 days before the filing of the petition. The peti-  
29 tion must include allegations made under oath or affirmation or a declara-  
30 tion under penalty of perjury. The circuit court shall have jurisdiction over  
31 all proceedings under ORS 107.700 to 107.735.

1 (2) The petitioner has the burden of proving a claim under ORS 107.700  
2 to 107.735 by a preponderance of the evidence.

3 (3) A person's right to relief under ORS 107.700 to 107.735 shall not be  
4 affected by the fact that the person left the residence or household to avoid  
5 abuse.

6 (4) A petition filed under ORS 107.700 to 107.735 shall disclose the exist-  
7 ence of any **parenting plan**, custody, Family Abuse Prevention Act or El-  
8 derly Persons and Persons With Disabilities Abuse Prevention Act  
9 proceedings, or any marital annulment, dissolution or separation pro-  
10 ceedings, or any filiation proceeding, pending between the parties, and the  
11 existence of any other custody **or parenting time** order affecting the chil-  
12 dren of the parties.

13 (5) When the petitioner requests custody of, **or parenting time with**, any  
14 child, the petition shall comply with ORS 109.767 and disclose:

15 (a) The child's present residence and the length of time the child has re-  
16 sided at the residence;

17 (b) The county and state where the child resided for the five years im-  
18 mediately prior to the filing of the petition;

19 (c) The name and address of the party or other responsible person with  
20 whom the child is presently residing;

21 (d) The name and current address of any party or other responsible person  
22 with whom the child resided for the five years immediately prior to the filing  
23 of the petition;

24 (e) Whether the party participated as a party, witness or in any other  
25 capacity, in any other litigation concerning the custody of, **or parenting**  
26 **time with**, the child in this or any other state;

27 (f) Whether the party has information of any custody **or parenting time**  
28 proceeding concerning the child pending in a court of this or any other state;  
29 and

30 (g) Whether the party knows of any person not a party to the proceedings  
31 who has [*physical custody of*] **rights to parenting time with** the child or

1 claims to have custody, parenting time or visitation rights with respect to  
2 the child.

3 (6) For purposes of computing the 180-day period in this section and ORS  
4 107.718, any time during which the respondent is incarcerated or has a  
5 principal residence more than 100 miles from the principal residence of the  
6 petitioner shall not be counted as part of the 180-day period.

7 **SECTION 23.** ORS 107.716 is amended to read:

8 107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718  
9 (10), the court shall hold the hearing within 21 days after the request.  
10 However, if the respondent contests the order granting temporary [*child*]  
11 custody **of, or parenting time with, the child** to the petitioner, the court  
12 shall hold the hearing within five days after the request.

13 (2)(a) If the court determines under ORS 107.718 (2) that exceptional cir-  
14 cumstances exist that affect the custody of, **or parenting time with,** a  
15 child, the court shall hold a hearing within 14 days after issuance of the  
16 restraining order. The clerk of the court shall provide a notice of the hearing  
17 along with the petition and order to the petitioner and, in accordance with  
18 ORS 107.718 (8), to the county sheriff for service on the respondent.

19 (b) The respondent may request an earlier hearing, to be held within five  
20 days after the request. The hearing request form shall be available from the  
21 clerk of the court in the form prescribed by the State Court Administrator  
22 under ORS 107.718 (7). If the respondent requests an earlier hearing, the  
23 clerk of the court shall notify the parties of the scheduled hearing date by  
24 mailing a notice of the time and place of hearing to the addresses provided  
25 in the petition or, for the respondent, to the address provided in the request  
26 for hearing, or as otherwise designated by a party.

27 (c) When the court schedules a hearing under this subsection, the re-  
28 spondent may not request a hearing under ORS 107.718 (10).

29 (3) In a hearing held pursuant to subsection (1) or (2) of this section, the  
30 court may cancel or change any order issued under ORS 107.718 and may  
31 assess against either party a reasonable attorney fee and such costs as may



1 be incurred in the proceeding.

2 (4)(a) If service of a notice of hearing is inadequate to provide a party  
3 with sufficient notice of the hearing held pursuant to ORS 107.718 (2) or (10),  
4 the court may extend the date of the hearing for up to five days so that the  
5 party may seek representation.

6 (b) If one party is represented by an attorney at a hearing held pursuant  
7 to ORS 107.718 (2) or (10), the court may extend the date of the hearing for  
8 up to five days at the other party's request so that the other party may seek  
9 representation.

10 (5) If the court continues the order, with or without changes, at a hearing  
11 about which the respondent received actual notice and the opportunity to  
12 participate, the court shall include in the order a certificate in substantially  
13 the following form in a separate section immediately above the signature of  
14 the judge:

---

15  
16 CERTIFICATE OF COMPLIANCE  
17 WITH THE VIOLENCE  
18 AGAINST WOMEN ACT  
19

20 This protective order meets all full faith and credit requirements of the Vi-  
21 olence Against Women Act, 18 U.S.C. 2265 (1994). This court has jurisdiction  
22 over the parties and the subject matter. The respondent was afforded notice  
23 and timely opportunity to be heard as provided by the law of this jurisdic-  
24 tion. This order is valid and entitled to enforcement in this and all other  
25 jurisdictions.

---

26  
27 (6) The court may approve any consent agreement to bring about a ces-  
28 sation of abuse of the parties. However, the court may not approve a term  
29 in a consent agreement that provides for restraint of a party to the agree-  
30 ment unless the other party petitioned for and was granted an order under  
31 ORS 107.710. An order or consent agreement made under this section may

1 be amended at any time and shall continue in effect for a period of one year  
2 from the date of the order issued under ORS 107.718, or until superseded as  
3 provided in ORS 107.722.

4 (7) No order or agreement made under ORS 107.705 to 107.720, 133.310 and  
5 133.381 shall in any manner affect title to any real property.

6 (8) No undertaking shall be required in any proceeding under ORS 107.700  
7 to 107.735.

8 (9) Any proceeding under ORS 107.700 to 107.735 shall be in addition to  
9 any other available civil or criminal remedies.

10 **SECTION 24.** ORS 107.718 is amended to read:

11 107.718. (1) When a person files a petition under ORS 107.710, the circuit  
12 court shall hold an ex parte hearing in person or by telephone on the day  
13 the petition is filed or on the following judicial day. Upon a showing that  
14 the petitioner has been the victim of abuse committed by the respondent  
15 within 180 days preceding the filing of the petition, that there is an imminent  
16 danger of further abuse to the petitioner and that the respondent represents  
17 a credible threat to the physical safety of the petitioner or the petitioner's  
18 child, the court shall, if requested by the petitioner, order:

19 (a) Except as provided in subsection (2) of this section, that temporary  
20 custody of, **and parenting time with**, the children of the parties be awarded  
21 to the petitioner or, at the request of the petitioner, to the respondent, sub-  
22 ject to reasonable parenting time rights of the [*noncustodial*] **other** parent,  
23 which the court shall order, unless such parenting time is not in the best  
24 interest of the child;

25 (b) That the respondent be required to move from the petitioner's resi-  
26 dence, if in the sole name of the petitioner or if it is jointly owned or rented  
27 by the petitioner and the respondent, or if the parties are married to each  
28 other;

29 (c) That the respondent be restrained from entering, or attempting to en-  
30 ter, a reasonable area surrounding the petitioner's current or subsequent  
31 residence if the respondent is required to move from petitioner's residence;

1 (d) That a peace officer accompany the party who is leaving or has left  
2 the parties' residence to remove essential personal effects of the party or the  
3 party's children, or both, including but not limited to clothing, toiletries,  
4 diapers, medications, Social Security cards, certified copies of records of live  
5 birth, identification and tools of the trade;

6 (e) That the respondent be restrained from intimidating, molesting, inter-  
7 fering with or menacing the petitioner, or attempting to intimidate, molest,  
8 interfere with or menace the petitioner;

9 (f) That the respondent be restrained from intimidating, molesting, inter-  
10 fering with or menacing any children [*in the custody of the petitioner*] **with**  
11 **whom the petitioner is exercising parenting time**, or attempting to in-  
12 timidate, molest, interfere with or menace any children [*in the custody of the*  
13 *petitioner*] **with whom the petitioner is exercising parenting time**;

14 (g) That the respondent be restrained from entering, or attempting to en-  
15 ter, on any premises and a reasonable area surrounding the premises when  
16 it appears to the court that such restraint is necessary to prevent the re-  
17 spondent from intimidating, molesting, interfering with or menacing the  
18 petitioner or children [*whose custody*] **for whom parenting time** is awarded  
19 to the petitioner;

20 (h) Other relief that the court considers necessary to:

21 (A) Provide for the safety and welfare of the petitioner and the children  
22 [*in the custody of the petitioner*] **with whom the petitioner is exercising**  
23 **parenting time**, including but not limited to emergency monetary assistance  
24 from the respondent; and

25 (B) Prevent the neglect and protect the safety of any service or therapy  
26 animal or any animal kept for personal protection or companionship, but not  
27 an animal kept for any business, commercial, agricultural or economic pur-  
28 pose; or

29 (i) Except as described in subsection (12) of this section or parenting time  
30 ordered under this section, that the respondent have no contact with the  
31 petitioner in person, by telephone or by mail.

1 (2) If the court determines that exceptional circumstances exist that affect  
2 the custody of, **or parenting time with**, a child, the court shall order the  
3 parties to appear and provide additional evidence at a hearing to determine  
4 temporary custody **and parenting time** and resolve other contested issues.  
5 Pending the hearing, the court may make any orders regarding the child's  
6 residence and the parties' contact with the child that the court finds appro-  
7 priate to provide for the child's welfare and the safety of the parties. The  
8 court shall set a hearing time and date as provided in ORS 107.716 (2) and  
9 issue a notice of the hearing at the same time the court issues the restrain-  
10 ing order.

11 (3) The court's order under subsection (1) of this section is effective for  
12 a period of one year or until the order is withdrawn or amended, or until the  
13 order is superseded as provided in ORS 107.722, whichever is sooner.

14 (4) If respondent is restrained from entering, or attempting to enter, an  
15 area surrounding petitioner's residence or any other premises, the order re-  
16 straining respondent shall specifically describe the area.

17 (5) Imminent danger under this section includes but is not limited to sit-  
18 uations in which the respondent has recently threatened petitioner with ad-  
19 ditional bodily harm.

20 (6) If the court awards parenting time to a parent who committed abuse,  
21 the court shall make adequate provision for the safety of the child and of the  
22 petitioner. The order of the court may include, but is not limited to, the  
23 following:

24 (a) That exchange of a child between parents shall occur at a protected  
25 location.

26 (b) That parenting time be supervised by another person or agency.

27 (c) That the perpetrator of the abuse be required to attend and complete,  
28 to the satisfaction of the court, a program of intervention for perpetrators  
29 or any other counseling program designated by the court as a condition of  
30 the parenting time.

31 (d) That the perpetrator of the abuse not possess or consume alcohol or

1 controlled substances during the parenting time and for 24 hours preceding  
2 the parenting time.

3 (e) That the perpetrator of the abuse pay all or a portion of the cost of  
4 supervised parenting time, and any program designated by the court as a  
5 condition of parenting time.

6 (f) That no overnight parenting time occur.

7 (7) The State Court Administrator shall prescribe the content and form  
8 of the petition, order and related forms for use under ORS 107.700 to 107.735.  
9 The clerk of the court shall make available the forms and an instructional  
10 brochure explaining the rights set forth under ORS 107.700 to 107.735.

11 (8) If the court orders relief:

12 (a) The clerk of the court shall provide without charge the number of  
13 certified true copies of the petition and order necessary to provide the  
14 petitioner with one copy and to effect service and shall have a true copy of  
15 the petition and order delivered to the county sheriff for service upon the  
16 respondent, unless the court finds that further service is unnecessary because  
17 the respondent appeared in person before the court. In addition and upon  
18 request by the petitioner, the clerk shall provide the petitioner, without  
19 charge, two exemplified copies of the petition and order.

20 (b) The county sheriff shall serve the respondent personally unless the  
21 petitioner elects to have the respondent served personally by a private party  
22 or by a peace officer who is called to the scene of a domestic disturbance  
23 at which the respondent is present, and who is able to obtain a copy of the  
24 order within a reasonable amount of time. Proof of service shall be made in  
25 accordance with ORS 107.720. When the order does not contain the  
26 respondent's date of birth and service is effected by the sheriff or other peace  
27 officer, the sheriff or officer shall verify the respondent's date of birth with  
28 the respondent and shall record that date on the order or proof of service  
29 entered into the Law Enforcement Data System under ORS 107.720.

30 (c) No filing fee, service fee or hearing fee shall be charged for pro-  
31 ceedings seeking only the relief provided under ORS 107.700 to 107.735.

1 (9) If the county sheriff:

2 (a) Determines that the order and petition are incomplete, the sheriff  
3 shall return the order and petition to the clerk of the court. The clerk of the  
4 court shall notify the petitioner, at the address provided by the petitioner,  
5 of the error or omission.

6 (b) After accepting the order and petition, cannot complete service within  
7 10 days, the sheriff shall notify the petitioner, at the address provided by the  
8 petitioner, that the documents have not been served. If the petitioner does  
9 not respond within 10 days, the sheriff shall hold the order and petition for  
10 future service and file a return to the clerk of the court showing that service  
11 was not completed.

12 (10)(a) Within 30 days after a restraining order is served under this sec-  
13 tion, the respondent therein may request a court hearing upon any relief  
14 granted. The hearing request form shall be available from the clerk of the  
15 court in the form prescribed by the State Court Administrator.

16 (b) If the respondent requests a hearing under paragraph (a) of this sub-  
17 section, the clerk of the court shall notify the petitioner of the date and time  
18 of the hearing, and shall supply the petitioner with a copy of the  
19 respondent's request for a hearing. The petitioner shall give to the clerk of  
20 the court information sufficient to allow such notification.

21 (c) The hearing shall not be limited to the issues raised in the  
22 respondent's request for hearing form. If the respondent seeks to raise an  
23 issue at the hearing not previously raised in the request for hearing form,  
24 or if the petitioner seeks relief at the hearing not granted in the original  
25 order, the other party shall be entitled to a reasonable continuance for the  
26 purpose of preparing a response to the issue.

27 (11) If the respondent fails to request a hearing within 30 days after a  
28 restraining order is served, the restraining order is confirmed by operation  
29 of law. The provisions of this section are sufficient to meet the due process  
30 requirements of 18 U.S.C. 922(g) in that the respondent received actual no-  
31 tice of the right to request a hearing and the opportunity to participate at

1 the hearing but the respondent failed to exercise those rights.

2 (12) Service of process or other legal documents upon the petitioner is not  
3 a violation of this section if the petitioner is served as provided in ORCP 7  
4 or 9.

5 **SECTION 25.** ORS 107.722 is amended to read:

6 107.722. (1) The provisions of an order or judgment, or of a modification  
7 to an order or judgment, issued under ORS 107.095 (1)(b), 107.105, 107.135,  
8 109.103 or 109.155 supersede contrary provisions of a preexisting order issued  
9 under ORS 107.700 to 107.735, except that an order issued under ORS 107.095  
10 (1)(b) supersedes a preexisting order issued under ORS 107.700 to 107.735 only  
11 if the party requesting temporary relief consolidates the subsequently filed  
12 matter with the preexisting matter filed under ORS 107.700 to 107.735 and  
13 provides the nonmoving party with notice and an opportunity for a hearing.

14 (2)(a) In a proceeding under ORS 107.700 to 107.735, the court may modify  
15 the custody or parenting time provisions of a preexisting order or judgment  
16 issued under ORS 107.095 (1)(b), 107.105, 107.135, 109.103 or 109.155, or a  
17 similar order or judgment issued by the tribunal of another jurisdiction, if  
18 necessary to protect the safety and welfare of the child or the petitioner.

19 (b) If the court, in an order issued under ORS 107.700 to 107.735, modifies  
20 the custody **or parenting time** provisions of a preexisting order or judgment  
21 issued under ORS 107.095 (1)(b), 107.105, 107.135, 109.103 or 109.155, the court  
22 shall specify in the order issued under ORS 107.700 to 107.735 a period that  
23 the court considers adequate under the circumstances within which the party  
24 seeking relief may obtain a modification of the preexisting order or judgment  
25 under controlling law. Upon the expiration of the period specified by the  
26 court, if a modification of the preexisting order or judgment has not been  
27 obtained, the custody and parenting time provisions of the order issued under  
28 ORS 107.700 to 107.735 expire and the custody and parenting time provisions  
29 of the preexisting order or judgment become immediately effective.

30 (c) If the court, in an order issued under ORS 107.700 to 107.735, modifies  
31 the custody **or parenting time** provisions of a preexisting order or judgment

1 issued by the tribunal of another jurisdiction, ORS 109.701 to 109.834 apply.

2 **SECTION 26.** ORS 107.725 is amended to read:

3 107.725. (1) The court may renew an order entered under ORS 107.716 or  
4 107.718 upon a finding that:

5 (a) A person in the petitioner's situation would reasonably fear further  
6 acts of abuse by the respondent if the order is not renewed; or

7 (b) A person in the situation of a child [*who was in the petitioner's*] **for**  
8 **whom the petitioner had custody or exercised parenting time** during the  
9 time the order existed, who was also included as a protected person in the  
10 order and who has reached 18 years of age since the date the order was en-  
11 tered, would reasonably fear further acts of abuse by the respondent if the  
12 order is not renewed.

13 (2) A finding that there has been a further act of abuse is not required  
14 to renew an order under subsection (1) of this section.

15 (3) The court may renew an order under subsection (1)(b) of this section  
16 regardless of whether the original petitioner agrees to or seeks renewal of  
17 the order. If the petitioner does not agree to or seek renewal of the order  
18 concurrently with the request of the child who has reached 18 years of age,  
19 the court may modify the order upon renewal to exclude the petitioner as a  
20 protected person in the order. A child who has reached 18 years of age may  
21 seek renewal under this section without having to file a petition under ORS  
22 107.710.

23 (4) A court may renew an order on the basis of an ex parte petition al-  
24 leging facts supporting the required finding. The petition must include  
25 allegations made under oath or affirmation or a declaration under penalty  
26 of perjury. If the renewal order is granted, the provisions of ORS 107.716 (5)  
27 and 107.718 (8) to (10) apply except that the court may hear no issue other  
28 than the basis for renewal unless requested in the hearing request form and  
29 thereafter agreed to by the petitioner or the child who has reached 18 years  
30 of age. The court shall hold a hearing required under this section within 21  
31 days after the respondent's request.



1        **SECTION 27.** ORS 107.732 is amended to read:

2        107.732. (1) An order or a modification to an order issued under ORS  
3 107.700 to 107.735 that provides for the custody of, **or parenting time with,**  
4 a child shall, when requested by the party awarded custody **or parenting**  
5 **time**, contain a provision ordering a peace officer to assist in recovering [*the*  
6 *custody of*] the child and authorizing the use of any reasonable force neces-  
7 sary to that end, including directing forcible entry into specified premises.

8        (2) An order under ORS 107.718 directing the sheriff to use any reasonable  
9 force necessary to enforce the order authorizes the sheriff to make a forcible  
10 entry into the premises specified in the order.

11        (3) No peace officer shall be civilly or criminally liable for any action  
12 taken in recovering [*the custody of*] a child pursuant to an order issued under  
13 ORS 107.700 to 107.735, except for intentional torts outside the scope of the  
14 peace officer's duties.

15        **SECTION 28.** ORS 107.735 is amended to read:

16        107.735. The State Court Administrator shall:

17        (1) Track the number of hearings that are scheduled or requested each  
18 year under ORS 107.716 (2) or 107.718 (2).

19        (2) In accordance with ORS 3.438 (4)(a)(B), develop training information  
20 and materials concerning the issues and hearings under ORS 107.716 (2) or  
21 107.718 (2) related to temporary custody of, **or parenting time with,** chil-  
22 dren. The training information and materials are for use by courts, state  
23 agencies, legal services providers and others as determined by the State  
24 Court Administrator.

25        **SECTION 29.** ORS 108.015 is amended to read:

26        108.015. (1) Each married person may establish and maintain a domicile  
27 in the State of Oregon as if that person were not married.

28        (2) The domicile of a minor shall follow the domicile of the parents of the  
29 minor unless the parents establish separate domiciles. If the parents estab-  
30 lish separate domiciles, the minor's domicile shall be that of the parent with  
31 whom the minor resides. However, if there has been a legal separation,

1 annulment or dissolution, the minor's domicile shall be that of the parent to  
2 whom [*custody of*] **the majority of parenting time, as defined in section**  
3 **1 of this 2019 Act, with** the minor has been legally given.

4 **SECTION 30.** ORS 107.755 is amended to read:

5 107.755. (1) Each judicial district shall:

6 (a) Provide a mediation orientation session for all parties in cases in  
7 which [*child*] custody[,] **of, or** parenting time or visitation **with, a child** is  
8 in dispute, and in any other domestic relations case in which mediation has  
9 been ordered. The orientation session may be structured in any way the cir-  
10 cuit court determines best meets the needs of the parties. The orientation  
11 session should be designed to make the parties aware of:

12 (A) What mediation is;

13 (B) Mediation options available to them; and

14 (C) The advantages and disadvantages of each method of dispute resol-  
15 ution.

16 (b) Except in matters tried under ORS 107.097 and 107.138 or upon a  
17 finding of good cause, require parties in all cases described in paragraph (a)  
18 of this subsection to attend a mediation orientation session prior to any ju-  
19 dicial determination of the issues.

20 (c) Provide mediation under ORS 107.755 to 107.795 in any case in which  
21 child custody, parenting time and visitation are in dispute.

22 (d) Have developed a plan that addresses domestic violence issues and  
23 other power imbalance issues in the context of mediation orientation ses-  
24 sions and mediation of any issue in accordance with the following guidelines:

25 (A) All mediation programs and mediators must recognize that mediation  
26 is not an appropriate process for all cases and that agreement is not neces-  
27 sarily the appropriate outcome of all mediation;

28 (B) Neither the existence of nor the provisions of a restraining order is-  
29 sued under ORS 107.718 may be mediated;

30 (C) All mediation programs and mediators must develop and implement:

31 (i) A screening and ongoing evaluation process of domestic violence issues

1 for all mediation cases;

2 (ii) A provision for opting out of mediation that allows a party to decline  
3 mediation after the party has been informed of the advantages and disad-  
4 vantages of mediation or at any time during the mediation; and

5 (iii) A set of safety procedures intended to minimize the likelihood of in-  
6 timidation or violence in the orientation session, during mediation or on the  
7 way in or out of the building in which the orientation or mediation occurs;

8 (D) When a mediator explains the process to the parties, the mediator  
9 shall include in the explanation the disadvantages of mediation and the al-  
10 ternatives to mediation;

11 (E) All mediators shall obtain continuing education regarding domestic  
12 violence and related issues; and

13 (F) Mediation programs shall collect appropriate data. Mediation pro-  
14 grams shall be sensitive to domestic violence issues when determining what  
15 data to collect.

16 (e) In developing the plan required by paragraph (d) of this subsection,  
17 consult with one or more of the following:

18 (A) A statewide or local multidisciplinary domestic violence coordinating  
19 council.

20 (B) A nonprofit private organization funded under ORS 409.292.

21 (2) Notwithstanding any other provision of law, mediation under ORS  
22 107.755 to 107.795, including the mediation orientation session described in  
23 subsection (1)(a) of this section, may not be encouraged or provided in pro-  
24 ceedings under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040 or 163.738.

25 (3) The court, as provided in ORS 3.220, may make rules consistent with  
26 ORS 107.755 to 107.795 to govern the operation and procedure of mediation  
27 provided under this section.

28 (4) If a court provides mediation of financial issues, it shall develop a list  
29 of mediators who meet the minimum education and experience qualifications  
30 established by rules adopted under ORS 1.002. The rules must require dem-  
31 onstrated proficiency in mediation of financial issues. Once the list is de-

1 veloped, the judicial district shall maintain the list. Mediation of financial  
2 issues is subject to the plan developed under subsection (1)(d) of this section  
3 and to the limitations imposed by subsection (2) of this section.

4 (5) A circuit court may provide mediation in connection with its exercise  
5 of conciliation jurisdiction under ORS 107.510 to 107.610, but a circuit court  
6 need not provide conciliation services in order to provide mediation under  
7 ORS 107.755 to 107.795.

8 **SECTION 31.** ORS 107.765 is amended to read:

9 107.765. (1) In a domestic relations suit, where it appears on the face of  
10 one or more pleadings, appearances, petitions or motions, including any form  
11 of application for the setting aside, alteration or modification of an order  
12 or judgment, that custody[,] **of, or** parenting time or visitation [*of*] **with,** a  
13 child is contested, the court may, when appropriate, refer the matter for  
14 mediation of the contested issues prior to or concurrent with the setting of  
15 the matter for hearing. The purpose of the mediation is to assist the parties  
16 in reaching a workable settlement of the contested issues instead of litigat-  
17 ing those issues before the court. Unless the court provides for the mediation  
18 of financial issues under ORS 107.755 (4), the mediator shall not consider  
19 issues of property division or spousal or child support, in connection with  
20 the mediation of a dispute concerning [*child*] custody, parenting time or  
21 visitation, or otherwise, without the written approval of both parties or their  
22 counsel.

23 (2) The mediator shall report to the court and to counsel for the parties  
24 the outcome of the mediation at the conclusion of the mediation proceeding.  
25 The mediator shall report in writing to the court and to counsel for the  
26 parties any agreement reached by the parties as a result of the mediation,  
27 and the agreement shall be incorporated in a proposed order or judgment  
28 provision prepared for the court. If the parties do not reach an agreement,  
29 the mediator shall report only that fact to the court and to counsel for the  
30 parties, but shall not make a recommendation to the court without the  
31 written consent of the parties or their counsel.

1        **SECTION 32.** ORS 107.775 is amended to read:

2        107.775. (1) A circuit court may obtain mediation services, with the prior  
3 approval of the governing body of each county involved, by:

4        (a) Using personnel performing conciliation services for the court under  
5 ORS 107.510 to 107.610;

6        (b) Contracting or entering into agreements with public or private agen-  
7 cies to provide mediation services to the court; or

8        (c) Employing or contracting for mediators directly.

9        (2) Personnel performing mediation services for the circuit court shall  
10 have the minimum educational and experience qualifications established by  
11 rules adopted under ORS 1.002.

12        (3) Subject to the provisions of the Local Budget Law, the compensation  
13 and expenses of personnel performing mediation services for the circuit court  
14 and other expenses of mediation services provided by the court shall be paid  
15 by the county or as may be agreed upon by the counties involved. Personnel  
16 performing mediation services are not state employees, and their compen-  
17 sation and expenses shall not be paid by the state.

18        (4) The parties to a [*child*] custody, parenting time or visitation dispute  
19 that is referred by the circuit court to mediation may use, at their option  
20 and expense, mediation services other than those provided by the court.

21        (5) Two or more counties may join together to provide services under ORS  
22 107.510 to 107.610 and 107.755 to 107.795.

23        **SECTION 33.** ORS 108.045 is amended to read:

24        108.045. (1) The expenses of the family and the education of the minor  
25 children, including stepchildren, are chargeable upon the property of both  
26 spouses in a marriage who are parents or stepparents of the minor children,  
27 or either of them. However, with regard to stepchildren, the obligation shall  
28 cease upon entry of a judgment of dissolution.

29        (2) As used in this section, “stepchild” means a child under [*the age of*]  
30 **18 years of age**, or a child attending school as defined in ORS 107.108, who  
31 is [*in the custody*] **under the supervision and physical care** of one biolog-

1 ical or adoptive parent who is married to and not legally separated from a  
2 person other than the second biological or adoptive parent of such child.

3 (3) Notwithstanding subsection (1) of this section, the legal duty of a  
4 parent to provide support for a child, as otherwise required by law, shall not  
5 be affected.

6 **SECTION 34.** ORS 108.120 is amended to read:

7 108.120. (1) After the hearing of the petition for an order of support the  
8 court shall make an order granting or denying it and fixing, if allowed, the  
9 terms and amount of the support.

10 (2) The court has the same power to compel the attendance of witnesses  
11 or the production of testimony as in actions and suits, to make such judg-  
12 ment or orders as are equitable in view of the circumstances of both parties  
13 and to punish violations thereof as other contempts are punished.

14 (3) The judgment or order is final as to any installment or payment of  
15 money that has accrued up to the time the nonmoving party, other than the  
16 state, is served with a motion to set aside, alter or modify the judgment or  
17 order. The court may not set aside, alter or modify any portion of the judg-  
18 ment or order that provides for any payment of money, either for minor  
19 children or for the support of a party, that has accrued before the motion is  
20 served. However, the court may allow a credit against child support  
21 arrearages for periods of time, excluding reasonable parenting time unless  
22 otherwise provided by order or judgment, during which the obligor, with the  
23 knowledge and consent of the obligee or pursuant to court order, [*has phys-*  
24 *ical custody of*] **exercises supervision and physical care of** the child.

25 **SECTION 35.** ORS 109.030 is amended to read:

26 109.030. (1) The rights and responsibilities of the parents, in the absence  
27 of misconduct, are equal, and each parent is as fully entitled to the custody  
28 [*and control*] of, **and parenting time with**, the children and their earnings  
29 as the other parent. In case of the death of one parent, the other parent shall  
30 come into full and complete control of the children and their estate.

31 (2) **As used in this section, “custody” and “parenting time” have the**

1 **meanings given those terms in section 1 of this 2019 Act.**

2 **SECTION 36.** ORS 109.056 is amended to read:

3 109.056. (1) Except as provided in subsection (2) or (3) of this section, a  
4 parent or guardian of a minor or incapacitated person, by a properly exe-  
5 cuted power of attorney, may delegate to another person, for a period not  
6 exceeding six months, any of the powers of the parent or guardian regarding  
7 **supervision, physical** care, custody or property of, **or parenting time**  
8 **with**, the minor child or ward, except the power to consent to marriage or  
9 adoption of a minor ward.

10 (2) A parent or guardian of a minor child may delegate the powers des-  
11 igned in subsection (1) of this section to a school administrator for a pe-  
12 riod not exceeding 12 months.

13 (3)(a) As used in this subsection, “servicemember-parent” means a parent  
14 or guardian:

15 (A) Who is:

16 (i) A member of the organized militia of this state;

17 (ii) A member of the Reserves of the Army, Navy, Air Force, Marine  
18 Corps or Coast Guard of the United States;

19 (iii) A member of the commissioned corps of the National Oceanic and  
20 Atmospheric Administration; or

21 (iv) A member of the Public Health Service of the United States Depart-  
22 ment of Health and Human Services detailed by proper authority for duty  
23 with the Army or Navy of the United States; and

24 (B) Who is required to enter and serve in the active military service of  
25 the United States under a call or order by the President of the United States  
26 or to serve on state active duty as defined in the Oregon Code of Military  
27 Justice.

28 (b) A servicemember-parent of a minor child may delegate the powers  
29 designated in subsection (1) of this section for a period not exceeding the  
30 term of active duty service plus 30 days.

31 (c) Except as provided in paragraph (d) of this subsection, if the minor

1 child is living with the child's other parent, a delegation under paragraph  
2 (b) of this subsection must be to the parent with whom the minor child is  
3 living unless a court finds that the delegation would not be in the best in-  
4 terests of the minor child.

5 (d) When the servicemember-parent has joint custody of the minor child  
6 with the child's other parent or another individual, and the servicemember-  
7 parent is married to an individual other than the child's other parent, the  
8 servicemember-parent may delegate the powers designated in subsection (1)  
9 of this section to the spouse of the servicemember-parent for a period not  
10 exceeding the term of active duty service plus 30 days, unless a court finds  
11 that the delegation would not be in the best interests of the minor child.

12 **(4) As used in this section, "custody" and "parenting time" have the**  
13 **meanings given those terms in section 1 of this 2019 Act.**

14 **SECTION 37.** ORS 109.096 is amended to read:

15 109.096. (1) When the parentage of a child has not been established under  
16 ORS 109.065, the putative father is entitled to reasonable notice in adoption  
17 or other court proceedings concerning the custody of, **or parenting time**  
18 **with**, the child, except for juvenile court proceedings, if the petitioner  
19 knows, or by the exercise of ordinary diligence should have known:

20 (a) That the child resided with the putative father at any time during the  
21 60 days immediately preceding the initiation of the proceeding, or at any  
22 time since the child's birth if the child is less than 60 days old when the  
23 proceeding is initiated; or

24 (b) That the putative father repeatedly has contributed or tried to con-  
25 tribute to the support of the child during the year immediately preceding the  
26 initiation of the proceeding, or during the period since the child's birth if  
27 the child is less than one year old when the proceeding is initiated.

28 (2) Except as provided in subsection (3) or (4) of this section, a verified  
29 statement of the mother of the child or of the petitioner, or an affidavit of  
30 another person with knowledge of the facts, filed in the proceeding and as-  
31 serting that the child has not resided with the putative father, as provided



1 in subsection (1)(a) of this section, and that the putative father has not  
2 contributed or tried to contribute to the support of the child, as provided in  
3 subsection (1)(b) of this section, is sufficient proof to enable the court to  
4 grant the relief sought without notice to the putative father.

5 (3) The putative father is entitled to reasonable notice in a proceeding for  
6 the adoption of the child if notice of the initiation of filiation proceedings  
7 as required by ORS 109.225 was on file with the Center for Health Statistics  
8 of the Oregon Health Authority prior to the child's being placed in the  
9 physical [*custody*] **care** of a person or persons for the purpose of adoption  
10 by them. If the notice of the initiation of filiation proceedings was not on  
11 file at the time of the placement, the putative father is barred from contest-  
12 ing the adoption proceeding.

13 (4) Except as otherwise provided in subsection (3) of this section, the pu-  
14 tative father is entitled to reasonable notice in court proceedings concerning  
15 the custody of, **or parenting time with**, the child, other than juvenile court  
16 proceedings, if notice of the initiation of filiation proceedings as required  
17 by ORS 109.225 was on file with the Center for Health Statistics prior to the  
18 initiation of the proceedings.

19 (5) Notice under this section is not required to be given to a putative  
20 father who was a party to filiation proceedings under ORS 109.125 that were  
21 dismissed or resulted in a finding that he was not the father of the child.

22 (6) The notice required under this section shall be given in the manner  
23 provided in ORS 109.330.

24 (7) No notice given under this section need disclose the name of the  
25 mother of the child.

26 (8) A putative father has the primary responsibility to protect his rights,  
27 and nothing in this section shall be used to set aside an act of a permanent  
28 nature including, but not limited to, adoption or termination of parental  
29 rights, unless the father establishes within one year after the entry of the  
30 final judgment or order fraud on the part of a petitioner in the proceeding  
31 with respect to matters specified in subsections (1) to (5) of this section.

1        **SECTION 38.** ORS 109.098 is amended to read:

2        109.098. (1) If a putative father of a child by due appearance in a pro-  
3        ceeding of which he is entitled to notice under ORS 109.096 objects to the  
4        relief sought, the court:

5        (a) May stay the adoption or other court proceeding to await the outcome  
6        of the filiation proceedings only if notice of the initiation of filiation pro-  
7        ceedings was on file as required by ORS 109.096 (3) or (4).

8        (b) Shall, if filiation proceedings are not pending, inquire as to the  
9        paternity of the child, the putative father's past endeavors to fulfill his ob-  
10       ligation to support the child and to contribute to the pregnancy-related  
11       medical expenses, the period that the child has lived with the putative father,  
12       the putative father's fitness to care for and rear the child and whether the  
13       putative father is willing to be declared the father of the child and to assume  
14       the responsibilities of a father.

15       (2) If after inquiry under subsection (1)(b) of this section the court finds:

16       (a) That the putative father is the father of the child and is fit and willing  
17       to assume the responsibilities of a father, [*it*] **the court** shall have the  
18       power:

19       (A) Upon the request of the putative father, to declare his paternity and  
20       to certify the fact of paternity in the manner provided in ORS 109.094; and

21       (B) To award custody of, **or parenting time with**, the child to either  
22       parent as may be in the best interests of the child, or to take any other  
23       action [*which*] **that** the court may take if the parents are or were married  
24       to each other.

25       (b) That the putative father is not the father of the child, [*it*] **the court**  
26       may grant the relief sought in the proceeding without the putative father's  
27       consent.

28       (c) That the putative father is the natural father of the child but is not  
29       fit or willing to assume the responsibilities of a father, [*it*] **the court** may  
30       grant the relief sought in the proceeding or any other relief that the court  
31       deems to be in the best interests of the child, notwithstanding the father's

1 objection.

2 (3) If a putative father of a child is given the notice of a proceeding re-  
3 quired by ORS 109.096 and he fails to enter due appearance and to object to  
4 the relief sought therein within the time specified in the notice, the court  
5 may grant the relief sought without the putative father's consent.

6 (4) **As used in this section, "custody" and "parenting time" have the**  
7 **meanings given those terms in section 1 of this 2019 Act.**

8 **SECTION 39.** ORS 109.100 is amended to read:

9 109.100. (1) Any minor child or the administrator may, in accordance with  
10 ORCP 27 A, apply to the circuit court in the county in which the child re-  
11 sides, or in which the natural or adoptive father or mother of the child may  
12 be found, for an order upon the child's father or mother, or both, to provide  
13 for the child's support. The child or the administrator may apply for the or-  
14 der by filing in the county a petition setting forth the facts and circum-  
15 stances relied upon for the order. If satisfied that a just cause exists, the  
16 court shall direct that the father or mother appear at a time set by the court  
17 to show cause why an order of support should not be entered in the matter.

18 (2) The petitioner shall state in the petition, to the extent known:

19 (a) Whether there is pending in this state or any other jurisdiction any  
20 type of support proceeding involving the minor child, including a proceeding  
21 brought under ORS 25.287, 107.085, 107.135, 107.431, 108.110, 109.103, 109.165,  
22 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

23 (b) Whether there exists in this state or any other jurisdiction a support  
24 order, as defined in ORS 110.503, involving the minor child.

25 (3) The petitioner shall include with the petition a certificate regarding  
26 any pending support proceeding and any existing support order. The  
27 petitioner shall use a certificate that is in a form established by court rule  
28 and include information required by court rule and subsection (2) of this  
29 section.

30 (4) The judgment of a court under subsection (1) of this section is final  
31 as to any installment or payment of money that has accrued up to the time

1 either party makes a motion to set aside, alter or modify the judgment, and  
2 the court may not set aside, alter or modify the judgment, or any portion  
3 thereof, that provides for any payment of money that has accrued prior to  
4 the filing of the motion.

5 (5) The provisions of ORS 108.120 apply to proceedings under subsection  
6 (1) of this section.

7 (6) In any proceeding under this section, *[both]* the child's *[physical and*  
8 *legal]* custodians are parties to the action. **As used in this subsection,**  
9 **“custodian” includes a person providing supervision and physical care**  
10 **of the child.**

11 **SECTION 40.** ORS 109.103 is amended to read:

12 109.103. (1) If a child is born to an unmarried person and parentage has  
13 been established under ORS 109.065, or if a child is born to a married person  
14 by a person other than the birth mother's spouse and parentage between the  
15 person and the child has been established under ORS 109.065, either parent  
16 may initiate a civil proceeding to determine the custody or support of, or  
17 parenting time with, the child. The proceeding shall be brought in the circuit  
18 court of the county in which the child resides or is found or in the circuit  
19 court of the county in which either parent resides. The parents have the  
20 same rights and responsibilities regarding the custody and support of, and  
21 parenting time with, their child that married or divorced parents would have,  
22 and the provisions of ORS 107.094 to 107.449 that relate to custody, support  
23 and parenting time, the provisions of ORS 107.755 to 107.795 that relate to  
24 mediation procedures, and the provisions of ORS 107.810, 107.820 and 107.830  
25 that relate to life insurance, apply to the proceeding.

26 (2) A parent may initiate the proceeding by filing with the court a peti-  
27 tion setting forth the facts and circumstances upon which the parent relies.  
28 The parent shall state in the petition, to the extent known:

29 (a) Whether there is pending in this state or any other jurisdiction any  
30 type of support proceeding involving the child, including one brought under  
31 ORS 109.100, 109.165, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS

1 chapter 110; and

2 (b) Whether there exists in this state or any other jurisdiction a support  
3 order, as defined in ORS 110.503, involving the child.

4 (3) The parent shall include with the petition a certificate regarding any  
5 pending support proceeding and any existing support order. The parent shall  
6 use a certificate that is in a form established by court rule and include in-  
7 formation required by court rule and subsection (2) of this section.

8 (4) When a parent initiates a proceeding under this section and the child  
9 support rights of one of the parents or of the child have been assigned to the  
10 state, the parent initiating the proceeding shall serve, by mail or personal  
11 delivery, a copy of the petition on the Administrator of the Division of Child  
12 Support or on the branch office providing support services to the county in  
13 which the suit is filed.

14 (5)(a) After a petition is filed under this section and upon service of  
15 summons and petition upon the respondent as provided in ORCP 7, a re-  
16 straining order is issued and in effect against the petitioner and the re-  
17 spondent until a final judgment is issued, until the petition is dismissed or  
18 until further order of the court, restraining the petitioner and the respondent  
19 from:

20 (A) Canceling, modifying, terminating or allowing to lapse for nonpay-  
21 ment of premiums any policy of health insurance that one party maintains  
22 to provide coverage for the other party or a minor child of the parties, or  
23 any life insurance policy that names either of the parties or a minor child  
24 of the parties as a beneficiary; and

25 (B) Changing beneficiaries or covered parties under any policy of health  
26 insurance that one party maintains to provide coverage for a minor child of  
27 the parties, or any life insurance policy.

28 (b) Either party restrained under this subsection may apply to the court  
29 for further temporary orders, including modification or revocation of the re-  
30 straining order issued under this subsection.

31 (c) The restraining order issued under this subsection shall include a no-

1 tice that either party may request a hearing on the restraining order by fil-  
2 ing a request for hearing with the court.

3 (d) A copy of the restraining order issued under this subsection must be  
4 attached to the summons.

5 (e) A party who violates a term of a restraining order issued under this  
6 subsection is subject to imposition of remedial sanctions under ORS 33.055  
7 based on the violation, but is not subject to:

8 (A) Criminal prosecution based on the violation; or

9 (B) Imposition of punitive sanctions under ORS 33.065 based on the vio-  
10 lation.

11 **(6) As used in this section, “custody” and “parenting time” have the**  
12 **meanings given those terms in section 1 of this 2019 Act.**

13 **SECTION 41.** ORS 109.165 is amended to read:

14 109.165. (1) Upon motion of either party, the court may set aside, alter  
15 or modify any portion of the judgment that provides for the support of the  
16 minor child or child attending school, as defined in ORS 107.108. As to any  
17 installment or payment of money that has accrued up to the time the non-  
18 moving party, other than the state, is served with a motion to set aside, alter  
19 or modify the judgment, the judgment is final and the court may not change  
20 it. However, the court may allow a credit against child support arrearages  
21 for periods of time, excluding reasonable parenting time unless otherwise  
22 provided by order or judgment, during which the obligor, with the knowledge  
23 and consent of the obligee or pursuant to court order, [*has physical custody*  
24 *of*] **exercises parenting time, as defined in section 1 of this 2019 Act,**  
25 **with** the child. A child attending school is a party for purposes of this sec-  
26 tion.

27 (2) The moving party shall state in the motion, to the extent known:

28 (a) Whether there is pending in this state or any other jurisdiction any  
29 type of support proceeding involving the child, including a proceeding  
30 brought under ORS 25.287, 109.100, 125.025, 416.400 to 416.465, 419B.400 or  
31 419C.590 or ORS chapter 110; and

1 (b) Whether there exists in this state or any other jurisdiction a support  
2 order, as defined in ORS 110.503, involving the child, other than the judg-  
3 ment the party is moving to set aside, alter or modify.

4 (3) The moving party shall include with the motion a certificate regarding  
5 any pending support proceeding and any existing support order other than  
6 the judgment the party is moving to set aside, alter or modify. The party  
7 shall use a certificate that is in a form established by court rule and include  
8 information required by court rule and subsection (2) of this section.

9 (4)(a) It is the policy of this state:

10 (A) To encourage the settlement of cases brought under this section; and

11 (B) For courts to enforce the terms of settlements described in paragraph  
12 (b) of this subsection to the fullest extent possible, except when to do so  
13 would violate the law or would clearly contravene public policy.

14 (b) In a proceeding under subsection (1) of this section, the court may  
15 enforce the terms set forth in a stipulated order or judgment signed by the  
16 parties, an order or judgment resulting from a settlement on the record or  
17 an order or judgment incorporating a settlement agreement:

18 (A) As contract terms using contract remedies;

19 (B) By imposing any remedy available to enforce an order or judgment,  
20 including but not limited to contempt; or

21 (C) By any combination of the provisions of subparagraphs (A) and (B)  
22 of this paragraph.

23 (c) A party may seek to enforce an agreement and obtain remedies de-  
24 scribed in paragraph (b) of this subsection by filing a motion, serving notice  
25 on the other party in the manner provided by ORCP 7 and, if a remedy under  
26 paragraph (b)(B) of this subsection is sought, complying with the statutory  
27 requirements for that remedy. All claims for relief arising out of the same  
28 acts or omissions must be joined in the same proceeding.

29 (d) Nothing in paragraph (b) or (c) of this subsection limits a party's  
30 ability, in a separate proceeding, to file a motion to modify an order or  
31 judgment under subsection (1) of this section or to seek enforcement of an

1 ancillary agreement to the order or judgment.

2 **SECTION 42.** ORS 109.175 is amended to read:

3 109.175. (1) If parentage of a child born out of wedlock is established  
4 pursuant to a petition filed under ORS 109.125 or an order or judgment en-  
5 tered pursuant to ORS 109.124 to 109.230 or ORS 416.400 to 416.465, or if  
6 parentage is established by the filing of a voluntary acknowledgment of  
7 paternity as provided by ORS 109.065 (1)(e), the parent [*with physical*  
8 *custody*] **exercising parenting time** at the time of filing of the petition or  
9 the notice under ORS 416.415, or the parent [*with physical custody*] **exercis-**  
10 **ing parenting time** at the time of the filing of the voluntary acknowledg-  
11 ment of paternity, has [*sole legal*] custody until a court specifically orders  
12 otherwise. The first time the court determines who should have [*legal*] cus-  
13 tody, neither parent shall have the burden of proving a change of circum-  
14 stances. The court shall give primary consideration to the best interests and  
15 welfare of the child and shall consider all the standards set out in ORS  
16 107.137.

17 (2) In any proceeding under this section, the court may cause an investi-  
18 gation, examination or evaluation to be made under ORS 107.425 or may ap-  
19 point an individual or a panel or may designate a program to assist the court  
20 in creating parenting plans or resolving disputes regarding parenting time  
21 and to assist parents in creating and implementing parenting plans under  
22 ORS 107.425 (3).

23 **(3) As used in this section, “custody” and “parenting time” have the**  
24 **meanings given those terms in section 1 of this 2019 Act.**

25 **SECTION 43.** ORS 109.672 is amended to read:

26 109.672. (1) No person licensed, certified or registered to practice a health  
27 care profession or health care facility shall be liable for damages in any civil  
28 action arising out of the failure of the person or facility to obtain the con-  
29 sent of a parent to the giving of medical care or treatment to a minor child  
30 of the parent if consent to the care has been given by the other parent of  
31 the child.



1 (2) The immunity provided by subsection (1) of this section shall apply  
2 regardless of whether:

3 (a) The parents are married, unmarried or separated at the time of con-  
4 sent or treatment.

5 (b) The consenting parent [*is, or is not, a custodial parent*] **has, or does**  
6 **not have, custody, as defined in section 1 of this 2019 Act,** of the minor.

7 (c) The giving of consent by only one parent is, or is not, in conformance  
8 with the terms of any agreement between the parents, any custody order or  
9 any judgment of dissolution or separation.

10 (3) The immunity created by subsection (1) of this section shall not apply  
11 if the parental rights of the parent who gives consent have been terminated  
12 pursuant to ORS 419B.500 to 419B.524.

13 (4) For the purposes of this section, “health care facility” means a facility  
14 as defined in ORS 442.015 or any other entity providing medical service.

15 **SECTION 44.** ORS 109.697 is amended to read:

16 109.697. (1) The Legislative Assembly finds that there are in the State of  
17 Oregon unemancipated minors who are living apart from their parents and  
18 are homeless. Many of these minors are able financially to provide housing  
19 and utility services for themselves and their children, but cannot contract  
20 for these necessities due to perceived legal limitations affecting contracts  
21 with minors. The purpose of this legislation is to address those limitations.

22 (2) For purposes of this section, “minor” means an unemancipated and  
23 unmarried person who is living apart from the person’s parent, parents or  
24 legal guardian, and who is either:

25 (a) Sixteen or 17 years of age;

26 (b) Under 16 years of age and the parent of a child or children who are  
27 living in the physical [*custody*] **care** of the person; or

28 (c) Under 16 years of age, pregnant and expecting the birth of a child who  
29 will be living in the physical [*custody*] **care** of the person.

30 (3) Notwithstanding any other provision of law, a minor may contract for  
31 the necessities of a residential dwelling unit and for utility services to that

1 unit. Such a contract is binding upon the minor and cannot be voided or  
2 disaffirmed by the minor based upon the minor's age or status as a minor.

3 (4) The consent of the parent or legal guardian of such minor shall not  
4 be necessary to contract for a residential dwelling unit or utility services to  
5 that unit. The parent or legal guardian of such minor shall not be liable  
6 under a contract by that minor for a residential dwelling unit or for utility  
7 services to that unit unless the parent or guardian is a party to the minor's  
8 contract, or enters another contract, for the purpose of acting as guarantor  
9 of the minor's debt.

10 **SECTION 45.** ORS 3.260 is amended to read:

11 3.260. (1) The circuit courts and the judges thereof shall exercise all ju-  
12 venile court jurisdiction, authority, powers, functions and duties.

13 (2) Pursuant to ORS 3.275, in addition to any other jurisdiction vested in  
14 it by law, the circuit court shall exercise exclusive and original judicial ju-  
15 risdiction, authority, powers, functions, and duties in the judicial district in  
16 any or all of the following matters that on the date specified in the order  
17 entered under ORS 3.275 are not within the jurisdiction of the circuit court:

18 (a) Adoption.

19 (b) Change of name under ORS 33.410.

20 (c) Filiation.

21 (d) Commitment of persons with mental illness or mental retardation.

22 (e) Any suit or civil proceeding involving **parenting time**, custody or  
23 other disposition of a child or the support thereof or the support of a spouse,  
24 including enforcement of the Uniform Reciprocal Enforcement of Support  
25 Act and enforcement of out-of-state or foreign judgments and decrees on do-  
26 mestic relations.

27 (f) Waivers of the three-day waiting period before a marriage license be-  
28 comes effective under ORS 106.077.

29 (g) Issuance of delayed reports of live birth.

30 **SECTION 46.** ORS 24.190 is amended to read:

31 24.190. (1) For the purposes of this section:

1 (a) “Foreign restraining order” means a restraining order that is a foreign  
2 judgment as defined by ORS 24.105.

3 (b)(A) “Restraining order” means an injunction or other order issued for  
4 the purpose of preventing:

5 (i) Violent or threatening acts or harassment against another person;

6 (ii) Contact or communication with another person; or

7 (iii) Physical proximity to another person.

8 (B) “Restraining order” includes temporary and final orders, other than  
9 **parenting time**, support or [*child*] custody orders, issued by a civil or  
10 criminal court regardless of whether the order was obtained by filing an in-  
11 dependent action or as a pendente lite order in another proceeding. However,  
12 for a civil order to be considered a restraining order, the civil order must  
13 have been issued in response to a complaint, petition or motion filed by or  
14 on behalf of a person seeking protection.

15 (2)(a) Except as otherwise provided in paragraph (b) of this subsection,  
16 immediately upon the arrival in this state of a person protected by a foreign  
17 restraining order, the foreign restraining order is enforceable as an Oregon  
18 order without the necessity of filing and continues to be enforceable as an  
19 Oregon order without any further action by the protected person.

20 (b) A foreign restraining order is not enforceable as an Oregon order if:

21 (A) The person restrained by the order shows that:

22 (i) The court that issued the order lacked jurisdiction over the subject  
23 matter or lacked personal jurisdiction over the person restrained by the or-  
24 der; or

25 (ii) The person restrained by the order was not given reasonable notice  
26 and an opportunity to be heard under the law of the jurisdiction in which  
27 the order was issued; or

28 (B) The foreign restraining order was issued against a person who had  
29 petitioned for a restraining order unless:

30 (i) The person protected by the foreign restraining order filed a separate  
31 petition seeking the restraining order; and

1 (ii) The court issuing the foreign restraining order made specific findings  
2 that the person was entitled to the order.

3 (3)(a) A person protected by a foreign restraining order may present a  
4 true copy of the order to a county sheriff for entry into the Law Enforcement  
5 Data System maintained by the Department of State Police. Subject to par-  
6 agraph (b) of this subsection, the county sheriff shall enter the order into  
7 the Law Enforcement Data System if the person certifies that the order is  
8 the most recent order in effect between the parties and provides proof of  
9 service or other written certification that the person restrained by the order  
10 has been personally served with a copy of the order or has actual notice of  
11 the order. Entry into the Law Enforcement Data System constitutes notice  
12 to all law enforcement agencies of the existence of the restraining order.  
13 Law enforcement agencies shall establish procedures adequate to ensure that  
14 an officer at the scene of an alleged violation of the order may be informed  
15 of the existence and terms of the order. The order is fully enforceable as an  
16 Oregon order in any county or tribal land in this state.

17 (b) The Department of State Police shall specify information that is re-  
18 quired for a foreign restraining order to be entered into the Law Enforce-  
19 ment Data System.

20 (c) At the time a county sheriff enters an order into the Law Enforcement  
21 Data System under paragraph (a) of this subsection, the sheriff shall also  
22 enter the order into the databases of the National Crime Information Center  
23 of the United States Department of Justice.

24 (4) Pending a contempt hearing for alleged violation of a foreign re-  
25 straining order, a person arrested and taken into custody pursuant to ORS  
26 133.310 may be released as provided in ORS 135.230 to 135.290. Unless the  
27 order provides otherwise, the security amount for release is \$5,000.

28 (5) ORS 24.115, 24.125, 24.129, 24.135, 24.140, 24.150 and 24.155 do not apply  
29 to a foreign restraining order.

30 (6) A person protected by a foreign restraining order may file a certified  
31 copy of the order and proof of service in the office of the clerk of any circuit

1 court of any county of this state. A judgment so filed has the same effect  
2 and is subject to the same procedures, defenses and proceedings for reopen-  
3 ing, vacating or staying as a judgment of the circuit court in which the  
4 foreign judgment is filed, and may be enforced or satisfied in like manner.  
5 The court may not collect a filing fee for a filing under this section.

6 **SECTION 47.** ORS 25.080 is amended to read:

7 25.080. (1) The following entity is primarily responsible for providing the  
8 support enforcement services described in subsection (4) of this section when  
9 an application as described in ORS 25.084 is made, or when an assignment  
10 of support rights is made to the state:

11 (a) The Division of Child Support of the Department of Justice:

12 (A) If support rights are, or were within the past five months, assigned  
13 to this or another state; or

14 (B) In any case where arrearage under a support order is assigned or  
15 owed to or the right to recover back support or state debt is held by this  
16 state or another state.

17 (b) Except as provided in subsection (6) of this section, the district at-  
18 torney in cases other than those described in paragraph (a) of this subsection  
19 if an application as described in ORS 25.084 is made by the obligee, by the  
20 obligor, by a person having [*physical custody*] **responsibility for the**  
21 **supervision and physical care** of a minor child or by a child attending  
22 school, as defined in ORS 107.108.

23 (2) The provisions of this section apply to support enforcement services  
24 for any order or judgment that is or could be entered under ORS 419B.400  
25 or 419C.590 or ORS chapter 107, 108, 109, 110 or 416. The entity specified in  
26 subsection (1) of this section shall provide the support enforcement services  
27 on behalf of the State of Oregon and not on behalf of any other party or on  
28 behalf of a parent. The Department of Justice shall adopt rules addressing  
29 the provision of support enforcement services when the purposes of the state  
30 in providing those services may be contradictory in individual cases.

31 (3) Notwithstanding the division of responsibility for providing support

1 enforcement services between the Division of Child Support and the district  
2 attorney as described in subsection (1) of this section, provision of support  
3 enforcement services may not be challenged on the basis that the entity  
4 providing the services in a particular case is not the entity responsible for  
5 the case under subsection (1) of this section.

6 (4) When responsible for providing support enforcement services and there  
7 is sufficient evidence available to support the action to be taken, the entity  
8 described in subsection (1) of this section:

9 (a) Shall establish and enforce any child support obligation;

10 (b) Shall establish paternity;

11 (c) Shall enforce spousal support when the obligee is living with the  
12 obligor's child for whom support enforcement services are being provided and  
13 those services are funded in part by federal moneys;

14 (d) May enforce any other order or judgment for spousal support;

15 (e) Shall, on behalf of the state, initiate and respond to child support  
16 modification proceedings based upon a substantial change of circumstances;

17 (f) Shall, on behalf of the state, initiate and respond to child support  
18 modification proceedings based upon a modification conducted under ORS  
19 25.287 concerning existing child support orders;

20 (g) Shall establish and enforce obligations to provide medical insurance  
21 coverage for dependent children;

22 (h) Shall ensure compliance with the provisions of 42 U.S.C. 651 to 669  
23 and 45 C.F.R. Chapter III as authorized by state law;

24 (i) Shall carry out the policy of the State of Oregon regarding child sup-  
25 port obligations as expressed in ORS 416.405; and

26 (j) Shall ensure that child support orders are in compliance with the for-  
27 mula established by this chapter.

28 (5) In any proceeding under subsection (4) of this section, the parties are  
29 those described in ORS 416.407.

30 (6) The district attorney of any county and the department may provide  
31 by agreement for assumption by the Division of Child Support of the func-

1 tions of the district attorney under subsection (1) of this section or for re-  
2 distribution between the district attorney and the Division of Child Support  
3 of all or any portion of the duties, responsibilities and functions set forth in  
4 subsections (1) and (4) of this section.

5 (7) All county governing bodies and all district attorneys shall enter into  
6 child support cooperative agreements with the department. The following  
7 apply to this subsection:

8 (a) The agreements shall contain appropriate terms and conditions suffi-  
9 cient for the state to comply with all child support enforcement service re-  
10 quirements under federal law; and

11 (b) If this state loses any federal funds due to the failure of a county  
12 governing body or district attorney to either enter into an agreement under  
13 this subsection or to provide sufficient support enforcement service, the  
14 county shall be liable to the department for, and the liability shall be limited  
15 to, the amount of money the state determines it lost because of the failure.  
16 The state shall offset the loss from any moneys the state is holding for or  
17 owes the county or from any moneys the state would pay to the county for  
18 any purpose.

19 (8) The Department of Justice shall enter into an agreement with the  
20 Oregon District Attorneys Association to establish a position or positions to  
21 act as a liaison between the Division of Child Support and those district  
22 attorneys who provide support enforcement services under this section. The  
23 department shall fund the position or positions. The Oregon District Attor-  
24 neys Association shall administer the liaison position or positions under the  
25 agreement. The liaison shall work to:

26 (a) Enhance the participation and interaction of the district attorneys in  
27 the development and implementation of Child Support Program policies and  
28 services; and

29 (b) Increase the effectiveness of child support enforcement services pro-  
30 vided by the district attorneys.

31 (9) The district attorney or the Division of Child Support, whichever is

1 appropriate, shall provide the services specified in subsections (1) and (4) of  
2 this section to any applicant, but may in their discretion, upon a determi-  
3 nation and notice to the applicant that the prospect of successful recovery  
4 from the obligor of a portion of the delinquency or future payments is re-  
5 mote, require payment to the district attorney or the Division of Child Sup-  
6 port of an application fee, in accordance with an application fee schedule  
7 established by rule by the department. If service performed results in the  
8 district attorney or the Division of Child Support recovering any support  
9 enforcement fees, the fees shall be paid to the applicant in an amount equal  
10 to the amount of the application fee.

11 (10) An obligee may request the Division of Child Support or a district  
12 attorney to cease all collection efforts if it is anticipated that physical or  
13 emotional harm will be caused to the parent or caretaker relative or the  
14 child for whom support was to have been paid. The department, by rule, shall  
15 set out the circumstances under which such requests shall be honored.

16 **SECTION 48.** ORS 25.125 is amended to read:

17 25.125. (1) The Department of Justice may return moneys to an obligor  
18 when the department determines that the obligor has paid more moneys than  
19 are due under a support obligation. However, when the obligor has an on-  
20 going support obligation, the department may give the obligor credit for the  
21 excess amount paid and apply the credit to the future support obligation  
22 until the credit is fully used. When the department applies a credit to offset  
23 a future support obligation, the department shall so notify the obligee. The  
24 notice must inform the obligee that, if the obligee requests, the department  
25 will conduct an administrative review to determine if the record keeping and  
26 accounting related to the calculation of the credit balance is correct. The  
27 department shall conduct the administrative review within 30 days after re-  
28 ceiving the request.

29 (2) An overpayment in favor of the state is created when the Department  
30 of Justice, under ORS 25.020, has transmitted moneys received from, or on  
31 behalf of, any person or entity, including but not limited to an obligor, an



1 obligee or a collection agency, a child support agency of another state or an  
2 agency of this state, and:

3 (a) The amount transmitted is more than the support obligation requires  
4 and the Department of Justice has returned the excess to the obligor under  
5 subsection (1) of this section;

6 (b) The Department of Justice has misapplied moneys received; or

7 (c) The amount transmitted is attributable in whole or in part to a tax  
8 refund offset collection all or part of which has been taken back by the  
9 Internal Revenue Service or the Department of Revenue.

10 (3)(a) The person or entity to which the moneys were transmitted owes  
11 the amount of the overpayment to the state. The Department of Justice shall:

12 (A) Attempt to recover the overpayment if it is cost-effective to do so;

13 (B) Notify the person or entity to whom the overpayment was made that  
14 the person or entity owes money to the state and specify the amount of the  
15 overpayment to be returned to the department; and

16 (C) Give the person or entity opportunity to object.

17 (b) If the person or entity does not file a timely written objection, the  
18 overpayment amount determined by the department becomes a liquidated  
19 debt and creates an account receivable owed to the department, and the  
20 provisions of subsection (4) of this section apply. If the department does not  
21 resolve an objection to the person's or entity's satisfaction, an administrative  
22 law judge assigned from the Office of Administrative Hearings shall hear the  
23 objection. An order by the administrative law judge becomes a liquidated  
24 debt and creates an account receivable owed to the department. The person  
25 or entity may appeal the decision of an administrative law judge to the cir-  
26 cuit court for a hearing de novo.

27 (c) Notwithstanding paragraph (a) of this subsection, if an agency of this  
28 or another state owes the overpayment, the agency shall return the amount  
29 of the overpayment to the department without notice and opportunity to  
30 object.

31 (4)(a) The amount of the overpayment specified in subsection (3)(a) of this

1 section is a liquidated debt owed to the state and an associated account  
2 receivable. The Department of Justice may recover the debt by obtaining  
3 from the obligee a voluntary assignment of a portion of future support pay-  
4 ments to be applied to the account receivable or in any other way permitted  
5 by law.

6 (b) Accounts receivable are considered delinquent for purposes of this  
7 subsection and are subject to the provisions of ORS chapter 293 if:

8 (A) The person or entity fails to make full payment within 90 days of  
9 liquidation; or

10 (B) A period of 90 days elapses without a payment as required by a pay-  
11 ment agreement between the department and the obligated person or entity.

12 (5)(a) In addition to the account receivable created under subsection (2)  
13 of this section, a debt in favor of the state and an associated account  
14 receivable are created when:

15 (A) The Department of Justice receives payment for support amounts due  
16 from an obligor, a withholder subject to an order to withhold under this  
17 chapter or another issuer on behalf of an obligor;

18 (B) The Department of Justice transmits the amount to any other person  
19 or entity; and

20 (C) The payment is dishonored or reversed.

21 (b) When a debt is created under paragraph (a) of this subsection, the  
22 amount of money specified in the payment is owed to the state, and the de-  
23 partment may collect the debt from one of the following:

24 (A) The obligor, regardless of who presented the check.

25 (B) The withholder, if the withholder presented the check.

26 (C) The other issuer, if another issuer presented the check.

27 (D) The person or entity to which the amount was transmitted by the  
28 department.

29 (c) The Department of Justice shall:

30 (A) Attempt to recover the debt if it is cost-effective to do so;

31 (B) Notify the obligor, withholder or other issuer who made the payment

1 that the person or entity owes the money to the state; and

2 (C) Specify the amount of the debt to be paid to the department.

3 (d) The amount of the debt specified in paragraph (c) of this subsection  
4 is a liquidated debt owed to the state and an account receivable. The De-  
5 partment of Justice may recover the debt and collect on the account receiv-  
6 able in any way permitted under law.

7 (e) Accounts receivable are considered delinquent for purposes of this  
8 subsection and are subject to the provisions of ORS chapter 293 when:

9 (A) The person or entity fails to make full payment within 90 days of  
10 liquidation; or

11 (B) A period of 90 days elapses without a payment as required by a pay-  
12 ment agreement between the department and the obligated person or entity.

13 (6)(a) When an action is pending to terminate, vacate or set aside a sup-  
14 port order or to modify a support order because of a change in [*physical*  
15 *custody*] **responsibility for supervision and physical care** of the child, the  
16 administrator may suspend enforcement of the support order if:

17 (A) Collection of support would result in a credit balance if the motion  
18 were granted; or

19 (B) Collection of child support would impair the ability of the obligor  
20 with physical [*custody*] **care and supervision** of all of the parties' children  
21 to provide direct support to the children.

22 (b) The obligee may object, within 14 days after the date of the notice of  
23 intent to suspend enforcement of the support order, only on the grounds that:

24 (A) The child is not [*in the physical custody*] **under the supervision and**  
25 **physical care** of the obligor;

26 (B) The child is [*in the physical custody*] **under the supervision and**  
27 **physical care** of the obligor without the consent of the obligee; or

28 (C) The basis for the suspension of enforcement is factually incorrect.

29 (c) A party may appeal the administrator's decision to suspend or not to  
30 suspend enforcement of the support order under ORS 183.484.

31 (d) As used in this subsection, "credit balance" means that payments have

1 been made in excess of all amounts owed by an obligor for ongoing and past  
2 due child support.

3 (7) The Department of Justice shall adopt rules to carry out the pro-  
4 visions of this section.

5 **SECTION 49.** ORS 25.164 is amended to read:

6 25.164. (1) If the payment method for support payments set forth in the  
7 support judgment does not require that payments be made through the De-  
8 partment of Justice, an application may be made to the department for sup-  
9 port enforcement services under this chapter and under federal laws and  
10 regulations relating to support payments and enforcement of judgments. An  
11 application under this section may be made by an obligee, by an obligor, by  
12 a person having [*physical custody*] **responsibility for the supervision and**  
13 **physical care** of a minor child or by a child attending school, as defined in  
14 ORS 107.108.

15 (2) An application under subsection (1) of this section must be in the form  
16 prescribed by ORS 25.084.

17 (3) If an application is made under subsection (1) of this section, the ad-  
18 ministrator shall give notice to all parties that the application has been  
19 made. All support payments under the judgment that are due after the notice  
20 is given must be made through the department.

21 (4) When an application is made under this section, the method of support  
22 accounting previously used for the support judgment terminates on the first  
23 day of the month following the month the application is made, and the de-  
24 partment shall thereafter provide support accounting for the support judg-  
25 ment and disburse amounts paid under the judgment.

26 (5) If an application is made under this section and a complete record of  
27 support payments does not exist, the department may establish a record of  
28 arrearage under ORS 25.167.

29 **SECTION 50.** ORS 25.240 is amended to read:

30 25.240. (1) Notwithstanding any other law, where a court or the adminis-  
31 trator has the authority under ORS chapter 107, 108, 109, 110 or 416 or ORS

1 419B.400 to 419B.406 or 419C.590, 419C.592 and 419C.597 to require a parent  
2 without [*legal*] custody to pay support for a minor child, then the court or  
3 administrator may require a parent with [*legal*] custody to pay support for  
4 such a child as long as that parent [*does not have physical custody of*] **is not**  
5 **providing supervision and physical care for** such child or is not providing  
6 the child with the necessities of life, including but not limited to lodging,  
7 food and clothing.

8 **(2) As used in this section, “custody” has the meaning given that**  
9 **terms in section 1 of this 2019 Act.**

10 **SECTION 51.** ORS 25.280 is amended to read:

11 25.280. In any judicial or administrative proceeding for the establishment  
12 or modification of a child support obligation under ORS chapter 107, 108, 109,  
13 110 or 416 or ORS 419B.400, 419B.923, 419C.590 or 419C.610, the amount of  
14 support determined by the formula established under ORS 25.275 is presumed  
15 to be the correct amount of the obligation. This is a rebuttable presumption  
16 and a written finding or a specific finding on the record that the application  
17 of the formula would be unjust or inappropriate in a particular case is suf-  
18 ficient to rebut the presumption. The following criteria shall be considered  
19 in making the finding:

- 20 (1) Evidence of the other available resources of a parent;
- 21 (2) The reasonable necessities of a parent;
- 22 (3) The net income of a parent remaining after withholdings required by  
23 law or as a condition of employment;
- 24 (4) A parent’s ability to borrow;
- 25 (5) The number and needs of other dependents of a parent;
- 26 (6) The special hardships of a parent including, but not limited to, any  
27 medical circumstances of a parent affecting the parent’s ability to pay child  
28 support;
- 29 (7) The needs of the child;
- 30 (8) The desirability of the [*custodial*] parent **with custody, as defined**  
31 **in section 1 of this 2019 Act, of the child** remaining in the home as a

1 full-time parent and homemaker;

2 (9) The tax consequences, if any, to both parents resulting from spousal  
3 support awarded and determination of which parent will name the child as  
4 a dependent; and

5 (10) The financial advantage afforded a parent's household by the income  
6 of a spouse or another person with whom the parent lives in a relationship  
7 similar to that of a spouse.

8 **SECTION 52.** ORS 40.262 is amended to read:

9 40.262. A professional counselor or a marriage and family therapist li-  
10 censed by the Oregon Board of Licensed Professional Counselors and Ther-  
11 apists under ORS 675.715 shall not be examined in a civil or criminal court  
12 proceeding as to any communication given the counselor or therapist by a  
13 client in the course of a noninvestigatory professional activity when such  
14 communication was given to enable the counselor or the therapist to aid the  
15 client, except:

16 (1) When the client or those persons legally responsible for the affairs of  
17 the client give consent to the disclosure. If both parties to a marriage have  
18 obtained marital and family therapy by a licensed marital and family thera-  
19 pist or a licensed counselor, the therapist or counselor shall not be compe-  
20 tent to testify in a domestic relations action other than [*child*] a custody  
21 **or parenting time** action concerning information acquired in the course of  
22 the therapeutic relationship unless both parties consent;

23 (2) When the client initiates legal action or makes a complaint against  
24 the licensed professional counselor or licensed marriage and family therapist  
25 to the board;

26 (3) When the communication reveals the intent to commit a crime or  
27 harmful act; or

28 (4) When the communication reveals that a minor is or is suspected to  
29 be the victim of crime, abuse or neglect.

30 (5) **As used in this section, "custody" and "parenting time" have the**  
31 **meanings given those terms in section 1 of this 2019 Act.**

1        **SECTION 53.** ORS 416.400 is amended to read:

2        416.400. As used in ORS 416.400 to 416.465, unless the context requires  
3 otherwise:

4        (1) “Administrator” has the meaning given that term in ORS 25.010.

5        (2) “Court” means any circuit court of this state and any court in another  
6 state having jurisdiction to determine the liability of persons for the support  
7 of another person.

8        (3) “Court order” means any judgment or order of any Oregon court that  
9 orders payment of a set or determinable amount of support money by the  
10 subject parent and does not include an order or judgment in any proceeding  
11 in which the court did not order support.

12        **(4) “Custody” has the meaning given that term in section 1 of this**  
13 **2019 Act.**

14        [(4)] **(5)** “Department” means the Department of Justice of this state or  
15 its equivalent in any other state from which a written request for establish-  
16 ment or enforcement of a support obligation is received under ORS 416.415.

17        [(5)] **(6)** “Dependent child” means any person under [*the age of*] **18 years**  
18 **of age** who is not otherwise emancipated, self-supporting, married or a  
19 member of the Armed Forces of the United States. “Dependent child” also  
20 means a child attending school as defined in ORS 107.108.

21        [(6)] **(7)** “Office” means the office of the Division of Child Support or the  
22 office of the district attorney.

23        [(7)] **(8)** “Parent” means:

24        (a) The natural or adoptive father or mother of a dependent child or youth  
25 offender;

26        (b) A person whose parentage has been established under ORS 109.065; or

27        (c) A stepparent when the person has an obligation to support a depend-  
28 ent child under ORS 108.045.

29        **(9) “Parenting time” has the meaning given that term in section 1**  
30 **of this 2019 Act.**

31        [(8)] **(10)** “Past support” means the amount of child support that could

1 have been ordered and accumulated as arrears against a parent for the ben-  
2 efit of a child for any period of time during which the child was not sup-  
3 ported by the parent and for which period no support order was in effect.

4 [(9)] (11) “Public assistance” means any money payments made by the  
5 state that are paid to or for the benefit of any dependent child or youth  
6 offender, including but not limited to payments made so that food, shelter,  
7 medical care, clothing, transportation or other necessary goods, services or  
8 items may be provided, and payments made in compensation for the provision  
9 of the necessities. “Public assistance” does not include money payments made  
10 by the state to or for the benefit of a dependent child as the result of the  
11 child’s removal from the parent’s home against the wishes of the parent, if  
12 the Department of Human Services determines after completion of a child  
13 protective services assessment that the report of abuse is unfounded accord-  
14 ing to rules adopted by the Department of Human Services.

15 [(10)] (12) “Youth offender” has the meaning given that term in ORS  
16 419A.004.

17 **SECTION 54.** ORS 416.407 is amended to read:

18 416.407. (1) In any proceeding under ORS 416.400 to 416.465, the following  
19 are parties and shall be given notice of any such proceeding by the admin-  
20 istrator:

21 (a) The State of Oregon.

22 (b) An obligee who [*has physical custody*] **is responsible for the super-**  
23 **vision and physical care** of a child for whose benefit a support order or  
24 an order establishing paternity is sought, is being modified or is being en-  
25 forced under this chapter.

26 (c) A noncustodial parent or a male who is alleged to be the father of a  
27 child when an action is initiated under this chapter to establish, modify or  
28 enforce a support or paternity order.

29 (d) A person joined as a party under subsection (2) of this section.

30 (2) Pursuant to administrative rule, a party may join a person who [*has*  
31 *physical custody*] **is responsible for the supervision and physical care** of



1 a child to a proceeding under ORS 416.400 to 416.465.

2 **SECTION 55.** ORS 416.416 is amended to read:

3 416.416. (1) An order for support of a child entered under ORS 416.400 to  
4 416.465 may provide for a change to the support award based on a change in  
5 the [*child's physical custody*] **parent who is primarily responsible for the**  
6 **supervision and physical care of the child.** The order may provide for a  
7 change in the support award during periods of time when one parent, with  
8 the knowledge and consent of the other parent or pursuant to court order,  
9 [*has physical custody*] **assumes primary responsibility for the supervision**  
10 **and physical care** of the child. The provision may not provide for a change  
11 to the support award during periods of parenting time or visitation **set forth**  
12 **in a parenting plan or custody order.**

13 (2) A sworn affidavit of the parent [*having physical custody*] **assuming**  
14 **primary responsibility for the supervision and physical care** of a child  
15 is sufficient to establish a change in [*physical custody*] **the person respon-**  
16 **sible for the supervision and physical care** of the child, and of the time  
17 during which the parent [*has physical custody*] **is primarily responsible for**  
18 **the supervision and physical care** of the child, for the purposes of a  
19 change to a support award under a provision described in subsection (1) of  
20 this section. The other parent may contest the affidavit by requesting a  
21 hearing as provided by ORS 416.427.

22 (3) The [*legal*] custody of a child is not affected by a change to a support  
23 order under a provision described in subsection (1) of this section.

24 **SECTION 56.** ORS 416.417 is amended to read:

25 416.417. An order for support entered pursuant to ORS 416.400 to 416.465  
26 for a child in the care and **protective** custody of the Department of Human  
27 Services, or a youth offender or other offender in the legal or physical cus-  
28 tody of the Oregon Youth Authority, may be made contingent upon the child,  
29 youth offender or other offender residing in a state financed or supported  
30 residence, shelter or other facility or institution. A certificate signed by the  
31 Director of Human Services, the Administrator of the Division of Child

1 Support or the Director of the Oregon Youth Authority shall be sufficient  
2 to establish the periods of residence and to satisfy the order for periods of  
3 nonresidence. A hearing to contest the period of nonresidency or failure to  
4 satisfy shall be held pursuant to ORS 416.427.

5 **SECTION 57.** ORS 416.425 is amended to read:

6 416.425. (1) Any time support enforcement services are being provided  
7 under ORS 25.080, the obligor, the obligee, the party holding the support  
8 rights or the administrator may move for the existing order to be modified  
9 under this section. The motion shall be in writing in a form prescribed by  
10 the administrator, shall set out the reasons for modification and shall state  
11 the address of the party requesting modification.

12 (2) The moving party shall state in the motion, to the extent known:

13 (a) Whether there is pending in this state or any other jurisdiction any  
14 type of support proceeding involving the dependent child, including a pro-  
15 ceeding brought under ORS 25.287, 107.085, 107.135, 107.431, 108.110, 109.100,  
16 109.103, 109.165, 125.025, 416.415, 419B.400 or 419C.590 or ORS chapter 110;  
17 and

18 (b) Whether there exists in this state or any other jurisdiction a support  
19 order, as defined in ORS 110.503, involving the dependent child, other than  
20 the order the party is moving to modify.

21 (3) The moving party shall include with the motion a certificate regarding  
22 any pending support proceeding and any existing support order other than  
23 the order the party is moving to modify. The party shall use a certificate that  
24 is in a form prescribed by the administrator and include information required  
25 by the administrator and subsection (2) of this section.

26 (4) The moving party shall serve the motion upon the obligor, the obligee,  
27 the party holding the support rights and the administrator, as appropriate.  
28 The nonrequesting parties must be served in the same manner as provided  
29 for service of the notice and finding of financial responsibility under ORS  
30 416.415 (1)(a). Notwithstanding ORS 25.085, the requesting party must be  
31 served by first class mail to the requesting party's last known address. The

1 nonrequesting parties have 30 days to resolve the matter by stipulated  
2 agreement or to serve the moving party by regular mail with a written re-  
3 sponse setting forth any objections to the motion and a request for hearing.  
4 The hearing shall be conducted under ORS 416.427.

5 (5) When the moving party is other than the administrator and no ob-  
6 jections and request for hearing have been served within 30 days, the moving  
7 party may submit a true copy of the motion to the administrative law judge  
8 as provided in ORS 416.427, except the default may not be construed to be  
9 a contested case as defined in ORS chapter 183. Upon proof of service, the  
10 administrative law judge shall issue an order granting the relief sought.

11 (6) When the moving party is the administrator and no objections and  
12 request for hearing have been served within 30 days, the administrator may  
13 enter an order granting the relief sought.

14 (7) A motion for modification made under this section does not stay the  
15 administrator from enforcing and collecting upon the existing order unless  
16 so ordered by the court in which the order is entered.

17 (8) An administrative order filed in accordance with ORS 416.440 is a final  
18 judgment as to any installment or payment of money that has accrued up to  
19 the time the nonrequesting party is served with a motion to set aside, alter  
20 or modify the judgment. The administrator may not set aside, alter or  
21 modify any portion of the judgment that provides for any payment of money  
22 for minor children that has accrued before the motion is served. However:

23 (a) The administrator may allow a credit against child support arrearages  
24 for periods of time, excluding reasonable parenting time unless otherwise  
25 provided by order or judgment, during which the obligor, with the knowledge  
26 and consent of the obligee or pursuant to court order, [*has physical*  
27 *custody*] **assumes primary responsibility for the supervision and phys-**  
28 **ical care** of the child; and

29 (b) The administrator may allow a credit against child support arrearages  
30 for any Social Security or veterans' benefits paid retroactively to the child,  
31 or to a representative payee administering the funds for the child's use and

1 benefit, as a result of a parent's disability or retirement.

2 (9) The party requesting modification has the burden of showing a sub-  
3 stantial change of circumstances or that a modification is appropriate under  
4 the provisions of ORS 25.287.

5 (10) The obligee is a party to all proceedings under this section.

6 (11) An obligor's incarceration for a period of at least 180 consecutive  
7 days or an obligor's release from incarceration is considered a substantial  
8 change of circumstances for purposes of proceedings brought under this sec-  
9 tion.

10 (12)(a) Notwithstanding subsections (1) to (11) of this section, any time  
11 support enforcement services are being provided under ORS 25.080, upon re-  
12 quest of a party to a support order or judgment or on the administrator's  
13 own motion, the administrator may move to suspend the order or judgment  
14 and issue a temporary modification order under this subsection when:

15 (A) There is a period of significant unemployment as that term is de-  
16 scribed in paragraph (b) of this subsection; and

17 (B) A party to the support order or judgment experiences an  
18 employment-related change of income as defined by rule in ORS 416.455.

19 (b) Proceedings under this subsection may be initiated only when there  
20 is a period of significant unemployment in Oregon. The Attorney General  
21 shall determine when a "period of significant unemployment" exists in  
22 Oregon and designate the beginning and ending dates thereof. In making the  
23 determination of when a period of significant unemployment exists in  
24 Oregon, the Attorney General may consider whether there is in effect an  
25 "extended benefit period" as that term is defined in ORS 657.321.

26 (c) Except as otherwise provided in this subsection, the provisions of  
27 subsections (1) to (11) of this section apply to a motion for an order of sus-  
28 pension and temporary modification under this subsection.

29 (d) A party's employment-related change of income during a period of  
30 significant unemployment is considered a substantial change of circum-  
31 stances for purposes of proceedings brought under this section.

1 (e) The motion for an order of suspension and temporary modification  
2 must be in writing and must include, but need not be limited to:

3 (A) The amount of the existing support order or judgment;

4 (B) The amount of the obligor's and obligee's income immediately pre-  
5 ceding the party's employment-related change of income, if known;

6 (C) The reason for the party's employment-related change of income;

7 (D) How the party's employment-related change of income affects the  
8 party's employment status, income and, if applicable, ability to pay support;

9 (E) The obligor's and the obligee's current sources of income, if known;

10 (F) The proposed amount of the temporary modification order;

11 (G) A statement that if a party objects to the motion for an order of  
12 suspension and temporary modification, then the party may request a hearing  
13 within 14 days of service of the motion as provided in paragraph (g) of this  
14 subsection;

15 (H) A statement that the preexisting support order or judgment will be  
16 reinstated as provided in paragraph (h) of this subsection; and

17 (I) A statement that a party may request a renewal of the order of sus-  
18 pension and temporary modification prior to its expiration as provided in  
19 paragraph (j) of this subsection.

20 (f) The administrator shall serve the motion filed under this subsection  
21 upon the parties by regular first class mail, facsimile or electronic mail un-  
22 less a party signs a form agreeing to accept service of the motion.

23 (g) A party may request a hearing within 14 days of service of the motion.  
24 If a hearing is requested, the provisions of ORS 416.427 apply. When there  
25 has been no request for hearing, the administrator may enter an order of  
26 suspension and temporary modification under this subsection. The order must  
27 be consistent with the provisions of the motion filed under this subsection  
28 and be in substantial compliance with the formula established under ORS  
29 25.275.

30 (h) An order of suspension and temporary modification issued under this  
31 subsection is temporary and remains in effect for six months from the date

1 the order is filed under ORS 416.440 or until the date specified in the notice  
2 provided under paragraph (i) of this subsection informing of the party's re-  
3 employment, whichever is earlier, at which time the preexisting support or-  
4 der or judgment becomes immediately effective and payable on the first day  
5 of the following month unless an order of renewal is issued under paragraph  
6 (j) of this subsection.

7 (i) The administrator may issue a notice of reinstatement at any time  
8 during which an order of suspension and temporary modification is in effect  
9 under this subsection when a party obtains employment and receives income  
10 that is sufficient to reinstate support in an amount substantially similar to  
11 the amount in the preexisting support order or judgment. The notice shall  
12 be served as provided in paragraph (f) of this subsection and must state that,  
13 unless a request for hearing is received within 14 days of service of the no-  
14 tice, the administrator will enter an order terminating the order of suspen-  
15 sion and temporary modification and reinstating the amount of the  
16 preexisting support order or judgment effective on a date to be specified in  
17 the notice. If a hearing is requested, the provisions of ORS 416.427 apply.  
18 When there is no request for hearing, the administrator may enter an order  
19 terminating the order of suspension and temporary modification and rein-  
20 stating the preexisting support order or judgment effective upon the date  
21 specified in the notice.

22 (j) Prior to expiration of an order of suspension and temporary modifica-  
23 tion under this subsection and upon request of a party, the administrator  
24 may renew the order of suspension and temporary modification for additional  
25 six-month periods or until the party obtains employment as described in  
26 paragraph (i) of this subsection, whichever occurs first, if the circumstances  
27 under which the order was originally issued continue to exist unchanged.

28 **SECTION 58.** ORS 416.443 is amended to read:

29 416.443. (1) As used in this section, "blood tests" has the meaning given  
30 that term in ORS 109.251.

31 (2) No later than one year after an order establishing paternity is entered

1 under ORS 416.440 and if blood tests have not been completed, a party may  
2 apply to the administrator to have the issue of paternity reopened and for  
3 an order for blood tests.

4 (3) No later than one year after a voluntary acknowledgment of paternity  
5 is filed in this state and if blood tests have not been completed, a party to  
6 the acknowledgment, or the Department of Human Services if the child  
7 named in the acknowledgment is in the care and **protective** custody of the  
8 department under ORS chapter 419B, may apply to the administrator for  
9 services under ORS 25.080 and for an order for blood tests.

10 (4) Upon receipt of a timely application, the administrator shall order:

11 (a) The mother and the male party to submit to blood tests; and

12 (b) The person having [*physical custody*] **primary responsibility for the**  
13 **supervision and physical care** of the child to submit the child to blood  
14 tests.

15 (5) If a party refuses to comply with an order under subsection (4) of this  
16 section, the issue of paternity shall, upon the motion of the administrator,  
17 be resolved against that party by an order of the court either affirming or  
18 setting aside the order establishing paternity or the voluntary acknowledg-  
19 ment of paternity.

20 (6) If the results of the blood tests exclude the male party as the biolog-  
21 ical father of the child, the administrator may file a motion with the court  
22 for an order setting aside the order establishing paternity or the voluntary  
23 acknowledgment of paternity and for a judgment of nonpaternity.

24 (7) Support paid before an order establishing paternity or a voluntary  
25 acknowledgment of paternity is set aside under this section may not be re-  
26 turned to the payer.

27 (8) The administrator shall send a court-certified true copy of a judgment  
28 of nonpaternity to the State Registrar of the Center for Health Statistics.  
29 Upon receipt of the judgment, the state registrar shall correct any records  
30 maintained by the state registrar that indicate that the male party is the  
31 parent of the child.

1 (9) The Child Support Program shall pay any state registrar fees and any  
2 costs for blood tests ordered under this section, subject to recovery from the  
3 party who requested the tests.

4 **SECTION 59.** ORS 19.270 is amended to read:

5 19.270. (1) The Supreme Court or the Court of Appeals has jurisdiction  
6 of the cause when the notice of appeal has been served and filed as provided  
7 in ORS 19.240, 19.250 and 19.255. The trial court may exercise those powers  
8 in connection with the appeal as are conferred by law, and retains jurisdic-  
9 tion in the matter for the following purposes:

10 (a) Deciding requests for attorney fees, costs and disbursements or ex-  
11 penses pursuant to ORCP 68 or other provision of law.

12 (b) Enforcing the judgment, subject to any stay of the judgment.

13 (c) Deciding a motion for judgment notwithstanding the verdict under  
14 ORCP 63.

15 (d) Deciding a motion for new trial under ORCP 64.

16 (e) Deciding a motion for relief from judgment under ORCP 71 B.

17 (2) The following requirements of ORS 19.240, 19.250 and 19.255 are ju-  
18 risdictional and may not be waived or extended:

19 (a) Service of the notice of appeal on all parties identified in the notice  
20 of appeal as adverse parties or, if the notice of appeal does not identify ad-  
21 verse parties, on all parties who have appeared in the action, suit or pro-  
22 ceeding, as provided in ORS 19.240 (2)(a), within the time limits prescribed  
23 by ORS 19.255.

24 (b) Filing of the original of the notice of appeal with the Court of Appeals  
25 as provided in ORS 19.240 (3), within the time limits prescribed by ORS  
26 19.255.

27 (3) After the Supreme Court or the Court of Appeals has acquired jurisdic-  
28 tion of the cause, the omission of a party to perform any of the acts re-  
29 quired in connection with an appeal, or to perform such acts within the time  
30 required, shall be cause for dismissal of the appeal. In the event of such  
31 omission, the court, on motion of a party or on its own motion may dismiss



1 the appeal. An appeal dismissed on a party's motion or on the court's own  
2 motion may be reinstated upon showing of good cause.

3 (4) Notwithstanding the filing of a notice of appeal, the trial court has  
4 jurisdiction, with leave of the appellate court, to enter an appealable judg-  
5 ment or order if the appellate court determines that:

6 (a) At the time of the filing of the notice of appeal the trial court in-  
7 tended to enter an appealable judgment or order; and

8 (b) The judgment or order from which the appeal is taken is defective in  
9 form or was entered at a time when the trial court did not have jurisdiction  
10 of the cause under subsection (1) of this section, or the trial court had not  
11 yet entered an appealable judgment or order.

12 (5) Notwithstanding the filing of a notice of appeal, the trial court has  
13 jurisdiction:

14 (a) To enter in the trial court register a judgment or order that the trial  
15 judge signed before the notice of appeal was filed;

16 (b) To enter an order or supplemental judgment under ORCP 71 or ORS  
17 19.275, 107.105 [(4)] (5) or 107.452; and

18 (c) To enter an order or supplemental judgment for the purpose of imple-  
19 menting a settlement as allowed by ORS 19.410 (3).

20 (6) Jurisdiction of the appellate court over a cause ends when a copy of  
21 the appellate judgment is mailed by the State Court Administrator to the  
22 court from which the appeal was taken pursuant to ORS 19.450, except that  
23 the appellate court may:

24 (a) Recall the appellate judgment as justice may require;

25 (b) Stay enforcement of the appellate judgment to allow the filing of a  
26 petition for writ of certiorari to the Supreme Court of the United States; and

27 (c) Stay enforcement of the appellate judgment pending disposition of the  
28 matter by the Supreme Court of the United States or for such other time as  
29 the Oregon appellate court may deem appropriate.

30 (7) If a limited or supplemental judgment is appealed, the jurisdiction of  
31 the appellate court is limited to the matters decided by the limited or sup-

1 plemental judgment, and the trial court retains jurisdiction over all other  
2 matters in the proceeding.

3 (8) After jurisdiction of the appellate court ends, all orders which may  
4 be necessary to carry the appellate judgment into effect shall be made by the  
5 court from which the appeal was taken.

6

---