

# House Bill 2572

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)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows court to order payment of attorney fees, costs and expenses in domestic relations proceeding that relates to life insurance. Expands applicability of life insurance provisions to domestic relations proceeding involving unmarried parents.

## A BILL FOR AN ACT

1  
2 Relating to life insurance in domestic relations proceedings; amending ORS 107.820 and 109.103.

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

4 **SECTION 1.** ORS 107.820 is amended to read:

5 107.820. A court order for the payment of spousal or child support whether issued prior to, on  
6 or following November 1, 1981, constitutes an insurable interest in the party awarded the right to  
7 receive the support. In any case of marital annulment, dissolution or separation, the issue of life  
8 insurance shall be determined as follows:

9 (1) When the judgment creates an obligation of spousal or child support or awards a share of  
10 a pension or retirement plan, the judgment may also require that the obligated party maintain any  
11 existing insurance policies on the life of the obligated spouse and in which the dependent spouse is  
12 named as beneficiary. The judgment may require that the policies be maintained until the obligation  
13 is fulfilled. The premiums may be paid by the obligated spouse, and the court may consider the cost  
14 of premiums when determining the obligation. Any life insurance policies on the life of the obligated  
15 spouse owned by parties outside of the marriage or purchased and held for purposes clearly outside  
16 the marriage relationship are exempt from this subsection.

17 (2) If the party ordered to pay support or a share of a pension or retirement plan has no life  
18 insurance policy naming as beneficiary the party ordered to receive either support or a share of a  
19 pension or retirement plan, or if an existing policy is inadequate to cover the obligation, the court  
20 in a judgment may order that the party ordered to pay shall purchase a life insurance policy naming  
21 as beneficiary the party ordered to receive the support or a share of a pension or retirement plan  
22 and that the obligated party shall pay premiums on the policy and keep the policy in force until the  
23 obligation ends. The obligated spouse has the option of obtaining a nonreducing term life insurance  
24 policy or any other type of policy in lieu of using existing policies.

25 (3) Additionally, the party awarded the right to receive support or a share of a pension or re-  
26 tirement plan may purchase a life insurance policy on the life of the obligated party. In such case  
27 the court shall order the obligated party to undergo a physical examination. All rights of policy  
28 ownership, including those regarding the extent of coverage, shall be in the party purchasing the  
29 policy under this subsection who shall also be responsible for paying the premiums. The provisions  
30 of this subsection may be exercised at the time of annulment, dissolution or separation, or at any

**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 later time while the obligation continues.

2 (4) Upon motion of either party, the court shall order a party to renew a life insurance policy  
3 allowed to lapse for any reason during the pendency of the suit.

4 (5) A party who is the beneficiary of any policy under this section upon which the other party  
5 is obligated to pay premiums, is entitled, in the event of default by the paying party, to pay the  
6 premiums on the policy and to obtain a supplemental judgment for reimbursement of any money so  
7 expended. A default in the payment of premiums by the party obligated by the judgment or order is  
8 a contempt of the court.

9 (6) Life insurance retained or purchased by an obligor under subsection (1) or (2) of this section  
10 for the purpose of protecting the support, pension or retirement plan obligation shall not be reduced  
11 by loans or any other means of reduction until the obligation has been fulfilled. The obligee or the  
12 attorney of the obligee shall cause a certified copy of the judgment to be delivered to the life in-  
13 surance company or companies. If the obligee or the attorney of the obligee delivers a true copy of  
14 the judgment to the life insurance company or companies, identifying the policies involved and re-  
15 questing such notification under this section, the company or companies shall notify the obligee, as  
16 beneficiary of the insurance policy, whenever the policyholder takes any action that will change the  
17 beneficiary or reduce the benefits of the policy. Either party may request notification by the insurer  
18 when premium payments have not been made. If the obligor is ordered to provide for and maintain  
19 life insurance, the obligor shall provide to the obligee a true copy of the policy. The obligor shall  
20 also provide to the obligee written notice of any action that will reduce the benefits or change the  
21 designation of the beneficiaries under the policy.

22 **(7) In a proceeding brought under this section, including a proceeding to enforce the**  
23 **provisions of this section, the court may order a party to pay another party the amount of**  
24 **reasonable attorney fees, costs and expenses incurred by the other party in the proceeding.**

25 **SECTION 2.** ORS 109.103 is amended to read:

26 109.103. (1) If a child is born to an unmarried woman and paternity has been established under  
27 ORS 109.070, or if a child is born to a married woman by a man other than her husband and the  
28 man's paternity has been established under ORS 109.070, either parent may initiate a civil proceed-  
29 ing to determine the custody or support of, or parenting time with, the child. The proceeding shall  
30 be brought in the circuit court of the county in which the child resides or is found or in the circuit  
31 court of the county in which either parent resides. The parents have the same rights and responsi-  
32 bilities regarding the custody and support of, and parenting time with, their child that married or  
33 divorced parents would have, and the provisions of ORS 107.093 to 107.449 that relate to custody,  
34 support and parenting time, [and] the provisions of ORS 107.755 to 107.795 that relate to mediation  
35 procedures, **and the provisions of ORS 107.810, 107.820 and 107.830 that relate to life**  
36 **insurance**, apply to the proceeding.

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

40 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-  
41 ceeding involving the child, including one brought under ORS 109.100, 109.165, 125.025, 416.400 to  
42 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

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

45 (3) The parent shall include with the petition a certificate regarding any pending support pro-

1 ceeding and any existing support order. The parent shall use a certificate that is in a form estab-  
2 lished by court rule and include information required by court rule and subsection (2) of this section.

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

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