

# House Bill 2848

Sponsored by Representative THOMPSON (at the request of Matt Minahan, Dads 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**.

Directs court to hold parent who is willfully depriving other parent of other parent's share of time with child in violation of parenting plan in contempt of court.

Allows court to impose \$500 minimum fine to enforce provisions of judgment relating to parenting plan.

## A BILL FOR AN ACT

Relating to violations of parenting time plan; creating new provisions; and amending ORS 107.434.

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

**SECTION 1.** ORS 107.434 is amended to read:

107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting time enforcement procedure that may or may not include a requirement for mediation. The procedure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a parenting time order. The court shall charge a filing fee of \$50, subject to waiver or deferral of the fee under ORS 21.680 to 21.698. The court shall provide forms for:

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

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

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

(B) A notice in substantially the following form:

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

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(c) A motion, affidavit and order that may be filed by either party and providing for waiver of any mediation requirement on a showing of good cause.

**(2) If a court finds that a parent is willfully depriving the other parent of parenting time in violation of the provisions of a judgment relating to the parenting plan without clear and**

**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 **convincing evidence in the record to justify the deprivation, the court shall hold the violating**  
2 **parent in contempt as provided in ORS 33.015 to 33.155.**

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

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

6 (A) Specifying a detailed parenting time schedule;

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

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

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

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

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

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

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

17 (g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11)[.]; or

18 **(h) Impose a \$500 minimum fine that will stop accumulating or be partially or entirely**  
19 **forgiven when the party complies with the court's judgment or order.**

20 **SECTION 2. The amendments to ORS 107.434 by section 1 of this 2009 Act apply to vio-**  
21 **lations of parenting plans occurring on or after the effective date of this 2009 Act.**

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