

Senate Bill 1130

Sponsored by Senator BROADMAN, Representative LEVY E

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes to how the court awards parenting time. (Flesch Readability Score: 80.3).

Prohibits the court from awarding more than 50 percent of parenting time to a noncustodial parent. Modifies remedies a court is permitted or required to impose when parenting time is not occurring as required by the parenting plan.

A BILL FOR AN ACT

1
2 Relating to parenting time; creating new provisions; and amending ORS 107.105 and 107.434.

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

4 **SECTION 1.** ORS 107.105 is amended to read:

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

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

13 (b)(A) For parenting time rights of the parent not having custody of such children and for
14 visitation rights pursuant to a petition filed under ORS 109.119, **consistent with this paragraph.**

15 (B) When a parenting plan has been developed as required by ORS 107.102, the court shall re-
16 view the parenting plan and, if approved, incorporate the parenting plan into the court's final order.
17 When incorporated into a final order, the parenting plan is determinative of parenting time rights.

18 (C) If the parents have been unable to develop a parenting plan or if either of the parents re-
19 quests the court to develop a detailed parenting plan, the court shall develop the parenting plan in
20 the best interest of the child, ensuring the noncustodial parent sufficient access to the child to
21 provide for appropriate quality parenting time and ensuring the safety of the parties, if implicated.

22 (D) The court shall deny parenting time to a parent under this paragraph if the court finds that
23 the parent has been convicted of rape under ORS 163.365 or 163.375 or other comparable law of
24 another jurisdiction and the rape resulted in the conception of the child. Otherwise, the court may
25 deny parenting time to the noncustodial parent under this subsection only if the court finds that
26 parenting time would endanger the health or safety of the child.

27 (E) In the case of a noncustodial parent who has a disability as defined by the Americans with
28 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the court may consider the noncustodial parent's
29 disability in determining parenting time only if the court finds that behaviors or limitations related

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 to the noncustodial parent's disability are endangering or will likely endanger the health, safety or
2 welfare of the child.

3 (F) The court shall recognize the value of close contact with both parents and encourage, when
4 practicable, joint responsibility for the welfare of such children and extensive contact between the
5 minor children of the divided marriage and the parties. **However, the court may not award a
6 noncustodial parent more than 50 percent visiting time.**

7 (G) If the court awards parenting time to a noncustodial parent who has committed abuse, other
8 than being convicted for rape as described in this paragraph, the court shall make adequate pro-
9 vision for the safety of the child and the other parent in accordance with the provisions of ORS
10 107.718 (6).

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

22 (d) For spousal support, an amount of money for a period of time as may be just and equitable
23 for one party to contribute to the other, in gross or in installments or both. Unless otherwise ex-
24 pressly provided in the judgment and except for any unpaid balance of previously ordered spousal
25 support, liability for the payment of spousal support shall terminate on the death of either party,
26 and there shall be no liability for either the payment of spousal support or for any payment in cash
27 or property as a substitute for the payment of spousal support after the death of either party. The
28 court may approve an agreement for the entry of an order for the support of a party. A general
29 judgment entered under this section may include an amount for support as requested in a petition
30 filed under ORS 107.085 or under a motion for relief made pursuant to ORS 107.095 (1)(b) for which
31 a limited judgment was not entered, payment of which commences no earlier than the date the pe-
32 tition or motion was served on the nonrequesting party, and the amount shall be considered a re-
33 quest for relief that has been decided by the general judgment for purposes of ORS 18.082 (3). In
34 making the spousal support order, the court shall designate one or more categories of spousal sup-
35 port and shall make findings of the relevant factors in the decision. The court may order:

36 (A) Transitional spousal support as needed for a party to attain education and training neces-
37 sary to allow the party to prepare for reentry into the job market or for advancement therein. The
38 factors to be considered by the court in awarding transitional spousal support include but are not
39 limited to:

- 40 (i) The duration of the marriage;
- 41 (ii) A party's training and employment skills;
- 42 (iii) A party's work experience;
- 43 (iv) The financial needs and resources of each party;
- 44 (v) The tax consequences to each party;
- 45 (vi) A party's custodial and child support responsibilities; and

1 (vii) Any other factors the court deems just and equitable.

2 (B) Compensatory spousal support when there has been a significant financial or other contri-
3 bution by one party to the education, training, vocational skills, career or earning capacity of the
4 other party and when an order for compensatory spousal support is otherwise just and equitable in
5 all of the circumstances. The factors to be considered by the court in awarding compensatory
6 spousal support include but are not limited to:

7 (i) The amount, duration and nature of the contribution;

8 (ii) The duration of the marriage;

9 (iii) The relative earning capacity of the parties;

10 (iv) The extent to which the marital estate has already benefited from the contribution;

11 (v) The tax consequences to each party; and

12 (vi) Any other factors the court deems just and equitable.

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

16 (i) The duration of the marriage;

17 (ii) The age of the parties;

18 (iii) The health of the parties, including their physical, mental and emotional condition;

19 (iv) The standard of living established during the marriage;

20 (v) The relative income and earning capacity of the parties, recognizing that the wage earner's
21 continuing income may be a basis for support distinct from the income that the supported spouse
22 may receive from the distribution 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 and child support responsibilities; and

28 (xi) Any other factors the court deems just and equitable.

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

31 (f) For the division or other disposition between the parties of the real or personal property, or
32 both, of either or both of the parties as may be just and proper in all the circumstances. In deter-
33 mining the division of property under this paragraph, the following apply:

34 (A) A retirement plan or pension or an interest therein shall be considered as property.

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

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

40 (D)(i) Property acquired by gift to one party during the marriage and separately held by that
41 party on a continuing basis from the time of receipt is not subject to a presumption of equal con-
42 tribution under subparagraph (C) of this paragraph.

43 (ii) For purposes of this subparagraph, "property acquired by gift" means property acquired by
44 one party through gift, devise, bequest, operation of law, beneficiary designation or inheritance.

45 (E) Subsequent to the filing of a petition for annulment or dissolution of marriage or separation,

1 the rights of the parties in the marital assets shall be considered a species of co-ownership, and a
2 transfer of marital assets under a judgment of annulment or dissolution of marriage or of separation
3 entered on or after October 4, 1977, shall be considered a partitioning of jointly owned property.

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

6 (G) In arriving at a just and proper division of property, the court shall consider reasonable
7 costs of sale of assets, taxes and any other costs reasonably anticipated by the parties.

8 (H)(i) If a party has been awarded spousal support in lieu of a share of property, the court shall
9 so state on the record and shall order the obligor to provide for and maintain life insurance in an
10 amount commensurate with the obligation and designating the obligee as beneficiary for the dura-
11 tion of the obligation.

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

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

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

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

29 (B) For the appointment of one or more trustees to hold, manage and control such amount of
30 money or such real or personal property of either or both of the parties, as may be set aside, allo-
31 cated or appropriated for the support of a party.

32 (C) For the establishment of the terms of the trust and provisions for the disposition or distrib-
33 ution of such money or property to or between the parties, their successors, heirs and assigns after
34 the purpose of the trust has been accomplished. Upon petition of a party or a person having an in-
35 terest in the trust showing a change of circumstances warranting a change in the terms of the trust,
36 the court may make and direct reasonable modifications in its terms.

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

39 (i) For a money award for any sums of money found to be then remaining unpaid upon any order
40 or limited judgment entered under ORS 107.095. If a limited judgment was entered under ORS
41 107.095, the limited judgment shall continue to be enforceable for any amounts not paid under the
42 limited judgment unless those amounts are included in the money award made by the general judg-
43 ment.

44 (j) For an award of reasonable attorney fees and costs and expenses reasonably incurred in the
45 action in favor of a party or in favor of a party's attorney.

1 (2) In determining the proper amount of support and the proper division of property under sub-
 2 section (1)(c), (d) and (f) of this section, the court may consider evidence of the tax consequences
 3 on the parties of its proposed judgment.

4 (3) Upon the filing of the judgment, the property division ordered shall be deemed effective for
 5 all purposes. This transfer by judgment, which shall affect solely owned property transferred to the
 6 other spouse as well as commonly owned property in the same manner as would a declaration of a
 7 resulting trust in favor of the spouse to whom the property is awarded, is not a taxable sale or ex-
 8 change.

9 (4) If an appeal is taken from a judgment of annulment or dissolution of marriage or of sepa-
 10 ration or from any part of a judgment rendered in pursuance of the provisions of ORS 107.005 to
 11 107.086, 107.095, 107.105, 107.115 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540 and 107.610,
 12 the court rendering the judgment may provide in a supplemental judgment for any relief provided
 13 for in ORS 107.095 and shall provide that the relief granted in the judgment is to be in effect only
 14 during the pendency of the appeal. A supplemental judgment under this subsection may be enforced
 15 as provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judgment under this sub-
 16 section may be appealed in the same manner as provided for supplemental judgments modifying a
 17 domestic relations judgment under ORS 19.275.

18 (5) If an appeal is taken from the judgment or other appealable order in a suit for annulment
 19 or dissolution of a marriage or for separation and the appellate court awards costs and disburse-
 20 ments to a party, the court may also award to that party, as part of the costs, such additional sum
 21 of money as it may adjudge reasonable as an attorney fee on the appeal.

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

32 **SECTION 2.** ORS 107.434 is amended to read:

33 107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting
 34 time enforcement procedure that may or may not include a requirement for mediation or partic-
 35 ipation in an alternative dispute resolution conference under ORS 107.103. The procedure must be
 36 easy to understand and initiate. Unless the parties otherwise agree or an alternative dispute resolu-
 37 tion conference under ORS 107.103 is scheduled, the court shall conduct a hearing no later than
 38 45 days after the filing of a motion seeking enforcement of a parenting time order. The court shall
 39 provide forms for:

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

43 (b) An order requiring the parties to appear and show cause why parenting time should not be
 44 enforced in a specified manner. The party filing the motion shall serve a copy of the motion and
 45 the order on the other party in the manner provided by law for service of a summons. The order

1 must include:

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

4 (B) A notice in substantially the following form:

5 _____
 6
 7 When pleaded and shown in a separate legal action, violation of court orders, including
 8 visitation and parenting time orders, may also result in a finding of contempt, which can lead to
 9 fines, imprisonment or other penalties, including compulsory community service.
 10 _____

11
 12 (c) A motion, supported by an affidavit or a declaration under penalty of perjury in the form
 13 required by ORCP 1 E, and an order that may be filed by either party and providing for waiver of
 14 any mediation requirement on a showing of good cause.

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

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

18 (A) Specifying a detailed parenting time schedule;

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

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

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

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

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

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

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

29 (g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11); or

30 **(h) Appoint an individual or a panel or designate a program, as described in ORS 107.425**
 31 **(3)(a), to assist the parties with implementing the parenting plan.**

32 **(3) In addition to any other remedy the court may impose to enforce the provisions of a**
 33 **judgment relating to a parenting plan, if the court finds that parenting time is not occurring**
 34 **as required in the parenting plan, the court shall:**

35 **(a) Impose remedies to ensure the parenting plan is immediately followed, regardless of**
 36 **whether the court finds that the deprivation of parenting time is wrongful; and**

37 **(b) If the court finds that a party has been deprived of over 21 consecutive days of**
 38 **scheduled parenting time:**

39 **(A) Order additional parenting time, immediately effective, to compensate for the de-**
 40 **prived days of parenting time; and**

41 **(B) Order the other party to post bond in the minimum amount of \$1,000.**

42 **(4) The court may only deny a party parenting time under this section if the court finds**
 43 **that ordering the parenting time would endanger the health or safety of the child or the**
 44 **court finds that the party wrongfully deprived the other party of more than 21 consecutive**
 45 **days of scheduled parenting time.**

1 **SECTION 3.** The amendments to ORS 107.105 and 107.434 by sections 1 and 2 of this 2025
2 Act apply to parenting time ordered or remedies imposed on or after the effective date of
3 this 2025 Act.

4
