

Enrolled
House Bill 2686

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Family Law Section)

CHAPTER

AN ACT

Relating to domestic relations proceedings; creating new provisions; amending ORS 107.139, 107.560 and 109.103; and repealing ORS 107.065.

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

SECTION 1. ORS 107.065 is repealed.

SECTION 2. ORS 107.560 is amended to read:

107.560. (1) A petition may be filed under ORS 107.550 whether or not a domestic relations suit in which the spouses are parties has been commenced. Except as provided in subsection (2) of this section, when a petition for conciliation jurisdiction is filed no trial or hearing on the merits of a domestic relations suit between the parties shall be had until after the expiration of 45 days from the filing of the petition; provided, however, that during this period the court may use its full equity powers to protect and preserve the rights of the spouses.

(2) [*Subject to the provisions of ORS 107.065,*] The court may, in its discretion, waive the 45-day period as prescribed by subsection (1) of this section upon stipulation of the parties or upon written motion supported by affidavit setting forth facts which satisfy the court that such waiver is warranted.

SECTION 3. ORS 107.139 is amended to read:

107.139. (1)(a) Following entry of a judgment, a court may enter ex parte a temporary order providing for the custody of, or parenting time with, a child if:

(A) A parent of the child is present in court and presents an affidavit alleging that the child is in immediate danger;

(B) The parent has made a good faith effort to confer with the other party regarding the purpose and time of this court appearance; and

(C) The court finds by clear and convincing evidence, based on the facts presented in the parent's testimony and affidavit and in the testimony of the other party, if the other party is present, that the child is in immediate danger.

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

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

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

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

(2)(a) A party against whom an order is entered under subsection (1) of this section may request a hearing by filing with the court a hearing request described in subsection (1) of this section at any time while the order is in effect.

(b) The court shall hold a hearing within 14 days after receipt of the request for the hearing. The court shall notify each party of the time, date and place of the hearing.

(c) An order issued under subsection (1) of this section remains in effect through the date of the hearing. If the party against whom the order was entered fails to appear at the hearing without good cause, the court shall continue the order in effect. If the party who obtained the order fails to appear at the hearing without good cause, the court shall vacate the order.

(d) The issue at a hearing to contest a temporary order for the custody of, or parenting time with, a child is limited to whether the child was in immediate danger at the time the order was issued.

(3) The State Court Administrator shall prescribe the content and form of a request for a hearing described in this section.

(4) A party seeking relief under this section shall concurrently file, or have pending, a motion under ORS 107.135 to set aside, alter or modify any portion of the judgment that provides for custody, parenting time or visitation.

SECTION 4. ORS 109.103 is amended to read:

109.103. (1) If a child is born to an unmarried woman and paternity has been established under ORS 109.070, or if a child is born to a married woman by a man other than her husband and the man's paternity has been established under ORS 109.070, either parent may initiate a civil proceeding to determine the custody or support of, or parenting time with, the child. The proceeding shall be brought in the circuit court of the county in which the child resides or is found or in the circuit court of the county in which either parent resides. The parents have the same rights and responsibilities regarding the custody and support of, and parenting time with, their child that married or divorced parents would have, and the provisions of ORS 107.093 to [107.425] **107.449** that relate to custody, support and parenting time, **and the provisions of ORS 107.755 to 107.795 that relate to mediation procedures**, apply to the proceeding.

(2) A parent may initiate the proceeding by filing with the court a petition setting forth the facts and circumstances upon which the parent relies. The parent shall state in the petition, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the child, including one brought under ORS 109.100, 109.165, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

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

(3) The parent shall include with the petition a certificate regarding any pending support proceeding and any existing support order. The parent shall use a certificate that is in a form established by court rule and include information required by court rule and subsection (2) of this section.

(4) When a parent initiates a proceeding under this section and the child support rights of one of the parents or of the child have been assigned to the state, the parent initiating the proceeding shall serve, by mail or personal delivery, a copy of the petition on the Administrator of the Division of Child Support or on the branch office providing support services to the county in which the suit is filed.

SECTION 5. The repeal of ORS 107.065 by section 1 of this 2011 Act and the amendments to ORS 107.139, 107.560 and 109.103 by sections 2 to 4 of this 2011 Act apply to proceedings commenced on or after the effective date of this 2011 Act.

Passed by House March 1, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 9, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State