

Senate Bill 719

Sponsored by Senator WALKER (at the request of D.A.D.S. America)

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**.

Creates rebuttable presumption that, in child custody cases, parents shall have joint legal and physical custody of child. Adds procedures to be followed and factors to be considered when court determines custody of child.

Establishes procedures relating to relocation of one parent with child when parents have joint legal and physical custody of child. Addresses financial responsibilities of parties in child custody case.

Provides that judgment remedies for each installment of child support required under judgment expire six months after due date of installment if obligor and obligee agree to installment amount that is different from installment amount required under judgment. Provides exceptions.

A BILL FOR AN ACT

1
2 Relating to domestic relations; creating new provisions; amending ORS 107.105, 107.159, 107.169 and
3 109.175; and repealing ORS 107.137 and 107.179.

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

5 **SECTION 1. Recognizing the long history of traditional and statutory protections af-**
6 **forded child and parent bonds and recognizing the fundamental liberty interest parents enjoy**
7 **respecting the care, custody and companionship of their children, it is the Legislative As-**
8 **sembly's finding, with respect to this state's statutes related to marriage, to marital**
9 **annulment, dissolution or separation and to parent and child rights and relationships:**

10 (1) **That an intact, involved two-parent home provides the optimal environment through**
11 **which children grow into productive and responsible adult citizens.**

12 (2) **That parents are the primary guides for their children's development. Our society,**
13 **state and statutes provide secondary support to, and do not supplant, both parents in their**
14 **role as the primary shapers of their children.**

15 (3) **That mothers and fathers provide unique and invaluable contributions to the devel-**
16 **opment of their children. Each parent's contributions to the upbringing of the children are**
17 **indistinguishable and equally necessary to give the children the best opportunity to develop**
18 **into healthy citizens.**

19 (4) **That children should be separated from their parents only under the most compelling**
20 **and unusual circumstances necessary to protect the children from substantial and imminent**
21 **harm.**

22 (5) **That children should have frequent and continuing physical contact with both parents**
23 **under joint legal and physical custody arrangements when the parents live separately, in-**
24 **cluding after marital annulment, dissolution or separation. The proper role of the state in**
25 **this situation is to interfere to the least degree in familial relationships with the specific**
26 **purpose of preserving maximum time allocations between parents and their children.**

27 (6) **That parents should be encouraged to reach any agreement allocating parenting time**

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 that is mutually acceptable and reflects each parent’s circumstances. When parents cannot
 2 reach an agreement allocating parenting time, it is the Legislative Assembly’s intention that
 3 there be a rebuttable presumption that parents shall have joint physical custody of their
 4 children. “Joint physical custody of their children” means that parents share equal parent-
 5 ing time with their children.

6 (7) That the judiciary, in contested child custody proceedings, should consistently apply
 7 the presumption described in subsection (6) of this section so that parents develop no per-
 8 ception that there is an advantage to be gained by proceeding to an adversarial hearing on
 9 custody or parenting time matters.

10 (8) That section 3 of this 2007 Act should be applied so as to discourage situations in
 11 which children become alienated from a parent because of a geographical relocation away
 12 from the parent.

13 (9) That state policy and children’s well-being are furthered by recognizing both parents’
 14 fundamental liberty interest in the care, custody and companionship of their children.

15 **SECTION 2.** ORS 107.169 is amended to read:

16 107.169. *[(1) As used in this chapter, “joint custody” means an arrangement by which parents share*
 17 *rights and responsibilities for major decisions concerning the child, including, but not limited to, the*
 18 *child’s residence, education, health care and religious training. An order providing for joint custody*
 19 *may specify one home as the primary residence of the child and designate one parent to have sole power*
 20 *to make decisions about specific matters while both parents retain equal rights and responsibilities for*
 21 *other decisions.]*

22 *[(2) The existence of an order of joint custody shall not, by itself, determine the responsibility of*
 23 *each parent to provide for the support of the child.]*

24 *[(3) The court shall not order joint custody, unless both parents agree to the terms and conditions*
 25 *of the order.]*

26 *[(4) When parents have agreed to joint custody in an order or a judgment, the court may not*
 27 *overrule that agreement by ordering sole custody to one parent.]*

28 *[(5) Modification of a joint custody order shall require showing of changed circumstances and a*
 29 *showing that the modification is in the best interests of the child such as would support modification*
 30 *of a sole custody order. Inability or unwillingness to continue to cooperate shall constitute a change*
 31 *of circumstances sufficient to modify a joint custody order.]*

32 (1) **As used in this section:**

33 (a) **“Joint custody of the child” means joint legal and physical custody of the child.**

34 (b) **“Joint legal custody of the child” means that parents share decision-making authority**
 35 **and responsibility relating to the important decisions affecting their child’s welfare, including**
 36 **the child’s education, upbringing and religious training.**

37 (c) **“Joint physical custody of the child” means that parents share equal parenting time**
 38 **with their child.**

39 (2) **In determining the custody of a minor child under ORS 107.105 or 107.135 or in cases**
 40 **involving unmarried parents, there is a rebuttable presumption that parents shall have joint**
 41 **custody of their child.**

42 (3) **The burden of rebutting the presumption rests on the parent challenging the**
 43 **presumption. The presumption may be rebutted only by showing, by clear and convincing**
 44 **evidence, an unfitness of the other parent that would cause substantial harm to the child.**

45 (4) **Except as provided in ORS 107.097 (3) and 107.700 to 107.735 and subsection (5) of this**

1 section, during the pendency of an action for marital annulment, dissolution or separation
2 or the pendency of a child custody proceeding involving unmarried parents:

3 (a) If the parents were residing together before the petition was filed, in any temporary
4 order the court shall order joint custody of the child while the temporary order is in effect.

5 (b) If the parents were not residing together before the petition was filed, in any tempo-
6 rary order the court shall order joint legal custody of the child and shall include a reason-
7 able, specified timetable to establish joint physical custody of the child as soon as possible.

8 (5) Subsection (4) of this section does not apply if the court finds from clear and con-
9 vincing evidence that:

10 (a) Neither parent wants joint custody of their child; or

11 (b) It is not possible, because of geographical distance or because of a parent's mental
12 or physical disability, for the parents to have joint legal custody of the child or joint physical
13 custody of the child.

14 (6) In an action for marital annulment, dissolution or separation or a child custody pro-
15 ceeding involving unmarried parents, allegations of substance, spousal or child abuse or
16 neglect and any issuance of protective orders are not sufficient to cause cessation or re-
17 duction of parent-child contact. In the action or proceeding, if the court makes a written
18 finding, based on clear and convincing evidence, of substantiated abuse or neglect, the court
19 may order legal or physical custody of the child to one parent.

20 (7) Knowingly making false allegations of substance, spousal or child abuse or neglect is
21 sufficient grounds to challenge the parental fitness of the parent making the allegations. In
22 custody proceedings the court shall give heightened scrutiny to the veracity of allegations
23 of substance, spousal or child abuse or neglect.

24 (8) The state shall consider all substance, spousal or child abuse or neglect allegations
25 as criminal complaints, affording the accused all rights and due process of law available to
26 those criminally accused.

27 (9) Video and audio recordings are admissible to establish ongoing patterns of substance,
28 spousal or child abuse or neglect.

29 (10) Unless the court orders otherwise, the parents shall share decision-making authority
30 and responsibility as to the important decisions affecting the child's welfare. When the par-
31 ents are unable to agree on these decisions, the parents shall submit to and abide by the
32 decisions of a preselected arbitrator.

33 (11) The court shall require parents to prepare and submit a parenting plan to the court
34 reflecting parental preferences and agreement on the matters of substance relating to the
35 child's education, upbringing and religious training.

36 (12) In any adversarial custody hearing in which the presumption of joint custody of the
37 child has been rebutted, the court shall make written findings of fact and conclusions of law
38 in the court's order or judgment, including written findings of fact on the factors listed in
39 subsection (13) of this section.

40 (13) In making a determination of parental fitness under this section, the court shall
41 consider all the following factors:

42 (a) The capacity and disposition of the parents to give the child love, affection, guidance
43 and protection.

44 (b) The capacity and disposition of the parents to continue the academic and religious
45 education of the child.

1 (c) The capacity and disposition of the parents to provide the child with food, clothing
2 and medical care.

3 (d) The mental and physical health of the parents and other household members. When
4 a mental health evaluation is requested of one parent and the court orders an evaluation,
5 the court shall order an evaluation of the other parent.

6 (e) The home, school and community behavior of the child.

7 (f) The willingness and ability of one parent to facilitate and encourage a close and con-
8 tinuing relationship between the child and the other parent.

9 (g) Such other factors as the court may consider appropriate under the circumstances
10 of the case.

11 (14) When the court has ordered joint custody of the child, the court shall order the
12 parents to alternate the tax deductions, exemptions and credits related to the child each
13 year. If a parent violates the court's order to alternate the tax deductions, exemptions and
14 credits, then notwithstanding the court's order the other parent is eligible to claim the tax
15 deductions, exemptions and credits in the following two tax years.

16 [(6)(a)] (15)(a) The inability of a parent to comply with the terms and conditions of a joint cus-
17 tody order due to the parent's temporary absence does not constitute a change of circumstances if
18 the parent's temporary absence is caused by the parent being:

19 (A) Called into active state duty as defined in ORS 398.002; or

20 (B) Called into active federal service under Title 10 of the United States Code as a member of
21 the Oregon National Guard.

22 (b) As used in this subsection, "temporary absence" means a period not exceeding 30 consec-
23 utive months.

24 **SECTION 3.** (1) Except as otherwise provided in this section, when parents have joint
25 custody of the child, as defined in ORS 107.169, relocation of a parent with the child may take
26 place only by agreement of the parents. If the parents do not agree on the relocation, the
27 burden is on the relocating parent to obtain a court order, as provided in this section, per-
28 mitting the relocation. For purposes of this section, the move of a parent with a child from
29 the child's existing school district is a relocation.

30 (2) The parent who intends to relocate with the child shall:

31 (a) File a motion to relocate and a revised parenting plan with the clerk of the court that
32 issued the joint custody order or judgment or that has current jurisdiction over child custody
33 proceedings; and

34 (b) Serve a copy of the motion and parenting plan by registered or certified mail, return
35 receipt requested on the nonrelocating parent no later than 90 days before the date the re-
36 locating parent intends to move.

37 (3) No later than 30 days after receipt of the motion and parenting plan from the relo-
38 cating parent, to contest the relocation the nonrelocating parent shall:

39 (a) File with the court an objection and may file a revised parenting plan; and

40 (b) Send a copy of the objection and the nonrelocating parent's revised parenting plan
41 by first class mail to the relocating parent.

42 (4) If the nonrelocating parent does not object to the motion to relocate, the court may
43 approve the relocation of the parent with the child without a hearing.

44 (5) If the nonrelocating parent files an objection to the motion to relocate, the court shall
45 refer the matter for mediation under ORS 107.755 to 107.795 and order the parents to submit

1 their revised parenting plans to the mediator. If within 30 days after the referral the parents
 2 are unable to resolve their differences through mediation, the court may, after an
 3 evidentiary hearing, issue a revised parenting plan with written findings in accordance with
 4 the considerations set forth in subsection (6) of this section. The relocating parent has the
 5 burden of proof at the hearing.

6 (6) In determining whether to approve a parent’s relocation with the child, the court
 7 shall give equal consideration to all of the following:

8 (a) Whether the child will lose substantial contact and joy with and substantial rearing
 9 by the nonrelocating parent;

10 (b) Whether the relocation with the child would improve the general quality of life for
 11 the child, giving primary consideration to the disruption caused to the day-to-day relation-
 12 ship between the nonrelocating parent and the child;

13 (c) The relocating parent’s motives for seeking the relocation;

14 (d) Whether the costs of transportation or the costs associated with the revised parent-
 15 ing plan are affordable by both parents;

16 (e) Whether the relocation with the child will cause undue hardship on the nonrelocating
 17 parent;

18 (f) Whether the relocation will result in increased or decreased access to extended family
 19 support; and

20 (g) The effects of the relocation on the child, including whether the relocation is harmful
 21 to the health or well-being of the child.

22 (7) If the relocating parent moves with the child before a revised parenting plan has been
 23 agreed to by the parents or before the court has approved the relocation and a revised par-
 24 enting plan, the relocation is grounds for the nonrelocating parent to request and the court
 25 to award sole custody of the child to the nonrelocating parent. The provisions of ORS 107.169
 26 (13) apply to a request for sole custody of the child under this subsection.

27 **SECTION 4.** ORS 107.159 is amended to read:

28 107.159. (1) In any court order or judgment granting custody of a minor child and parenting time
 29 or visitation rights relating to the child, except for an order under ORS 107.700 to 107.735, the court
 30 shall include in its order a provision requiring that neither parent may move to a residence more
 31 than 60 miles [*further*] **farther** distant from the other parent without giving the other parent rea-
 32 sonable notice of the change of residence and providing a copy of [*such*] **the** notice to the court.

33 (2) Notwithstanding subsection (1) of this section, a parent is not required to give notice of a
 34 change of residence if the court, upon ex parte or other motion of the parent and for good cause,
 35 enters an order suspending the requirement.

36 (3) When parents have been granted joint custody of the child, as defined in ORS 107.169,
 37 this section does not apply and section 3 of this 2007 Act applies.

38 **SECTION 5.** In a proceeding regarding child custody under ORS 107.169 or a proceeding
 39 regarding a parent’s relocation with the child under section 3 of this 2007 Act:

40 (1) Each parent is financially responsible for the parent’s own attorney fees,
 41 notwithstanding ORS 107.105, 107.135, 107.445 and 109.237.

42 (2) The relocating parent is responsible for all court costs.

43 (3) Both parents are equally responsible for all mediation or arbitration costs,
 44 notwithstanding ORS 107.775.

45 **SECTION 6.** ORS 107.137 and 107.179 are repealed.

1 **SECTION 7.** ORS 107.105 is amended to read:

2 107.105. (1) Whenever the court renders a judgment of marital annulment, dissolution or separation,
3 the court may provide in the judgment:

4 (a) For the future care and custody, by one party or jointly, of all minor children of the parties
5 born, adopted or conceived during the marriage, and for minor children born to the parties prior to
6 the marriage, as the court may deem just and proper under ORS [107.137] **107.169**. The court may
7 hold a hearing to decide the custody issue prior to any other issues. When appropriate, the court
8 shall recognize the value of close contact with both parents and encourage joint parental custody
9 and joint responsibility for the welfare of the children.

10 (b) For parenting time rights of the parent not having custody of such children, and for
11 visitation rights pursuant to a petition filed under ORS 109.119. When a parenting plan has been
12 developed as required by ORS 107.102, the court shall review the parenting plan and, if approved,
13 incorporate the parenting plan into the court's final order. When incorporated into a final order, the
14 parenting plan is determinative of parenting time rights. If the parents have been unable to develop
15 a parenting plan or if either of the parents requests the court to develop a detailed parenting plan,
16 the court shall develop the parenting plan in the best interest of the child, ensuring the noncustodial
17 parent sufficient access to the child to provide for appropriate quality parenting time and assuring
18 the safety of the parties, if implicated. The court may deny parenting time to the noncustodial parent
19 under this subsection only if the court finds that parenting time would endanger the health or
20 safety of the child. The court shall recognize the value of close contact with both parents and encourage,
21 when practicable, joint responsibility for the welfare of such children and extensive contact
22 between the minor children of the divided marriage and the parties. If the court awards parenting
23 time to a noncustodial parent who has committed abuse, the court shall make adequate provision for
24 the safety of the child and the other parent in accordance with the provisions of ORS 107.718 (6).

25 (c) For the support of the children of the marriage by the parties. In ordering child support, the
26 formula established by ORS 25.270 to 25.287 shall apply. The court may at any time require an accounting
27 from the custodial parent with reference to the use of the money received as child support.
28 The court is not required to order support for any minor child who has become self-supporting,
29 emancipated or married, or who has ceased to attend school after becoming 18 years of age.

30 (d) For spousal support, an amount of money for a period of time as may be just and equitable
31 for one party to contribute to the other, in gross or in installments or both. The court may approve
32 an agreement for the entry of an order for the support of a party. In making the spousal support
33 order, the court shall designate one or more categories of spousal support and shall make findings
34 of the relevant factors in the decision. The court may order:

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

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

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

- 6 (i) The amount, duration and nature of the contribution;
- 7 (ii) The duration of the marriage;
- 8 (iii) The relative earning capacity of the parties;
- 9 (iv) The extent to which the marital estate has already benefited from the contribution;
- 10 (v) The tax consequences to each party; and
- 11 (vi) Any other factors the court deems just and equitable.

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

- 15 (i) The duration of the marriage;
- 16 (ii) The age of the parties;
- 17 (iii) The health of the parties, including their physical, mental and emotional condition;
- 18 (iv) The standard of living established during the marriage;
- 19 (v) The relative income and earning capacity of the parties, recognizing that the wage earner's
20 continuing income may be a basis for support distinct from the income that the supported spouse
21 may receive from the distribution of marital property;
- 22 (vi) A party's training and employment skills;
- 23 (vii) A party's work experience;
- 24 (viii) The financial needs and resources of each party;
- 25 (ix) The tax consequences to each party;
- 26 (x) A party's custodial and child support responsibilities; and
- 27 (xi) Any other factors the court deems just and equitable.

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

30 (f) For the division or other disposition between the parties of the real or personal property, or
31 both, of either or both of the parties as may be just and proper in all the circumstances. A retire-
32 ment plan or pension or an interest therein shall be considered as property. The court shall consider
33 the contribution of a spouse as a homemaker as a contribution to the acquisition of marital assets.
34 There is a rebuttable presumption that both spouses have contributed equally to the acquisition of
35 property during the marriage, whether such property is jointly or separately held. Subsequent to the
36 filing of a petition for annulment or dissolution of marriage or separation, the rights of the parties
37 in the marital assets shall be considered a species of coownership, and a transfer of marital assets
38 under a judgment of annulment or dissolution of marriage or of separation entered on or after Oc-
39 tober 4, 1977, shall be considered a partitioning of jointly owned property. The court shall require
40 full disclosure of all assets by the parties in arriving at a just property division. In arriving at a
41 just and proper division of property, the court shall consider reasonable costs of sale of assets, taxes
42 and any other costs reasonably anticipated by the parties. If a spouse has been awarded spousal
43 support in lieu of a share of property, the court shall so state on the record, and shall order the
44 obligor to provide for and maintain life insurance in an amount commensurate with the obligation
45 and designating the obligee as beneficiary for the duration of the obligation. If the obligor dies prior

1 to the termination of such support and such insurance is not in force, the court may modify the
2 method of payment of spousal support under the judgment or order of support from installments to
3 a lump sum payment to the obligee from the estate of the obligor in an amount commensurate with
4 the present value of the spousal support at the time of death. The obligee or attorney of the obligee
5 shall cause a certified copy of the judgment to be delivered to the life insurance company or com-
6 panies. If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life
7 insurance company or companies, identifying the policies involved and requesting such notification
8 under this section, the company or companies shall notify the obligee, as beneficiary of the insur-
9 ance policy, whenever the policyholder takes any action that will change the beneficiary or reduce
10 the benefits of the policy. Either party may request notification by the insurer when premium
11 payments have not been made. If the obligor is ordered to provide for and maintain life insurance,
12 the obligor shall provide to the obligee a true copy of the policy. The obligor shall also provide to
13 the obligee written notice of any action that will reduce the benefits or change the designation of
14 the beneficiaries under the policy.

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

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

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

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

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

31 (i) For a money award for any sums of money found to be then remaining unpaid upon any order
32 or limited judgment entered under ORS 107.095. If a limited judgment was entered under ORS
33 107.095, the limited judgment shall continue to be enforceable for any amounts not paid under the
34 limited judgment unless those amounts are included in the money award made by the general judg-
35 ment.

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

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

41 (3) Upon the filing of the judgment, the property division ordered shall be deemed effective for
42 all purposes. This transfer by judgment, which shall effect solely owned property transferred to the
43 other spouse as well as commonly owned property in the same manner as would a declaration of a
44 resulting trust in favor of the spouse to whom the property is awarded, shall not be deemed a tax-
45 able sale or exchange.

1 (4) If an appeal is taken from a judgment of annulment or dissolution of marriage or of sepa-
2 ration or from any part of a judgment rendered in pursuance of the provisions of ORS 107.005 to
3 107.086, 107.095, 107.105, 107.115 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540 and 107.610,
4 the court rendering the judgment may provide in a supplemental judgment for any relief provided
5 for in ORS 107.095 and shall provide that the relief granted in the judgment is to be in effect only
6 during the pendency of the appeal. A supplemental judgment under this subsection may be enforced
7 as provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judgment under this sub-
8 section may be appealed in the same manner as provided for supplemental judgments modifying a
9 domestic relations judgment under ORS 19.275.

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

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

24 **SECTION 8.** ORS 109.175 is amended to read:

25 109.175. (1) If paternity of a child born out of wedlock is established pursuant to a petition filed
26 under ORS 109.125 or an order or judgment entered pursuant to ORS 109.124 to 109.230 or ORS
27 416.400 to 416.465, or if paternity is established by the filing of a voluntary acknowledgment of
28 paternity as provided by ORS 109.070 (1)(d), the parent with physical custody at the time of filing
29 of the petition or the notice under ORS 416.415, or the parent with physical custody at the time of
30 the filing of the voluntary acknowledgment of paternity, has sole legal custody until a court specif-
31 ically orders otherwise. The first time the court determines who should have legal custody, neither
32 parent shall have the burden of proving a change of circumstances. The court shall *[give primary*
33 *consideration to the best interests and welfare of the child and shall consider all the standards set out*
34 *in ORS 107.137]* **apply ORS 107.169.**

35 (2) In any proceeding under this section, the court may cause an investigation, examination or
36 evaluation to be made under ORS 107.425 or may appoint an individual or a panel or may designate
37 a program to assist the court in creating parenting plans or resolving disputes regarding parenting
38 time and to assist parents in creating and implementing parenting plans under ORS 107.425 (3).

39 **SECTION 9.** ORS 109.175, as amended by section 21, chapter 160, Oregon Laws 2005, is
40 amended to read:

41 109.175. (1) If paternity of a child born out of wedlock is established pursuant to a petition filed
42 under ORS 109.125 or an order or judgment entered pursuant to ORS 109.124 to 109.230 or ORS
43 416.400 to 416.465, or if paternity is established by the filing of a voluntary acknowledgment of
44 paternity as provided by ORS 109.070 (1)(e), the parent with physical custody at the time of filing
45 of the petition or the notice under ORS 416.415, or the parent with physical custody at the time of

1 the filing of the voluntary acknowledgment of paternity, has sole legal custody until a court specif-
2 ically orders otherwise. The first time the court determines who should have legal custody, neither
3 parent shall have the burden of proving a change of circumstances. The court shall [*give primary*
4 *consideration to the best interests and welfare of the child and shall consider all the standards set out*
5 *in ORS 107.137*] **apply ORS 107.169.**

6 (2) In any proceeding under this section, the court may cause an investigation, examination or
7 evaluation to be made under ORS 107.425 or may appoint an individual or a panel or may designate
8 a program to assist the court in creating parenting plans or resolving disputes regarding parenting
9 time and to assist parents in creating and implementing parenting plans under ORS 107.425 (3).

10 **SECTION 10. (1) Notwithstanding ORS 18.180 (5) and 18.192, if an obligor and obligee**
11 **agree to an installment amount of child support that is different from the amount required**
12 **under the child support award portion of a judgment, judgment remedies, as defined in ORS**
13 **18.005, for each installment of child support due under the judgment expire six months after**
14 **the due date of the installment.**

15 (2) **This section does not apply if the support payments are required to be made to the**
16 **Department of Justice under ORS 25.020.**

17
