

# DRAFT

## SUMMARY

Directs presiding judge of each judicial district to establish alternative dispute resolution conference procedure for custody and parenting time modifications and enforcement proceedings.

### A BILL FOR AN ACT

Relating to alternative dispute resolution of parental rights disputes; creating new provisions; and amending ORS 107.146 and 107.434.

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

**SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 107.**

**SECTION 2. (1) The presiding judge of each judicial district shall establish a voluntary alternative dispute resolution conference procedure for custody and parenting time modification and enforcement.**

**The conference procedure must, at a minimum:**

**(a) Require that the parties be under oath but that otherwise the conference be conducted in an informal manner;**

**(b) Provide each party with a full opportunity to present the party's position;**

**(c) Be reported by an audio record reporting device;**

**(d) Allow a party's attorney to be present; and**

**(e) Apply the rules of evidence used in the circuit courts of this state.**

**(2) The presiding judge shall appoint a conference officer to hold a conference under this section who, at a minimum, is admitted to**

1 **practice law in this state and has completed 40 hours of mediation**  
2 **training during the preceding six months.**

3 **(3)(a) If the parties reach an agreement on the contested issues**  
4 **during the conference, the parties shall sign a stipulated judgment,**  
5 **prepared by the conference officer, and the conference officer shall**  
6 **submit the stipulated agreement to the court that had authority over**  
7 **the underlying case.**

8 **(b) If the parties cannot reach an agreement on all of the contested**  
9 **issues during the conference, the conference officer may do one or**  
10 **both of the following:**

11 **(A) Assist the parties in developing a stipulated agreement on one**  
12 **or more of the resolved issues.**

13 **(B) Make recommendations to the court on the contested issues,**  
14 **including a recommendation that the court hold a hearing on one or**  
15 **more issues.**

16 **(4) The court may, upon receipt of the stipulated agreement or**  
17 **recommendations of the conference officer, enter an order:**

18 **(a) Approving the parties' stipulated agreement;**

19 **(b) Approving the recommendations of the conference officer;**

20 **(c) Modifying the recommendations of the conference officer;**

21 **(d) Rejecting the recommendations of the conference officer in**  
22 **whole or in part; or**

23 **(e) Setting the matter for a hearing and requiring the parties to**  
24 **appear personally in court.**

25 **(5) No later than 30 days following the date of an order under sub-**  
26 **section (4)(b) to (d) of this section, a party may file an objection with**  
27 **the court.**

28 **(6) This section does not apply:**

29 **(a) When the child to whom a duty of support is owed is in another**  
30 **state that has enacted the Uniform Child Custody Jurisdiction Act or**  
31 **the Uniform Child Custody Jurisdiction and Enforcement Act and a**

1 **court in that state would have subject matter and personal jurisdiction**  
2 **under that Act to determine custody and parenting time rights;**

3 (b) **To the modification of a joint custody order unless there has**  
4 **been a change of circumstances and the modification is in the best**  
5 **interests and welfare of the child under ORS 107.137;**

6 (c) **To the modification of a parenting plan unless the modification**  
7 **is in the best interests of the child and the safety of the parties; or**

8 (d) **To any proceeding for which a hearing is required by statute**  
9 **unless the party entitled to the hearing waives the party's right to the**  
10 **hearing.**

11 **SECTION 3.** ORS 107.146 is amended to read:

12 107.146. (1) Upon motion filed by a deployed parent or a parent whose  
13 deployment is imminent, the court shall hold an expedited hearing in:

14 (a) Any proceeding in a suit for marital annulment, dissolution or sepa-  
15 ration where a deployed parent or a parent whose deployment is imminent  
16 is a party;

17 (b) In any proceeding under ORS 107.135, 107.138 and 107.139 **and section**  
18 **2 of this 2019 Act** where a deployed parent or a parent whose deployment  
19 is imminent is a party; and

20 (c) A proceeding under ORS 107.145 (4).

21 (2) In any proceeding listed under subsection (1) of this section, whether  
22 or not a motion to expedite a hearing has been filed, the court shall make  
23 reasonable accommodations to allow a deployed parent, or a parent whose  
24 deployment is imminent, to provide video, electronic or Internet testimony  
25 if the proceeding involves the custody, parenting time, visitation, support  
26 and welfare of the parent's child and where the deployed parent or the parent  
27 whose deployment is imminent cannot personally appear.

28 **SECTION 4.** ORS 107.434 is amended to read:

29 107.434. (1) The presiding judge of each judicial district shall establish  
30 an expedited parenting time enforcement procedure that may or may not in-  
31 clude a requirement for mediation **or participation in an alternative dis-**

1 **pute resolution conference under section 2 of this 2019 Act.** The  
2 procedure must be easy to understand and initiate. Unless the parties oth-  
3 erwise agree, the court shall conduct a hearing no later than 45 days after  
4 the filing of a motion seeking enforcement of a parenting time order. The  
5 court shall provide forms for:

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

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

14 (A) A notice of the remedies imposable under subsection (2) of this section  
15 and the availability of a waiver of any mediation requirement; and

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

17

---

18 When pleaded and shown in a separate legal action, violation of court  
19 orders, including visitation and parenting time orders, may also result in a  
20 finding of contempt, which can lead to fines, imprisonment or other penal-  
21 ties, including compulsory community service.

22

---

23 (c) A motion, supported by an affidavit or a declaration under penalty of  
24 perjury in the form required by ORCP 1 E, and an order that may be filed  
25 by either party and providing for waiver of any mediation requirement on a  
26 showing of good cause.

27 (2) In addition to any other remedy the court may impose to enforce the  
28 provisions of a judgment relating to the parenting plan, the court may:

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

30 (A) Specifying a detailed parenting time schedule;

31 (B) Imposing additional terms and conditions on the existing parenting

1 time schedule; or

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

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

6 (c) Order either or both parties to attend counseling or educational ses-  
7 sions that focus on the impact of violation of the parenting plan on children;

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

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

12 (f) Terminate, suspend or modify child support as provided in ORS 107.431;  
13 or

14 (g) Schedule a hearing for modification of custody as provided in ORS  
15 107.135 (11).

16

---