

# Senate Bill 1055

Sponsored by COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS

## 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**.

Expands definition of "deployment" or "deployed" to include "mobilization" of member of Armed Forces, National Guard or reserve component in specific laws affecting certain family law judgments.

Permits court to enter temporary order allowing or requiring reasonable visitation between child of deployed parent and stepparent, grandparent or other family member related to child.

## A BILL FOR AN ACT

1  
2 Relating to family law proceedings involving deployed parents in military service; amending ORS  
3 107.145 and 107.146.

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

5 **SECTION 1.** ORS 107.145 is amended to read:

6 107.145. (1) **The Legislative Assembly finds and declares that:**

7 (a) **Establishing a fair, efficient and expeditious process to resolve child custody and**  
8 **visitation issues when a parent is deployed with the Armed Forces of the United States,**  
9 **National Guard or other reserve component is in the best interests of the child of such a**  
10 **deployed parent; and**

11 (b) **Courts should, to the extent feasible within existing resources and court practices,**  
12 **prioritize the scheduling for hearing of family law matters involving a deployed parent or a**  
13 **parent whose deployment is imminent, avoid unnecessary delays or continuances and ensure**  
14 **that deployed parents are not denied access to their children because of their deployment.**

15 [(1)] (2) As used in this section and ORS 107.146:

16 (a) "Deployed parent" means a parent of a minor child whose parental rights have not been  
17 terminated who is deployed with the Armed Forces of the United States, National Guard or other  
18 reserve component.

19 (b) "Deployment" or "deployed":

20 (A) Means military service in compliance with written orders received by an active duty or re-  
21 serve member of the Armed Forces of the United States, National Guard or other reserve component  
22 to report for combat operations, contingency operations, peacekeeping operations, temporary duty,  
23 **mobilization**, a remote tour of duty or other active military service;

24 (B) Includes the period of time from which the deployed parent receives and is subject to written  
25 orders to deploy to the actual date of deployment; and

26 (C) Includes any period of time in which the deployed parent is awaiting travel to or from a  
27 deployment destination or remains deployed because of sickness, wounds, leave or other lawful  
28 cause.

29 (c) **"Mobilization" means the transfer of a member of the Armed Forces of the United**  
30 **States, National Guard or other reserve component to extended active duty status but does**

**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 **not include training in the Armed Forces of the United States, National Guard or other re-**  
 2 **serve component.**

3 **(d) “Temporary duty” means the transfer of an active duty or reserve member of the**  
 4 **Armed forces of the United States, National Guard or other reserve component from one**  
 5 **military base to a different location, including but not limited to another military base, for**  
 6 **a limited period of time for training or to assist in the performance of a noncombat mission.**

7 [(2)] (3) Notwithstanding ORS 107.135 and except as provided in subsection [(3)] (4) of this sec-  
 8 tion, a court may not set aside, alter or modify any portion of a judgment of annulment, separation  
 9 or dissolution of marriage that provides for the custody, parenting time, visitation, support and  
 10 welfare of a minor child of a deployed parent until 90 days after the completion of the deployed  
 11 parent’s deployment unless a motion to set aside, alter or modify was filed with, heard by and de-  
 12 cided by the court before the commencement of the deployed parent’s deployment.

13 [(3)(a)] (4)(a) Notwithstanding ORS 107.138 and 107.139, a court may enter a temporary order  
 14 modifying the terms of a preexisting judgment of annulment, separation or dissolution of marriage  
 15 that provides for the custody, parenting time, visitation, support and welfare of a minor child of a  
 16 deployed parent to reasonably accommodate the circumstances of the deployed parent’s deployment  
 17 in the best interests of the child, upon motion filed by either party and after service of notice on  
 18 the other party in the manner provided by ORCP 7, and after notice to the Administrator of the  
 19 Division of Child Support of the Department of Justice or the branch office providing support ser-  
 20 vices when required by subsection [(4)] (6) of this section. The nondeployed parent bears the burden  
 21 of proof that the provisions of a temporary order made under this subsection are not in the best  
 22 interests of the child.

23 (b) A temporary order entered under this subsection must include the following provisions:

24 (A) Parenting time for the deployed parent during periods of approved leave in the best interests  
 25 of the child;

26 (B) Parenting time for the deployed parent during periods of deployment in the best interests  
 27 of the child including but not limited to contact by telephone, electronic mail and other electronic  
 28 means such as video and visual imaging;

29 (C) Modification of the child support provisions of the preexisting judgment to reflect the  
 30 changed circumstances of the parents and the child during the period of deployment;

31 (D) A requirement that the nondeployed parent provide the court and the deployed parent with  
 32 written notice 30 days prior to a change of address or telephone number during the period of de-  
 33 ployment;

34 (E) That the temporary order entered under this subsection **is made without prejudice and**  
 35 **terminates** by operation of law upon completion of deployment and that the provisions of the pre-  
 36 existing judgment that have been modified by the temporary order are automatically reinstated un-  
 37 less a request is made and granted under subsection [(5)] (7) of this section;

38 (F) That all other provisions of the preexisting judgment not modified by the temporary order  
 39 remain in effect; and

40 (G) That deployment is considered completed for purposes of reinstating the provisions of the  
 41 preexisting judgment that have been modified by the temporary order 10 days after the date on  
 42 which the deployed parent serves the nondeployed parent and provides to the court and to the Ad-  
 43 ministrator of the Division of Child Support of the Department of Justice or the branch office pro-  
 44 viding support services to the county in which the motion is filed copies of written orders or other  
 45 official notification that the deployed parent is no longer deployed [*or in active military service*].

1       **(5)(a) A temporary order entered under subsection (4) of this section may include a pro-**  
 2 **vision allowing or requiring reasonable visitation between the child of a deployed parent and**  
 3 **a stepparent, grandparent or other family member related to the child. In making an order**  
 4 **for visitation under this subsection, the court must balance the interest of the child in hav-**  
 5 **ing visitation with the stepparent, grandparent or other family member with the right of the**  
 6 **nondeployed parent of the child to exercise care, custody and control of the child.**

7       **(b) An order for visitation under this subsection must contain the following findings:**

8       **(A) A preexisting relationship exists between the stepparent, grandparent or other family**  
 9 **member and the child that has engendered a bond such that visitation is in the best interests**  
 10 **of the child; and**

11       **(B) Visitation will facilitate the child's contact with the deployed parent.**

12       **(c) An order for visitation under this subsection does not affect:**

13       **(A) The presumption set forth in ORS 109.119 (2)(a) that the legal parent acts in the best**  
 14 **interests of the child; or**

15       **(B) A current and valid child support order involving the deployed parent and the child.**

16       **[(4)] (6) A true copy of a motion under subsection [(3)] (4) of this section shall be served by the**  
 17 **moving party by mail or personal delivery on the Administrator of the Division of Child Support of**  
 18 **the Department of Justice or on the branch office providing support services to the county in which**  
 19 **the motion is filed.**

20       **[(5)] (7) Prior to reinstatement of the provisions of a preexisting judgment, a parent may request**  
 21 **ex parte a temporary order under ORS 107.139 alleging that the child will be irreparably harmed**  
 22 **or placed in immediate danger if the provisions of the preexisting judgment are automatically rein-**  
 23 **stated upon completion of deployment.**

24       **[(6)] (8) When a court has entered a temporary order under subsection [(3)] (4) of this section,**  
 25 **the absence of a child from this state during a deployed parent's deployment is considered a tem-**  
 26 **porary absence for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act and**  
 27 **this state shall retain exclusive continuing jurisdiction in accordance with ORS 109.701 to 109.834.**

28       **[(7)] (9) The court may award attorney fees and costs reasonably incurred in a proceeding under**  
 29 **this section if the court finds that a party caused unreasonable delays, failed to provide information**  
 30 **as required by this section or acted to unreasonably interfere with or frustrate contact between a**  
 31 **deployed parent and a minor child.**

32       **SECTION 2. ORS 107.146 is amended to read:**

33       107.146. (1) Upon motion filed by a deployed parent or a parent whose deployment is imminent,  
 34 the court shall hold an expedited hearing in:

35       (a) Any proceeding in a suit for marital annulment, dissolution or separation where a deployed  
 36 parent or a parent whose deployment is imminent is a party;

37       (b) In any proceeding under ORS 107.135, 107.138 and 107.139 where a deployed parent or a  
 38 parent whose deployment is imminent is a party; and

39       (c) A proceeding under ORS 107.145 [(3)] (4).

40       (2) In any proceeding listed under subsection (1) of this section, whether or not a motion to  
 41 expedite a hearing has been filed, the court shall make reasonable accommodations to allow a de-  
 42 ployed parent, or a parent whose deployment is imminent, to provide video, electronic or Internet  
 43 testimony if the proceeding involves the custody, parenting time, visitation, support and welfare of  
 44 the parent's child and where the deployed parent or the parent whose deployment is imminent can-  
 45 not personally appear.

