

House Bill 3402

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**.

Establishes state policy and creates rebuttable presumption in child custody cases that joint legal custody and joint physical custody are in best interests of children.

Adds procedures to be followed and factors to be considered when court determines temporary and permanent custody of child.

Requires court to hold parent who is willfully depriving other parent of parenting time without justification in contempt.

Requires State Court Administrator to collect statistics on individuals held in contempt for failure to pay child support.

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.

A BILL FOR AN ACT

1
2 Relating to domestic relations; creating new provisions; amending ORS 107.095, 107.097, 107.101,
3 107.105, 107.159, 107.169, 107.434, 107.722, 107.755, 109.119 and 109.175; and repealing ORS
4 107.137, 107.138 and 107.179.

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

6 **SECTION 1.** ORS 107.101 is amended to read:

7 107.101. It is the policy of this state to:

8 (1) Assure minor children of frequent and continuing contact with parents who have shown the
9 ability to act in the best interests of the child;

10 (2) Encourage such parents to share in the rights and responsibilities of raising their children
11 after the parents have separated or dissolved their marriage;

12 **(3) Presume that joint legal custody and joint physical custody are in the best interests**
13 **of children;**

14 [(3)] (4) Encourage parents to develop their own parenting plan with the assistance of legal and
15 mediation professionals, if necessary;

16 [(4)] (5) Grant parents and courts the widest discretion in developing a parenting plan; and

17 [(5)] (6) Consider the best interests of the child and the safety of the parties in developing a
18 parenting plan.

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

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

26 [(2) *The existence of an order of joint custody shall not, by itself, determine the responsibility of*

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 *each parent to provide for the support of the child.]*

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

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

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

10 **(1) As used in this chapter:**

11 **(a) “Joint custody” means joint legal custody and joint physical custody of the parents’**
 12 **minor child.**

13 **(b) “Joint legal custody” means that the parents share authority and responsibility for**
 14 **the major decisions concerning a child’s upbringing, including the child’s residence or resi-**
 15 **dences, education, health care and religious training. “Joint legal custody” does not include**
 16 **an equal sharing of physical custody of the child.**

17 **(c) “Joint physical custody” means that the parents share physical custody of a child as**
 18 **equally as practicable.**

19 **(2) As used in this section, “parent” includes:**

20 **(a) A biological or adoptive parent;**

21 **(b) A person who has a child-parent relationship or an ongoing personal relationship with**
 22 **a child, as those terms are defined in ORS 109.119; and**

23 **(c) A man whose paternity has been established under ORS 109.070, 109.124 to 109.230 or**
 24 **416.400 to 416.465.**

25 **(3) In determining the custody of a minor child under ORS 107.105, 107.135, 109.103 or**
 26 **109.119, the court shall give primary consideration to the best interests of the child. In de-**
 27 **termining the best interests of the child, there is a rebuttable presumption that joint custody**
 28 **is in the best interests of the child.**

29 **(4) In determining whether the presumption under subsection (3) of this section has been**
 30 **rebutted, the court shall consider all relevant factors, including the following:**

31 **(a) The capacity and disposition of the parents to provide the child with love, affection,**
 32 **guidance and protection.**

33 **(b) The capacity and disposition of the parents to provide academic and religious educa-**
 34 **tion for the child.**

35 **(c) The capacity and disposition of the parents to provide food, clothing and medical care**
 36 **for the child.**

37 **(d) The capacity and disposition of each of the parents to facilitate and encourage a close**
 38 **and continuing relationships between the child and the other parent.**

39 **(e) Whether a parent has knowingly and falsely accused the other parent of substance,**
 40 **spousal or child abuse or neglect.**

41 **(f) The child’s adjustment to the child’s home, school and community.**

42 **(g) The mental and physical health of the parents and the child.**

43 **(h) Evidence that the child has been cared for by a person who has a child-parent re-**
 44 **lationship or an ongoing personal relationship with the child, as those terms are defined in**
 45 **ORS 109.119, if that person has filed a petition or motion under ORS 109.119.**

1 (i) Any other factors the court may consider appropriate under the circumstances of the
 2 case.

3 (5) The burden of rebutting the presumption in subsection (3) of this section is on the
 4 parent challenging the presumption. The presumption must be rebutted by clear and con-
 5 vincing evidence that:

6 (a) Joint legal custody or joint physical custody are not in the best interests of the child
 7 after full consideration of the factors listed in subsection (4) of this section; and

8 (b) That the other parent’s lack or inability with respect to any of the factors listed in
 9 subsection (4) of this section will cause substantial risk of harm to the child’s health or
 10 safety.

11 (6) The court may not order an examination of one parent under ORS 107.425 (2) unless
 12 the court orders an examination of both parents.

13 (7) If the court finds that the presumption in subsection (3) of this section has been re-
 14 butted, the court shall make written findings of fact and conclusions of law as to the factors
 15 listed in subsection (4) of this section and the reasons why joint legal custody or joint phys-
 16 ical custody are not in the best interests of the child.

17 (8) The presumption in subsection (2) of this section does not apply if the court finds
 18 from clear and convincing evidence that:

19 (a) One or both parents do not want joint custody of the child; or

20 (b) It is not possible, because of geographical distance or because of a parent’s mental
 21 or physical disability, for the parents to have joint custody of the child.

22 (9) In any court order or judgment granting joint custody of a minor child, except for an
 23 order under ORS 107.700 to 107.735, the court shall include a provision that, if the parents
 24 are unable to agree on the major decisions concerning the child’s upbringing, including the
 25 child’s residence or residences, education, health care and religious training, or on the allo-
 26 cation of parenting time each parent has with the child, the parents shall submit the issue
 27 to a mediator, arbitrator, or individual, panel or program under ORS 107.425 (3) selected by
 28 the parties or the court. The name of the mediator or arbitrator, or the individual, panel or
 29 program under ORS 107.425 (3), must be indicated in the order or judgment. The order or
 30 judgment for joint custody of a child may not be entered without the parties’ agreement to
 31 comply with the requirements of this subsection, to be bound by the decision of the mediator,
 32 arbitrator, individual, panel or program and to share equally any fees and costs incurred.

33 [(6)(a)] (10)(a) The inability of a parent to comply with the terms and conditions of a joint cus-
 34 tody order due to the parent’s temporary absence does not constitute a change of circumstances if
 35 the parent’s temporary absence is caused by the parent being:

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

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

39 (b) As used in this subsection, “temporary absence” means a period not exceeding 30 consec-
 40 utive months.

41 **SECTION 3.** ORS 107.095 is amended to read:

42 107.095. (1) After the commencement of a suit for marital annulment, dissolution or separation
 43 and until a general judgment therein, the court may provide as follows:

44 (a) That a party pay to the clerk of the court such amount of money as may be necessary to
 45 enable the other party to prosecute or defend the suit, including costs of expert witnesses, and also

1 such amount of money to the Department of Justice, court clerk or court administrator, whichever
 2 is appropriate, as may be necessary to support and maintain the other party.

3 (b) *[For the care, custody, support and maintenance, by one party or jointly, of the minor children*
 4 *as described in ORS 107.105 (1)(a) and for the parenting time rights as described in ORS 107.105 (1)(b)*
 5 *of the parent not having custody of such children.]* **For joint custody, support and maintenance**
 6 **of the parties' minor children. To the greatest extent practicable, the court shall allocate an**
 7 **equal amount of parenting time to each parent taking into consideration the daily schedule**
 8 **of the child and the amount of time the child spent with each parent prior to commencement**
 9 **of the suit.**

10 (c) **Subject to ORS 107.097 and 107.700 to 107.735 and section 6 of this 2009 Act**, for the
 11 restraint of a party from molesting or interfering in any manner with the other party or the minor
 12 children.

13 (d) **Subject to paragraph (b) of this subsection**, that if minor children reside in the family
 14 home and the court considers it necessary for their best interest to do so, the court may require
 15 either party to move out of the home for such period of time and under such conditions as the court
 16 may determine, whether the home is rented, owned or being purchased by one party or both parties.

17 (e) Restraining and enjoining either party or both from encumbering or disposing of any of the
 18 real or personal property of either or both of the parties, except as ordered by the court.

19 (f) For the temporary use, possession and control of the real or personal property of the parties
 20 or either of them and the payment of installment liens and encumbrances thereon.

21 (g) That even if no minor children reside in the family home, the court may require one party
 22 to move out of the home for such period of time and under such conditions as the court determines,
 23 whether the home is rented, owned or being purchased by one party or both parties if that party
 24 assaults or threatens to assault the other.

25 (2) A limited judgment under ORS chapter 18 may be entered in an action for dissolution or
 26 annulment of a marriage providing for a support award, as defined by ORS 18.005, or other money
 27 award, as defined by ORS 18.005. Notwithstanding ORS 19.255, a limited judgment entered under this
 28 subsection may not be appealed. Any decision of the court in a limited judgment subject to this
 29 subsection may be appealed as otherwise provided by law upon entry of a general judgment.

30 (3) The court shall not require an undertaking in case of the issuance of an order under sub-
 31 section (1)(c), (d), (e), (f) or (g) of this section.

32 (4) In a suit for annulment or dissolution of marriage or for separation, wherein the parties are
 33 copetitioners or the respondent is found by the court to be in default or the respondent having ap-
 34 peared has waived further appearance or the parties stipulate to the entry of a judgment, the court
 35 may, when the cause is otherwise ready for hearing on the merits, in lieu of such hearing, enter a
 36 judgment of annulment or dissolution or for separation based upon a current affidavit of the
 37 petitioner or copetitioners, setting forth a prima facie case, and covering such additional matters
 38 as the court may require. If child support or custody of minor children is involved, then the affidavit
 39 also shall include:

40 (a) The gross monthly income of each party, to the best of the affiant's knowledge; and

41 (b) The name of the party with whom the children currently reside and the length of time they
 42 have so resided.

43 (5) When a court orders relief under subsection (1)(c) or (d) of this section, the court may in-
 44 clude in its order an expiration date for the order to allow entry of the order into the Law
 45 Enforcement Data System and the databases of the National Crime Information Center of the United

1 States Department of Justice as provided in ORS 107.720. If the person being restrained was pro-
2 vided notice and an opportunity to be heard, the court shall also include in the order, when appro-
3 priate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) or (g)(8) to affect the person’s ability
4 to possess firearms and ammunition or engage in activities involving firearms.

5 **SECTION 4.** ORS 107.097 is amended to read:

6 107.097. (1) Except as otherwise provided in subsection [(3)] (2) of this section, a court may not
7 enter ex parte a temporary order under ORS 107.095, 109.103 or 109.119 providing for the custody
8 of, or parenting time with, a child.

9 [(2)(a) A party may apply to a court for a temporary protective order of restraint by filing with the
10 court an affidavit conforming to the requirements of ORS 109.767.]

11 [(b) Upon receipt of an application under this subsection, the court may issue a temporary protec-
12 tive order of restraint restraining and enjoining each party from:]

13 [(A) Changing the child’s usual place of residence;]

14 [(B) Interfering with the present placement and daily schedule of the child;]

15 [(C) Hiding or secreting the child from the other party;]

16 [(D) Interfering with the other party’s usual contact and parenting time with the child;]

17 [(E) Leaving the state with the child without the written permission of the other party or the per-
18 mission of the court; or]

19 [(F) In any manner disturbing the current schedule and daily routine of the child until custody or
20 parenting time has been determined.]

21 [(c) A copy of the order and the supporting affidavit must be served on the other party in the
22 manner of service of a summons under ORCP 7. The order must include the following statement:]

23 [_____]

24
25 *Notice: You may request a hearing on this order as long as it remains in effect by filing with the*
26 *court a request for a hearing. In the request you must tell the court and the other party that you object*
27 *to the order and specifically why you disagree with the representation of the status quo described in*
28 *the order. In the request you must also inform the court of your telephone number or contact number*
29 *and your current residence, mailing or contact address.*

30 [_____]

31
32 [(3)(a)] (2)(a) A court may enter ex parte a temporary order providing for the custody of, or
33 parenting time with, a child if:

34 (A) The party requesting an order is present in court and presents an affidavit alleging that the
35 child is in immediate danger; and

36 (B) The court finds, based on the facts presented in the party’s testimony and affidavit and in
37 the testimony of the other party, if the other party is present, that the child is in immediate danger.

38 (b) The party requesting an order under this subsection shall provide the court with telephone
39 numbers where the party can be reached at any time during the day and a contact address.

40 (c) A copy of the order and the supporting affidavit must be served on the other party in the
41 manner of service of a summons under ORCP 7. The order must include the following statement:

42 _____

43
44 *Notice: You may request a hearing on this order as long as it remains in effect by filing with*
45 *the court a request for a hearing. In the request you must tell the court and the other party that*

1 you object to the order on the ground that the child was not in immediate danger at the time the
 2 order was issued. In the request you must also inform the court of your telephone number or contact
 3 number and your current residence, mailing or contact address.

4 _____
 5
 6 [(4)(a)] (3)(a) A party against whom an order is entered under subsection (2) [or (3)] of this
 7 section may request a hearing by filing with the court a hearing request described in subsection (2)
 8 [or (3)] of this section at any time while the order is in effect.

9 (b) The court shall make reasonable efforts to hold a hearing within 14 days and shall hold a
 10 hearing no later than 21 days after receipt of the request for the hearing. The court shall notify
 11 each party of the time, date and place of the hearing.

12 (c) An order issued under subsection (2) [or (3)] of this section remains in effect through the date
 13 of the hearing. If the party against whom the order was entered fails to appear at the hearing
 14 without good cause, the court shall continue the order in effect. If the party who obtained the order
 15 fails to appear at the hearing without good cause, the court shall vacate the order.

16 (d) The issue at a hearing to contest[:]

17 [(A) A temporary protective order of restraint is limited to a determination of the status quo at the
 18 time the order was issued. If the child's usual place of residence cannot be determined, the court may
 19 make any further order the court finds appropriate in the best interests of the child.]

20 [(B)] a temporary order for the custody of, or parenting time with, a child is limited to whether
 21 the child was in immediate danger at the time the order was issued.

22 [(5)] (4) The State Court Administrator shall prescribe the content and form of a request for a
 23 hearing described in [subsections (2) and (3)] **subsection (2)** of this section.

24 [(6) As used in this section:]

25 [(a) "Child's usual place of residence" has the meaning given that term in ORS 107.138.]

26 [(b) "Party's usual contact and parenting time," "present placement and daily schedule of the
 27 child" and "current schedule and daily routine of the child" have the meanings given "parent's usual
 28 contact and parenting time," "present placement and daily schedule of the child" and "current schedule
 29 and daily routine of the child" in ORS 107.138.]

30 **SECTION 5. Sections 6 to 8 of this 2009 Act are added to and made a part of ORS 107.093**
 31 **to 107.425.**

32 **SECTION 6. (1) Except as provided in subsection (2) of this section and ORS 107.097 (2),**
 33 **107.722 and 107.139, allegations of substance abuse, spousal abuse, or child abuse or neglect,**
 34 **and any issuance of protective orders, are not sufficient to cause cessation or reduction of**
 35 **parenting time during the pendency of a suit for marital annulment, dissolution or sepa-**
 36 **ration or a proceeding under ORS 107.105, 107.135, 109.103 or 109.119.**

37 **(2) A court may cease or reduce parenting time upon written findings that an allegation**
 38 **of substance abuse, spousal abuse or child abuse or neglect is supported by clear and con-**
 39 **vincing evidence and that the abuse or neglect affects the health or safety of the child.**

40 **(3) Upon making the finding in subsection (2) of this section, the court may order custody**
 41 **of the child to one parent.**

42 **SECTION 7. (1) In any proceeding under 107.105, 107.135, 109.103 or 109.119 in which cus-**
 43 **tody or parenting time of a child is contested, the court may allow unedited videotape or**
 44 **audiotape recordings as evidence.**

45 **(2) Court hearings, conferences or trials involving contested child custody or parenting**

1 **time must be recorded on videotape or audiotape using devices provided by the court.**

2 **(3) Within 10 days of a party's written request and payment of reasonable costs, the**
 3 **court shall reproduce a recording described in subsection (2) of this section in unedited form**
 4 **and provide it to the requesting party.**

5 **SECTION 8.** (1) **Subject to applicable federal law, parents to a joint custody order shall**
 6 **alternate claiming dependent tax deductions, exemptions or credits each year.**

7 **(2) A parent who fails to comply with subsection (1) of this section is civilly liable to the**
 8 **other parent for the amount of the increase in the other parent's tax liability for that tax**
 9 **year, and the other parent may claim dependent tax deductions, exemptions or credits for**
 10 **the next following two tax years.**

11 **SECTION 9.** ORS 107.434 is amended to read:

12 107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting
 13 time enforcement procedure that may or may not include a requirement for mediation. The proce-
 14 dure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall
 15 conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a par-
 16 enting time order. The court shall charge a filing fee of \$50, subject to waiver or deferral of the fee
 17 under ORS 21.680 to 21.698. The court shall provide forms for:

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

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

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

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

27
 28
 29 [*When pleaded and shown in a separate legal action,*] Violation of court orders, including
 30 visitation and parenting time orders, may also result in a finding of contempt, which can lead to
 31 fines, imprisonment or other penalties, including compulsory community service.

32
 33
 34 (c) A motion, affidavit and order that may be filed by either party and providing for waiver of
 35 any mediation requirement on a showing of good cause.

36 **(2) If a court finds that a parent is willfully depriving the other parent of parenting time**
 37 **in violation of the provisions of a judgment relating to the parenting plan without clear and**
 38 **convincing evidence in the record to justify the deprivation, the court shall hold the violating**
 39 **parent in contempt as provided in ORS 33.015 to 33.155.**

40 [(2)] (3) In addition to any other remedy the court may impose to enforce the provisions of a
 41 judgment relating to the parenting plan, the court may:

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

43 (A) Specifying a detailed parenting time schedule;

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

45 (C) Ordering additional parenting time, in the best interests of the child, to compensate for

1 wrongful deprivation of parenting time;

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

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

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

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

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

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

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

12 **SECTION 10. (1) The State Court Administrator shall collect and compile statistics on
13 the number of individuals who are incarcerated or confined in jail for contempt of court for
14 failure to pay child support, including the length of the sentence and the amount of time
15 spent in jail.**

16 **(2) Subsection (1) of this section applies to payments of child support ordered in actions
17 for marital annulment, dissolution or separation and proceedings upon support orders en-
18 tered under ORS chapter 108, 109 or 110 or ORS 416.400 to 416.465, 419B.400 or 419C.590.**

19 **SECTION 11. Section 12 of this 2009 Act is added to and made a part of ORS 107.093 to
20 107.425.**

21 **SECTION 12. (1) Except as otherwise provided in this section, when parents have joint
22 custody of a child, there is a presumption that relocation by either parent with a child is not
23 in the best interests of the child. Relocation may take place only by agreement of the parents
24 or by court order or judgment. If the parents do not agree on the relocation, the burden of
25 overcoming the presumption against relocation is on the relocating parent.**

26 **(2)(a) Not later than 90 days before the date of the intended relocation, a parent who
27 intends to relocate with the child shall file with the clerk of the court that issued the joint
28 custody order or judgment or that has current jurisdiction over child custody proceedings
29 all of the following documents:**

30 **(A) A notice of the relocating parent's intent to move;**

31 **(B) A proposed custody order;**

32 **(C) A proposed parenting plan; and**

33 **(D) A proposed child support order.**

34 **(b) Not later than 90 days before the date of the intended relocation, the parent who in-
35 tends to relocate with the child shall send copies of all documents filed with the court under
36 this subsection to the nonrelocating parent by registered or certified mail, return receipt
37 requested.**

38 **(3) The notice required by subsection (2) of this section must provide the following in-
39 formation:**

40 **(a) The address of the new residence.**

41 **(b) The mailing address of the relocating parent, if the mailing address is different than
42 the address of the new residence.**

43 **(c) The relocating parent's new home telephone number at which the parent can be
44 contacted by the nonrelocating parent.**

45 **(d) Any other applicable telephone number for the relocating parent.**

1 (e) The date the relocating individual intends to move.

2 (f) A statement of the specific reasons for the intended relocation.

3 (g) A proposal for a revised schedule of parenting time.

4 (h) A statement that the nonrelocating parent must file an objection to the intended re-
5 location with the court not later than 30 days after receipt of the notice by the nonrelocating
6 parent.

7 (i) A statement that the notice of intended relocation constitutes a substantial change
8 of circumstances and that the nonrelocating parent may file a motion under ORS 107.135 to
9 modify custody, parenting time or child support.

10 (4) If the relocating parent is unable to provide any of the information required by sub-
11 section (3) of this section not later than 90 days before the intended date of relocation, the
12 relocating parent shall provide that information not later than 10 days after the date that
13 the relocating parent obtains the information but, in any event, not later than 30 days before
14 the date of the intended relocation.

15 (5) Not later than 30 days after receipt of the notice of intended relocation, the
16 nonrelocating parent may file a motion objecting to the relocation. The motion may be filed
17 concurrently with a request for modification of custody, parenting time or child support
18 under ORS 107.135. A motion objecting to the relocation must be accompanied by the
19 nonrelocating parent's proposed custody order, proposed parenting plan and proposed child
20 support order. The objecting parent shall send a copy of all documents filed with the court
21 under this subsection to the relocating parent by first class mail.

22 (6) Failure to file a motion objecting to the relocation under subsection (5) of this section
23 constitutes a waiver of the presumption against relocation described in subsection (1) of this
24 section and the relocating parent may relocate to the new residence.

25 (7) If the nonrelocating parent files an objection, the court shall refer the matter for
26 mediation under ORS 107.755 to 107.795 and order the parents to submit their proposed par-
27 enting plans to the mediator. Both parents shall share equally in the costs of mediation un-
28 der this subsection. If within 30 days after the referral the parents are unable to resolve
29 their differences through mediation, the court shall hold an evidentiary hearing to determine
30 whether the intended relocation is in the best interests of the child and is made in good faith
31 and for a legitimate reason. The relocating parent has the burden of proof at the hearing.

32 (8) If the nonrelocating parent has filed an objection under subsection (5) of this section,
33 the relocating parent may not relocate with the child before the effective date of a revised
34 custody, parenting time or child support order or judgment. Violation of this subsection
35 constitutes contempt of court under ORS 33.015 to 33.155.

36 (9) In determining whether to approve a parent's intended relocation with the child, the
37 court shall give equal consideration to all of the following:

38 (a) Whether the child would lose substantial contact, joy and guidance with the
39 nonrelocating parent;

40 (b) Whether the relocation would improve the general quality of life for the child;

41 (c) The relocating parent's motives for seeking the relocation;

42 (d) Whether the costs of transportation or the costs associated with the proposed par-
43 enting plan are affordable for each parent;

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

1 **(f) Whether the relocation would result in increased or decreased access to support from**
 2 **the extended family; and**

3 **(g) The effects of relocation on the child, including whether the relocation would be**
 4 **harmful to the health or well-being of the child.**

5 **SECTION 13.** ORS 107.159 is amended to read:

6 107.159. (1) In any court order or judgment granting custody of a minor child and parenting time
 7 or visitation rights relating to the child, except for an order under ORS 107.700 to 107.735, the court
 8 shall include in its order a provision requiring that neither parent may move to a residence more
 9 than 60 miles [*further*] **farther** distant from the other parent without giving the other parent rea-
 10 sonable notice of the change of residence and providing a copy of [*such*] **the** notice to the court.

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

14 **(3) This section does not apply to parents who have joint custody of a child and to whom**
 15 **section 12 of this 2009 Act applies.**

16 **SECTION 14.** Notwithstanding ORS 107.105, 107.135, 107.445, 107.755, 109.119 and 109.237,
 17 **in a child custody proceeding or a proceeding under section 12 of this 2009 Act:**

18 **(1) Each parent is financially responsible for the parent's own attorney fees.**

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

20 **(3) Both parents are equally responsible for all mediation or arbitration costs.**

21 **SECTION 15.** ORS 107.105 is amended to read:

22 107.105. (1) Whenever the court renders a judgment of marital annulment, dissolution or sepa-
 23 ration, the court may provide in the judgment:

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

30 (b) For parenting time rights of the parent not having custody of such children and for visitation
 31 rights pursuant to a petition filed under ORS 109.119. When a parenting plan has been developed
 32 as required by ORS 107.102, the court shall review the parenting plan and, if approved, incorporate
 33 the parenting plan into the court's final order. When incorporated into a final order, the parenting
 34 plan is determinative of parenting time rights. If the parents have been unable to develop a par-
 35 enting plan or if either of the parents requests the court to develop a detailed parenting plan, the
 36 court shall develop the parenting plan in the best interest of the child, ensuring the noncustodial
 37 parent sufficient access to the child to provide for appropriate quality parenting time and ensuring
 38 the safety of the parties, if implicated. The court may deny parenting time to the noncustodial par-
 39 ent under this subsection only if the court finds that parenting time would endanger the health or
 40 safety of the child. The court shall recognize the value of close contact with both parents and en-
 41 courage, when practicable, joint responsibility for the welfare of such children and extensive contact
 42 between the minor children of the divided marriage and the parties. If the court awards parenting
 43 time to a noncustodial parent who has committed abuse, the court shall make adequate provision for
 44 the safety of the child and the other parent in accordance with the provisions of ORS 107.718 (6).

45 (c) For the support of the children of the marriage by the parties. In ordering child support, the

1 formula established under ORS 25.275 shall apply. The court may at any time require an accounting
 2 from the custodial parent with reference to the use of the money received as child support. The
 3 court is not required to order support for any minor child who has become self-supporting,
 4 emancipated or married or who has ceased to attend school after becoming 18 years of age.

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

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

- 14 (i) The duration of the marriage;
- 15 (ii) A party's training and employment skills;
- 16 (iii) A party's work experience;
- 17 (iv) The financial needs and resources of each party;
- 18 (v) The tax consequences to each party;
- 19 (vi) A party's custodial and child support responsibilities; and
- 20 (vii) Any other factors the court deems just and equitable.

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

- 26 (i) The amount, duration and nature of the contribution;
- 27 (ii) The duration of the marriage;
- 28 (iii) The relative earning capacity of the parties;
- 29 (iv) The extent to which the marital estate has already benefited from the contribution;
- 30 (v) The tax consequences to each party; and
- 31 (vi) Any other factors the court deems just and equitable.

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

- 35 (i) The duration of the marriage;
- 36 (ii) The age of the parties;
- 37 (iii) The health of the parties, including their physical, mental and emotional condition;
- 38 (iv) The standard of living established during the marriage;
- 39 (v) The relative income and earning capacity of the parties, recognizing that the wage earner's
 40 continuing income may be a basis for support distinct from the income that the supported spouse
 41 may receive from the distribution of marital property;
- 42 (vi) A party's training and employment skills;
- 43 (vii) A party's work experience;
- 44 (viii) The financial needs and resources of each party;
- 45 (ix) The tax consequences to each party;

1 (x) A party's custodial and child support responsibilities; and

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

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

5 (f) For the division or other disposition between the parties of the real or personal property, or
6 both, of either or both of the parties as may be just and proper in all the circumstances. A retire-
7 ment plan or pension or an interest therein shall be considered as property. The court shall consider
8 the contribution of a spouse as a homemaker as a contribution to the acquisition of marital assets.
9 There is a rebuttable presumption that both spouses have contributed equally to the acquisition of
10 property during the marriage, whether such property is jointly or separately held. Subsequent to the
11 filing of a petition for annulment or dissolution of marriage or separation, the rights of the parties
12 in the marital assets shall be considered a species of coownership, and a transfer of marital assets
13 under a judgment of annulment or dissolution of marriage or of separation entered on or after Oc-
14 tober 4, 1977, shall be considered a partitioning of jointly owned property. The court shall require
15 full disclosure of all assets by the parties in arriving at a just property division. In arriving at a
16 just and proper division of property, the court shall consider reasonable costs of sale of assets, taxes
17 and any other costs reasonably anticipated by the parties. If a spouse has been awarded spousal
18 support in lieu of a share of property, the court shall so state on the record and shall order the
19 obligor to provide for and maintain life insurance in an amount commensurate with the obligation
20 and designating the obligee as beneficiary for the duration of the obligation. If the obligor dies prior
21 to the termination of such support and such insurance is not in force, the court may modify the
22 method of payment of spousal support under the judgment or order of support from installments to
23 a lump sum payment to the obligee from the estate of the obligor in an amount commensurate with
24 the present value of the spousal support at the time of death. The obligee or attorney of the obligee
25 shall cause a certified copy of the judgment to be delivered to the life insurance company or com-
26 panies. If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life
27 insurance company or companies, identifying the policies involved and requesting such notification
28 under this section, the company or companies shall notify the obligee, as beneficiary of the insur-
29 ance policy, whenever the policyholder takes any action that will change the beneficiary or reduce
30 the benefits of the policy. Either party may request notification by the insurer when premium
31 payments have not been made. If the obligor is ordered to provide for and maintain life insurance,
32 the obligor shall provide to the obligee a true copy of the policy. The obligor shall also provide to
33 the obligee written notice of any action that will reduce the benefits or change the designation of
34 the beneficiaries under the policy.

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

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

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

44 (C) For the establishment of the terms of the trust and provisions for the disposition or distrib-
45 ution of such money or property to or between the parties, their successors, heirs and assigns after

1 the purpose of the trust has been accomplished. Upon petition of a party or a person having an in-
 2 terest in the trust showing a change of circumstances warranting a change in the terms of the trust,
 3 the court may make and direct reasonable modifications in its terms.

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

6 (i) For a money award for any sums of money found to be then remaining unpaid upon any order
 7 or limited judgment entered under ORS 107.095. If a limited judgment was entered under ORS
 8 107.095, the limited judgment shall continue to be enforceable for any amounts not paid under the
 9 limited judgment unless those amounts are included in the money award made by the general judg-
 10 ment.

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

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

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

21 (4) If an appeal is taken from a judgment of annulment or dissolution of marriage or of sepa-
 22 ration or from any part of a judgment rendered in pursuance of the provisions of ORS 107.005 to
 23 107.086, 107.095, 107.105, 107.115 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540 and 107.610,
 24 the court rendering the judgment may provide in a supplemental judgment for any relief provided
 25 for in ORS 107.095 and shall provide that the relief granted in the judgment is to be in effect only
 26 during the pendency of the appeal. A supplemental judgment under this subsection may be enforced
 27 as provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judgment under this sub-
 28 section may be appealed in the same manner as provided for supplemental judgments modifying a
 29 domestic relations judgment under ORS 19.275.

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

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

44 **SECTION 16.** ORS 109.175 is amended to read:

45 109.175. (1) If paternity of a child born out of wedlock is established pursuant to a petition filed

1 under ORS 109.125 or an order or judgment entered pursuant to ORS 109.124 to 109.230 or ORS
2 416.400 to 416.465, or if paternity is established by the filing of a voluntary acknowledgment of
3 paternity as provided by ORS 109.070 (1)(e), the parent with physical custody at the time of filing
4 of the petition or the notice under ORS 416.415, or the parent with physical custody at the time of
5 the filing of the voluntary acknowledgment of paternity, has sole legal custody until a court specif-
6 ically orders otherwise. The first time the court determines who should have legal custody, neither
7 parent shall have the burden of proving a change of circumstances. The court shall give primary
8 consideration to the best interests [*and welfare*] of the child and shall [*consider all the standards set*
9 *out in ORS 107.137*] **take into account the factors listed in ORS 107.169.**

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

14 **SECTION 17.** ORS 107.722 is amended to read:

15 107.722. (1) The provisions of an order or judgment, or of a modification to an order or judgment,
16 issued under ORS 107.095 (1)(b), 107.105, 107.135, 109.103, **109.119** or 109.155 supersede contrary
17 provisions of a preexisting order issued under ORS 107.700 to 107.735, except that an order issued
18 under ORS 107.095 (1)(b) supersedes a preexisting order issued under ORS 107.700 to 107.735 only
19 if the party requesting temporary relief consolidates the subsequently filed matter with the preex-
20 isting matter filed under ORS 107.700 to 107.735 and provides the nonmoving party with notice and
21 an opportunity for a hearing.

22 (2)(a) In a proceeding under ORS 107.700 to 107.735, the court may modify the custody or par-
23 enting time provisions of a preexisting order or judgment issued under ORS 107.095 (1)(b), 107.105,
24 107.135, 109.103, **109.119** or 109.155, or a similar order or judgment issued by the tribunal of another
25 jurisdiction, if necessary to protect the safety and welfare of the child or the petitioner.

26 (b) If the court, in an order issued under ORS 107.700 to 107.735, modifies the custody provisions
27 of a preexisting order or judgment issued under ORS 107.095 (1)(b), 107.105, 107.135, 109.103, **109.119**
28 or 109.155, the court shall specify in the order issued under ORS 107.700 to 107.735 a period that
29 the court considers adequate under the circumstances within which the party seeking relief may
30 obtain a modification of the preexisting order or judgment under controlling law. Upon the expira-
31 tion of the period specified by the court, if a modification of the preexisting order or judgment has
32 not been obtained, the custody and parenting time provisions of the order issued under ORS 107.700
33 to 107.735 expire and the custody and parenting time provisions of the preexisting order or judgment
34 become immediately effective.

35 (c) If the court, in an order issued under ORS 107.700 to 107.735, modifies the custody provisions
36 of a preexisting order or judgment issued by the tribunal of another jurisdiction, ORS 109.701 to
37 109.834 apply.

38 **SECTION 18.** ORS 107.755 is amended to read:

39 107.755. (1) Each judicial district shall:

40 (a) Provide a mediation orientation session for all parties in cases in which child custody, par-
41 enting time or visitation is in dispute, and in any other domestic relations case in which mediation
42 has been ordered. The orientation session may be structured in any way the circuit court determines
43 best meets the needs of the parties. The orientation session should be designed to make the parties
44 aware of:

45 (A) What mediation is;

1 (B) Mediation options available to them; and

2 (C) The advantages and disadvantages of each method of dispute resolution.

3 (b) Except in matters tried under ORS 107.097 [and 107.138] or upon a finding of good cause,
4 require parties in all cases described in paragraph (a) of this subsection to attend a mediation ori-
5 entation session prior to any judicial determination of the issues.

6 (c) Provide mediation under ORS 107.755 to 107.795 in any case in which child custody, parent-
7 ing time and visitation are in dispute.

8 (d) Have developed a plan that addresses domestic violence issues and other power imbalance
9 issues in the context of mediation orientation sessions and mediation of any issue in accordance
10 with the following guidelines:

11 (A) All mediation programs and mediators must recognize that mediation is not an appropriate
12 process for all cases and that agreement is not necessarily the appropriate outcome of all mediation;

13 (B) Neither the existence of nor the provisions of a restraining order issued under ORS 107.718
14 may be mediated;

15 (C) All mediation programs and mediators must develop and implement:

16 (i) A screening and ongoing evaluation process of domestic violence issues for all mediation
17 cases;

18 (ii) A provision for opting out of mediation that allows a party to decline mediation after the
19 party has been informed of the advantages and disadvantages of mediation or at any time during the
20 mediation; and

21 (iii) A set of safety procedures intended to minimize the likelihood of intimidation or violence
22 in the orientation session, during mediation or on the way in or out of the building in which the
23 orientation or mediation occurs;

24 (D) When a mediator explains the process to the parties, the mediator shall include in the ex-
25 planation the disadvantages of mediation and the alternatives to mediation;

26 (E) All mediators shall obtain continuing education regarding domestic violence and related is-
27 sues; and

28 (F) Mediation programs shall collect appropriate data. Mediation programs shall be sensitive
29 to domestic violence issues when determining what data to collect.

30 (e) In developing the plan required by paragraph (d) of this subsection, consult with one or more
31 of the following:

32 (A) A statewide or local multidisciplinary domestic violence coordinating council.

33 (B) A nonprofit private organization funded under ORS 409.292.

34 (2) Notwithstanding any other provision of law, mediation under ORS 107.755 to 107.795, in-
35 cluding the mediation orientation session described in subsection (1)(a) of this section, may not be
36 encouraged or provided in proceedings under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040 or
37 163.738.

38 (3) The court, as provided in ORS 3.220, may make rules consistent with ORS 107.755 to 107.795
39 to govern the operation and procedure of mediation provided under this section.

40 (4) If a court provides mediation of financial issues, it shall develop a list of mediators who meet
41 the minimum education and experience qualifications established by rules adopted under ORS 1.002.
42 The rules must require demonstrated proficiency in mediation of financial issues. Once the list is
43 developed, the judicial district shall maintain the list. Mediation of financial issues is subject to the
44 plan developed under subsection (1)(d) of this section and to the limitations imposed by subsection
45 (2) of this section.

1 (5) A circuit court may provide mediation in connection with its exercise of conciliation juris-
 2 diction under ORS 107.510 to 107.610, but a circuit court need not provide conciliation services in
 3 order to provide mediation under ORS 107.755 to 107.795.

4 **SECTION 19.** ORS 109.119 is amended to read:

5 109.119. (1) Except as otherwise provided in subsection (9) of this section, any person, including
 6 but not limited to a related or nonrelated foster parent, stepparent, grandparent or relative by blood
 7 or marriage, who has established emotional ties creating a child-parent relationship or an ongoing
 8 personal relationship with a child may petition or file a motion for intervention with the court
 9 having jurisdiction over the custody, placement or guardianship of that child, or if no such pro-
 10 ceedings are pending, may petition the court for the county in which the child resides, for an order
 11 providing for relief under subsection (3) of this section.

12 (2)(a) In any proceeding under this section, there is a presumption that the legal parent acts in
 13 the best interest of the child.

14 (b) In an order granting relief under this section, the court shall include findings of fact sup-
 15 porting the rebuttal of the presumption described in paragraph (a) of this subsection.

16 (c) The presumption described in paragraph (a) of this subsection does not apply in a proceeding
 17 to modify an order granting relief under this section.

18 (3)(a) If the court determines that a child-parent relationship exists and if the court determines
 19 that the presumption described in subsection (2)(a) of this section has been rebutted by a prepon-
 20 derance of the evidence, the court shall grant custody, guardianship, right of visitation or other
 21 right to the person having the child-parent relationship, if to do so is in the best interest of the child
 22 **taking into account the factors listed in ORS 107.169.** The court may determine temporary cus-
 23 tody of the child or temporary visitation rights under this paragraph pending a final order.

24 (b) If the court determines that an ongoing personal relationship exists and if the court deter-
 25 mines that the presumption described in subsection (2)(a) of this section has been rebutted by clear
 26 and convincing evidence, the court shall grant visitation or contact rights to the person having the
 27 ongoing personal relationship, if to do so is in the best interest of the child **taking into account**
 28 **the factors listed in ORS 107.169.** The court may order temporary visitation or contact rights un-
 29 der this paragraph pending a final order.

30 (4)(a) In deciding whether the presumption described in subsection (2)(a) of this section has been
 31 rebutted and whether to award visitation or contact rights over the objection of the legal parent,
 32 the court may consider factors including, but not limited to, the following, which may be shown by
 33 the evidence:

- 34 (A) The petitioner or intervenor is or recently has been the child's primary caretaker;
- 35 (B) Circumstances detrimental to the child exist if relief is denied;
- 36 (C) The legal parent has fostered, encouraged or consented to the relationship between the child
 37 and the petitioner or intervenor;
- 38 (D) Granting relief would not substantially interfere with the custodial relationship; or
- 39 (E) The legal parent has unreasonably denied or limited contact between the child and the
 40 petitioner or intervenor.

41 (b) In deciding whether the presumption described in subsection (2)(a) of this section has been
 42 rebutted and whether to award custody, guardianship or other rights over the objection of the legal
 43 parent, the court may consider factors including, but not limited to, the following, which may be
 44 shown by the evidence:

- 45 (A) The legal parent is unwilling or unable to care adequately for the child;

1 (B) The petitioner or intervenor is or recently has been the child’s primary caretaker;

2 (C) Circumstances detrimental to the child exist if relief is denied;

3 (D) The legal parent has fostered, encouraged or consented to the relationship between the child
4 and the petitioner or intervenor; or

5 (E) The legal parent has unreasonably denied or limited contact between the child and the
6 petitioner or intervenor.

7 (5) In addition to the other rights granted under this section, a stepparent with a child-parent
8 relationship who is a party in a dissolution proceeding may petition the court having jurisdiction for
9 custody or visitation under this section or may petition the court for the county in which the child
10 resides for adoption of the child. The stepparent may also file for post-judgment modification of a
11 judgment relating to child custody.

12 (6)(a) A motion for intervention filed under this section shall comply with ORCP 33 and state
13 the grounds for relief under this section.

14 (b) Costs for the representation of an intervenor under this section may not be charged against
15 funds appropriated for public defense services.

16 (7) In a proceeding under this section, the court may:

17 (a) Cause an investigation, examination or evaluation to be made under ORS 107.425 or may
18 appoint an individual or a panel or may designate a program to assist the court in creating par-
19 enting plans or resolving disputes regarding parenting time and to assist the parties in creating and
20 implementing parenting plans under ORS 107.425 (3).

21 (b) **Subject to section 14 of this 2009 Act**, assess against a party reasonable attorney fees and
22 costs for the benefit of another party.

23 (8) When a petition or motion to intervene is filed under this section seeking guardianship or
24 custody of a child who is a foreign national, the petitioner or intervenor shall serve a copy of the
25 petition or motion on the consulate for the child’s country.

26 (9) This section does not apply to proceedings under ORS chapter 419B.

27 (10) As used in this section:

28 (a) “Child-parent relationship” means a relationship that exists or did exist, in whole or in part,
29 within the six months preceding the filing of an action under this section, and in which relationship
30 a person having physical custody of a child or residing in the same household as the child supplied,
31 or otherwise made available to the child, food, clothing, shelter and incidental necessities and pro-
32 vided the child with necessary care, education and discipline, and which relationship continued on
33 a day-to-day basis, through interaction, companionship, interplay and mutuality, that fulfilled the
34 child’s psychological needs for a parent as well as the child’s physical needs. However, a relation-
35 ship between a child and a person who is the nonrelated foster parent of the child is not a child-
36 parent relationship under this section unless the relationship continued over a period exceeding 12
37 months.

38 (b) “Circumstances detrimental to the child” includes but is not limited to circumstances that
39 may cause psychological, emotional or physical harm to a child.

40 (c) “Grandparent” means the legal parent of the child’s legal parent.

41 (d) “Legal parent” means a parent as defined in ORS 419A.004 whose rights have not been ter-
42 minated under ORS 419B.500 to 419B.524.

43 (e) “Ongoing personal relationship” means a relationship with substantial continuity for at least
44 one year, through interaction, companionship, interplay and mutuality.

45 **SECTION 20. ORS 107.137, 107.138 and 107.179 are repealed.**

1 **SECTION 21.** Sections 6, 7, 8, 10, 12 and 14 of this 2009 Act, the amendments to ORS
2 107.095, 107.097, 107.101, 107.159, 107.169, 107.434, 107.722, 107.755, 109.119 and 109.175 by
3 sections 1 to 4, 9, 13 and 15 to 19 of this 2009 Act and the repeal of ORS 107.137, 107.138 and
4 107.179 by section 20 of this 2009 Act apply to proceedings commenced on or after the effec-
5 tive date of this 2009 Act.

6
