

House Bill 3102

Sponsored by COMMITTEE ON HEALTH CARE (at the request of Parkinson's Resources of Oregon, Oregon Council for Retired Citizens, United Seniors of Oregon, Gray Panthers of Oregon)

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**.

Allows married person to apply to court for order of support from spouse for purpose of establishing community spouse resource allowance as provided in federal law. Requires court to consider certain information in determining appropriate amount of support.

A BILL FOR AN ACT

1
2 Relating to community spouse resource allowance; amending ORS 108.110.

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

4 **SECTION 1.** ORS 108.110 is amended to read:

5 108.110. (1) **As used in this section, "child attending school" has the meaning given that**
6 **term in ORS 107.108.**

7 [(1)] (2) Any married person may apply to the circuit court of the county in which the married
8 person resides or in which the spouse may be found for an order upon the spouse to provide for
9 support of the married person or for the support of minor children and children attending school,
10 or both, and, if the married person initiating the action for support is a woman who is pregnant, her
11 unborn child, or both, if her spouse is the natural father of such children, children attending school
12 or unborn child or if her spouse is the adoptive father of such children or children attending school.

13 (3) **A married person, including a married person who resides in the same household as**
14 **the person's spouse, but not including a married person who permanently resides in a nurs-**
15 **ing facility, may apply to the circuit court of the county in which the married person resides**
16 **or in which the spouse may be found for an order of support as described in 42 U.S.C.**
17 **1396r-5(f) for the purpose of establishing the community spouse resource allowance for sup-**
18 **port of the married person whose spouse is applying for the medical assistance benefits**
19 **governed by 42 U.S.C. 1396r-5. The community spouse resource allowance must be an amount**
20 **that is adequate and reasonably related to the needs of the married person, in light of all the**
21 **facts. In determining the appropriate amount of support, the court shall consider the pre-**
22 **existing standard of living of the married person and the spouse, the resources and income**
23 **of the married person and the spouse, the return on investments of existing resources of the**
24 **married person and the spouse, the cost of living in the community, the married person's life**
25 **expectancy and the reasonable expenses the married person will incur over the person's life**
26 **expectancy. The court is not required to award the spouse's income as support to the mar-**
27 **ried person before awarding the spouse's resources as support.**

28 (4) The married person initiating the action for support may apply for the order by filing [*in*
29 *such county*] a petition setting forth the facts and circumstances upon which the married person
30 relies for such order. If satisfied that a just cause exists, the court [*shall*] **may** direct that the

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 married person's spouse appear at a time set by the court to show cause why an order of support
2 should not be entered in the matter. The provisions of ORS 107.108 apply to an order entered under
3 this section for the support of a child attending school.

4 [(2) *As used in this section, "child attending school" has the meaning given that term in ORS*
5 *107.108.*]

6 [(3) (5) The petitioner shall state in the petition, to the extent known:

7 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-
8 ceeding involving children of the marriage, including a proceeding brought under ORS 107.085,
9 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

10 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in
11 ORS 110.303, involving children of the marriage.

12 [(4) (6) The petitioner shall include with the petition a certificate regarding any pending sup-
13 port proceeding and any existing support order. The petitioner shall use a certificate that is in a
14 form established by court rule and include information required by court rule and subsection [(3)]
15 (5) of this section.

16 [(5) (7) The provisions of this section apply equally to cases where it is the husband making
17 application for a support order.

18 [(6) (8) In any proceeding under this section, the obligee, as that person is defined in ORS
19 110.303, is a party to the proceeding.

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