

Senate Bill 1054

Sponsored by Senator THATCHER

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 **as introduced**.

Directs State Court Administrator to develop information for use by public regarding procedural requirements and forms for enforcing child custody, parenting time and parenting plan orders and judgments.

Modifies venue for filing request for expediting enforcement of parenting time and parenting plan orders and judgments. Directs courts to include specified information in orders approving or denying request.

Modifies venue for filing application for order of assistance enforcing child custody rights. Directs courts to include specified information in orders approving or denying application.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1 Relating to enforcement of judicial determination regarding parental rights; creating new provisions;
2 amending ORS 107.434 and 107.437; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 107.**

5 **SECTION 2. The State Court Administrator shall develop and make available to members
6 of the public information regarding procedural requirements and judicial forms for enforce-
7 ment of orders and judgments regarding child custody, parenting time and parenting plans.
8 The materials must also include information regarding free and low-cost legal services.**

9 **SECTION 3. ORS 107.434 is amended to read:**

10 107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting
11 time enforcement procedure that may or may not include a requirement for mediation or partic-
12 ipation in an alternative dispute resolution conference under ORS 107.103. The procedure must be
13 easy to understand and initiate. Unless the parties otherwise agree or an alternative dispute resolu-
14 tion conference under ORS 107.103 is scheduled, the court shall conduct a hearing no later than
15 45 days after the filing of a motion seeking enforcement of a parenting time order. The court shall
16 provide forms for:

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

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

23 (A) A notice of the remedies imposable under subsection [(2)] (3) of this section and the avail-
24 ability of a waiver of any mediation requirement; and

25 (B) A notice in substantially the following form:
26
27

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
 2 When pleaded and shown in a separate legal action, violation of court orders, including
 3 visitation and parenting time orders, may also result in a finding of contempt, which can lead to
 4 fines, imprisonment or other penalties, including compulsory community service.

5
 6
 7 (c) A motion, supported by an affidavit or a declaration under penalty of perjury in the form
 8 required by ORCP 1 E, and an order that may be filed by either party and providing for waiver of
 9 any mediation requirement on a showing of good cause.

10 **(2)(a) A request to enforce parenting time or a parenting plan may be made in a court**
 11 **of any county:**

12 **(A) In which the child is located if the moving party is entitled to parenting time with**
 13 **the child under a valid and current order issued in this state;**

14 **(B) In which the person currently resides; or**

15 **(C) In which the most recent parenting time or parenting plan order or judgment was**
 16 **entered.**

17 **(b) When the request is made to a court in which the parenting time or parenting plan**
 18 **order or judgment has been entered, the person shall make the request in the form of a**
 19 **motion. In all other cases, the person shall make the request in the form of a petition.**

20 [(2)] **(3)** In addition to any other remedy the court may impose to enforce the provisions of a
 21 judgment relating to the parenting plan, the court may:

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

23 (A) Specifying a detailed parenting time schedule;

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

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

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

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

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

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

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

34 (g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).

35 **(4)(a) If a court denies a request under this section, the court must clearly explain the**
 36 **reasons for the denial.**

37 **(b) Any order or denial of a request under this section must include a statement of each**
 38 **party's appeal rights, a statement regarding the parties' rights to request reconsideration**
 39 **and notice of any other available remedies at law.**

40 **SECTION 4.** ORS 107.437 is amended to read:

41 107.437. (1) A person entitled to physical custody of a child may make an ex parte application
 42 for an order of assistance to a court of any county:

43 (a) In which a child is located if the person is entitled to the physical custody of the child under
 44 a valid and current order issued in this state; [or]

45 (b) In which a valid and current foreign custody order has been filed with a petition as provided

1 in subsection (3) of this section;

2 **(c) In which the person currently resides; or**

3 **(d) In which the most recent custody order or judgment was entered.**

4 (2) The application must include a certified copy of the custody order. The order of assistance
 5 may direct a law enforcement agency having jurisdiction where the child is located to use any rea-
 6 sonable means and force to deliver the child as directed by the court, including directing forcible
 7 entry into specified premises. The court may issue an order of assistance upon an affidavit or a
 8 declaration under penalty of perjury in the form required by ORCP 1 E, executed by the applicant
 9 and a finding of the court that:

10 (a) The applicant is entitled to physical custody of the child under a valid and current custody
 11 order; and

12 (b) The child is being held by another person in substantial violation of the custody order.

13 (3) When the application for an order of assistance is made to a court in which the custody or-
 14 der has been entered or registered, the applicant shall make the application in the form of a motion.
 15 In all other cases, the applicant shall make the application in the form of a petition. The court may
 16 not charge a filing fee for a motion or petition filed under this section.

17 (4) The law enforcement agency to which an order of assistance is directed shall make a return
 18 to the court specifying whether the order was executed, and if so, a statement reflecting the date
 19 on which the order was executed and any other information required by the court in the order of
 20 assistance.

21 (5) A court may not issue an order of assistance for the purpose of enforcing parenting time or
 22 visitation rights.

23 **(6)(a) If a court denies an application for assistance under this section, the court must**
 24 **clearly explain the reasons for the denial.**

25 **(b) Any order of assistance or denial of an application for assistance must include a**
 26 **statement of each party’s appeal rights, a statement regarding the parties’ rights to request**
 27 **reconsideration and notice of any other available remedies at law.**

28 [(6)] (7) Except for intentional torts committed outside the scope of the peace officer’s duties,
 29 a peace officer is not civilly or criminally liable for any action taken in recovering the custody of
 30 a child pursuant to an order issued under this section.

31 **SECTION 5. This 2023 Act being necessary for the immediate preservation of the public**
 32 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
 33 **on its passage.**