

Senate Bill 385

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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**.

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

1
2 Relating to alternative dispute resolution of parental rights disputes; creating new provisions; and
3 amending ORS 107.146 and 107.434.

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

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

6 **SECTION 2. (1) The presiding judge of each judicial district shall establish a voluntary**
7 **alternative dispute resolution conference procedure for custody and parenting time modifi-**
8 **cation and enforcement. The conference procedure must, at a minimum:**

9 (a) **Require that the parties be under oath but that otherwise the conference be con-**
10 **ducted in an informal manner;**

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

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

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

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

15 (2) **The presiding judge shall appoint a conference officer to hold a conference under this**
16 **section who, at a minimum, is admitted to practice law in this state and has completed 40**
17 **hours of mediation training during the preceding six months.**

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

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

24 (A) **Assist the parties in developing a stipulated agreement on one or more of the re-**
25 **solved issues.**

26 (B) **Make recommendations to the court on the contested issues, including a recommen-**
27 **dation that the court hold a hearing on one or more issues.**

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

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

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 (b) Approving the recommendations of the conference officer;
- 2 (c) Modifying the recommendations of the conference officer;
- 3 (d) Rejecting the recommendations of the conference officer in whole or in part; or
- 4 (e) Setting the matter for a hearing and requiring the parties to appear personally in
- 5 court.

6 (5) No later than 30 days following the date of an order under subsection (4)(b) to (d) of
 7 this section, a party may file an objection with the court.

8 (6) This section does not apply:

9 (a) When the child to whom a duty of support is owed is in another state that has en-
 10 acted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction
 11 and Enforcement Act and a court in that state would have subject matter and personal ju-
 12 risdiction under that Act to determine custody and parenting time rights;

13 (b) To the modification of a joint custody order unless there has been a change of cir-
 14 cumstances and the modification is in the best interests and welfare of the child under ORS
 15 107.137;

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

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

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

21 107.146. (1) Upon motion filed by a deployed parent or a parent whose deployment is imminent,
 22 the court shall hold an expedited hearing in:

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

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

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

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

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

35 107.434. (1) The presiding judge of each judicial district shall establish an expedited parenting
 36 time enforcement procedure that may or may not include a requirement for mediation **or partic-**
 37 **ipation in an alternative dispute resolution conference under section 2 of this 2019 Act.** The
 38 procedure must be easy to understand and initiate. Unless the parties otherwise agree, the court
 39 shall conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a
 40 parenting time order. The court shall provide forms for:

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

44 (b) An order requiring the parties to appear and show cause why parenting time should not be
 45 enforced in a specified manner. The party filing the motion shall serve a copy of the motion and

1 the order on the other party. The order must include:

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

4 (B) A notice in substantially the following form:
5 _____
6

7 When pleaded and shown in a separate legal action, violation of court orders, including
8 visitation and parenting time orders, may also result in a finding of contempt, which can lead to
9 fines, imprisonment or other penalties, including compulsory community service.
10 _____
11

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

15 (2) In addition to any other remedy the court may impose to enforce the provisions of a judg-
16 ment relating to the parenting plan, the court may:

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

18 (A) Specifying a detailed parenting time schedule;

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

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

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

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

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

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

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

29 (g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11).
30 _____