

**A-Engrossed**  
**Senate Bill 385**

Ordered by the Senate April 5  
Including Senate Amendments dated April 5

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Directs]* **Allows** presiding judge of each judicial district to establish alternative dispute resolution conference procedure for custody and parenting time modifications and enforcement proceedings.

**A BILL FOR AN ACT**

1  
2 Relating to alternative dispute resolution of parental rights disputes; creating new provisions; and  
3 amending ORS 107.146 and 107.434.

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

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

6 **SECTION 2. (1) The presiding judge of each judicial district may establish an alternative**  
7 **dispute resolution conference procedure for custody and parenting time modification and**  
8 **enforcement before a court hearing. The conference procedure must, at a minimum:**

9 (a) **Require that the parties be notified in advance that the conference will be conducted**  
10 **in an informal manner and will not use the rules of evidence;**

11 (b) **Provide each party with a full opportunity to present the party's position;**

12 (c) **Accommodate safety concerns in conference procedures when safety concerns are**  
13 **identified;**

14 (d) **Allow a party's attorney to be present; and**

15 (e) **Notify the parties that if an agreement is not reached the conference officer described**  
16 **in subsection (2) of this section may make a recommendation to the court, but that no party**  
17 **will lose the party's right to a judicial hearing.**

18 (2) **The presiding judge shall appoint a conference officer to hold a conference under this**  
19 **section. The conference officer must have completed training in mediation, child development**  
20 **and domestic violence, as prescribed by the presiding judge or local rules adopted under ORS**  
21 **3.220, and must be:**

22 (a) **An employee of the Judicial Department; or**

23 (b) **An attorney or trained mediator appointed by the court in accordance with local rules**  
24 **adopted under ORS 3.220.**

25 (3)(a) **If the parties reach an agreement on the contested issues during the conference,**  
26 **the conference officer shall prepare a stipulated order or judgment using forms approved by**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the State Court Administrator, and:

2 (A) If a party has an attorney, the party's attorney shall have the opportunity to review  
3 the stipulated order or judgment;

4 (B) The parties shall sign the stipulated order or judgment; and

5 (C) The conference officer shall submit the stipulated order or judgment to the court that  
6 has authority over the underlying case.

7 (b) If the parties cannot reach an agreement on all of the contested issues during the  
8 conference, the conference officer may do one or both of the following:

9 (A) Assist the parties in developing a stipulated order or judgment on one or more of the  
10 resolved issues.

11 (B) Make recommendations to the court on the contested issues and, if requested,  
12 schedule a court hearing on those issues and notify the parties of the date and time of the  
13 hearing.

14 (4) At a hearing, the court may receive into evidence and consider the recommendation  
15 of the conference officer on contested issues but shall assign no specific evidentiary weight  
16 to that recommendation.

17 (5) If mediation has not been waived by the court, a conference under this section is in  
18 addition to and not in lieu of mediation.

19 (6) The conference procedure may not be used in proceedings under ORS 107.700 to  
20 107.735.

21 **SECTION 3.** ORS 107.146 is amended to read:

22 107.146. (1) Upon motion filed by a deployed parent or a parent whose deployment is imminent,  
23 the court shall hold an expedited hearing in:

24 (a) Any proceeding in a suit for marital annulment, dissolution or separation where a deployed  
25 parent or a parent whose deployment is imminent is a party;

26 (b) [In] Any proceeding under ORS 107.135, 107.138 and 107.139 and section 2 of this 2019 Act  
27 where a deployed parent or a parent whose deployment is imminent is a party; and

28 (c) A proceeding under ORS 107.145 (4).

29 (2) In any proceeding listed under subsection (1) of this section, whether or not a motion to  
30 expedite a hearing has been filed, the court shall make reasonable accommodations to allow a de-  
31 ployed parent, or a parent whose deployment is imminent, to provide video, electronic or Internet  
32 testimony if the proceeding involves the custody, parenting time, visitation, support and welfare of  
33 the parent's child and where the deployed parent or the parent whose deployment is imminent can-  
34 not personally appear.

35 **SECTION 4.** ORS 107.434 is amended to read:

36 107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting  
37 time enforcement procedure that may or may not include a requirement for mediation or partic-  
38 ipation in an alternative dispute resolution conference under section 2 of this 2019 Act. The  
39 procedure must be easy to understand and initiate. Unless the parties otherwise agree or an al-  
40 ternative dispute resolution conference under section 2 of this 2019 Act is scheduled, the court  
41 shall conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a  
42 parenting time order. The court shall provide forms for:

43 (a) A motion filed by either party alleging a violation of parenting time or substantial violations  
44 of the parenting plan. When a person files this form, the person must include a copy of the order  
45 establishing the parenting time.

1 (b) An order requiring the parties to appear and show cause why parenting time should not be  
2 enforced in a specified manner. The party filing the motion shall serve a copy of the motion and  
3 the order on the other party. The order must include:

4 (A) A notice of the remedies imposable under subsection (2) of this section and the availability  
5 of a waiver of any mediation requirement; and

6 (B) A notice in substantially the following form:  
7 \_\_\_\_\_  
8

9 When pleaded and shown in a separate legal action, violation of court orders, including  
10 visitation and parenting time orders, may also result in a finding of contempt, which can lead to  
11 fines, imprisonment or other penalties, including compulsory community service.  
12 \_\_\_\_\_  
13

14 (c) A motion, supported by an affidavit or a declaration under penalty of perjury in the form  
15 required by ORCP 1 E, and an order that may be filed by either party and providing for waiver of  
16 any mediation requirement on a showing of good cause.

17 (2) In addition to any other remedy the court may impose to enforce the provisions of a judg-  
18 ment relating to the parenting plan, the court may:

19 (a) Modify the provisions relating to the parenting plan by:

20 (A) Specifying a detailed parenting time schedule;

21 (B) Imposing additional terms and conditions on the existing parenting time schedule; or

22 (C) Ordering additional parenting time, in the best interests of the child, to compensate for  
23 wrongful deprivation of parenting time;

24 (b) Order the party who is violating the parenting plan provisions to post bond or security;

25 (c) Order either or both parties to attend counseling or educational sessions that focus on the  
26 impact of violation of the parenting plan on children;

27 (d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees  
28 and court costs, incurred in enforcing the party's parenting plan;

29 (e) Terminate, suspend or modify spousal support;

30 (f) Terminate, suspend or modify child support as provided in ORS 107.431; or

31 (g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).  
32 \_\_\_\_\_