

House Bill 2017

Sponsored by Representative BARNHART; Representatives BARKER, BUCKLEY, CLEM, HOLVEY, SCHAUFLE, WITT

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**.

Makes parent's ability to maintain smoke-free environment factor for determining custody of minor child.

A BILL FOR AN ACT

1
2 Relating to child custody; amending ORS 107.137.

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

4 **SECTION 1.** ORS 107.137 is amended to read:

5 107.137. (1) In determining custody of a minor child under ORS 107.105 or 107.135, the court
6 shall give primary consideration to the best interests and welfare of the child. In determining the
7 best interests and welfare of the child, the court shall consider the following relevant factors:

8 (a) The emotional ties between the child and other family members;

9 (b) The interest of the parties in and attitude toward the child;

10 (c) The desirability of continuing an existing relationship;

11 (d) The abuse of one parent by the other;

12 (e) The preference for the primary caregiver of the child, if the caregiver is deemed fit by the
13 court; and

14 (f) The willingness and ability of each parent to facilitate and encourage a close and continuing
15 relationship between the other parent and the child. However, the court may not consider such
16 willingness and ability if one parent shows that the other parent has sexually assaulted or engaged
17 in a pattern of behavior of abuse against the parent or a child and that a continuing relationship
18 with the other parent will endanger the health or safety of either parent or the child.

19 **(2) The court may consider a parent's ability to maintain a tobacco smoke-free environ-**
20 **ment for a minor child as a factor in determining custody of the child under ORS 107.105 or**
21 **107.135.**

22 [(2)] (3) The best interests and welfare of the child in a custody matter [*shall*] **may** not be de-
23 termined by isolating any one of the relevant factors referred to in subsection (1) of this section,
24 or any other relevant factor, and relying on it to the exclusion of other factors. However, if a parent
25 has committed abuse, as defined in ORS 107.705, there is a rebuttable presumption that it is not in
26 the best interests and welfare of the child to award sole or joint custody of the child to the parent
27 who committed the abuse.

28 [(3)] (4) In determining custody of a minor child under ORS 107.105 or 107.135, the court shall
29 consider the conduct, marital status, income, social environment or life style of either party only if
30 it is shown that any of these factors are causing or may cause emotional or physical damage to the
31 child.

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 [(4)] (5) [No] **A** preference in custody [*shall*] **may not** be given to the mother over the father for
2 the sole reason that she is the mother, nor [*shall*] **may** any preference be given to the father over
3 the mother for the sole reason that he is the father.

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