

# Senate Bill 736

Sponsored by COMMITTEE ON JUDICIARY

## 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**.

Modifies terminology in domestic relations proceedings regarding custody of and parenting time with children.

## A BILL FOR AN ACT

1  
2 Relating to children in domestic relations proceedings; creating new provisions; and amending ORS  
3 3.260, 19.270, 24.190, 25.080, 25.125, 25.164, 25.240, 25.280, 40.262, 107.036, 107.095, 107.097,  
4 107.102, 107.105, 107.106, 107.108, 107.135, 107.137, 107.138, 107.145, 107.154, 107.164, 107.169,  
5 107.179, 107.415, 107.425, 107.431, 107.437, 107.710, 107.716, 107.718, 107.722, 107.725, 107.732,  
6 107.735, 107.755, 107.765, 107.775, 108.015, 108.045, 108.120, 109.030, 109.056, 109.096, 109.098,  
7 109.100, 109.103, 109.165, 109.175, 109.672, 109.697, 416.400, 416.407, 416.416, 416.417, 416.425 and  
8 416.443.

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

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

11 **SECTION 2. As used in this chapter:**

12 (1)(a) **“Custody” means the legal relationship in which one person is given decision-**  
13 **making responsibility concerning the child, including, but not limited to, the child’s resi-**  
14 **dence, education, health care and religious training.**

15 (b) **“Custody” does not mean parenting time.**

16 (2) **“Joint custody” means an agreement, approved by the court, by which parents share**  
17 **rights and responsibilities for major decisions concerning the child, including, but not limited**  
18 **to, the child’s residence, education, health care and religious training.**

19 (3) **“Parenting time” means the time during which a person is exercising supervision and**  
20 **physical care of the child pursuant to an order or judgment for custody or parenting time**  
21 **under this chapter or ORS chapter 108.**

22 **SECTION 3. ORS 107.169 is amended to read:**

23 107.169. *[(1) As used in this chapter, “joint custody” means an arrangement by which parents share*  
24 *rights and responsibilities for major decisions concerning the child, including, but not limited to, the*  
25 *child’s residence, education, health care and religious training.]*

26 (1) An order *[providing for]* **approving a joint custody agreement** may:

27 (a) Specify one home as the primary residence of the child; and *[designate]*

28 (b) **Allocate decision-making responsibilities between the parents, including designation**  
29 **of one parent to have sole *[power]* authority to make decisions about specific matters while both**  
30 **parents retain equal rights and responsibilities for other decisions.**

31 (2) The existence of an order *[of]* **approving a joint custody agreement** shall not, by itself<sup>[,]</sup>:

**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 (a) Determine the responsibility of each parent to provide for the support of the child[.]; **or**

2 (b) **Allocate parenting time equally between the parents.**

3 (3) The court shall not *[order]* **approve a joint custody agreement**, unless both parents agree  
4 to the terms and conditions of the *[order]* **agreement**.

5 (4) When parents have agreed to joint custody in an order or a judgment, the court may not  
6 overrule that agreement by ordering *[sole]* custody to one parent.

7 (5) Modification of *[a]* **an order approving a joint custody *[order]* agreement** shall require a  
8 showing of changed circumstances and a showing that the modification is in the best interests of the  
9 child such as would support modification of a *[sole]* custody order. Inability or unwillingness to  
10 continue to cooperate shall constitute a change of circumstances sufficient to modify *[a]* **an order**  
11 **approving a joint custody *[order]* agreement**.

12 (6)(a) The inability of a parent to comply with the terms and conditions of *[a]* **an order ap-**  
13 **proving a joint custody *[order]* agreement** due to the parent's temporary absence does not consti-  
14 tute a change of circumstances if the parent's temporary absence is caused by the parent being:

15 (A) Called into state active duty as defined in the Oregon Code of Military Justice; or

16 (B) Called into active federal service under Title 10 of the United States Code as a member of  
17 the Oregon National Guard.

18 (b) As used in this subsection, "temporary absence" means a period not exceeding 30 consec-  
19 utive months.

20 (7) **Solely for the purposes of all state and federal statutes that require a designation or**  
21 **determination of custody or a custodian, an order approving a joint custody agreement shall**  
22 **designate the parent who is allocated the majority of decision-making responsibilities. This**  
23 **designation does not affect parents' rights and responsibilities under the order approving the**  
24 **joint custody agreement.**

25 **SECTION 4.** ORS 107.036 is amended to read:

26 107.036. (1) The doctrines of fault and of in pari delicto are abolished in suits for the annulment  
27 or dissolution of a marriage or for separation.

28 (2) The court shall not receive evidence of specific acts of misconduct, excepting where *[child]*  
29 custody **of, or parenting time with, a child** is an issue and such evidence is relevant to that issue,  
30 or excepting at a hearing when the court finds such evidence necessary to prove irreconcilable dif-  
31 ferences.

32 (3) In dividing, awarding and distributing the real and personal property (or both) of the parties  
33 (or either of them) between the parties, or in making such property or any of it subject to a trust,  
34 and in fixing the amount and duration of the contribution one party is to make to the support of the  
35 other, the court shall not consider the fault, if any, of either of the parties in causing grounds for  
36 the annulment or dissolution of the marriage or for separation.

37 (4) Where satisfactory proof of grounds for the annulment or dissolution of a marriage or for  
38 separation has been made, the court shall render a judgment for the annulment or dissolution of the  
39 marriage or for separation. A judgment of separation shall state the duration of the separation.

40 **SECTION 5.** ORS 107.095 is amended to read:

41 107.095. (1) After the commencement of a suit for marital annulment, dissolution or separation  
42 and until a general judgment therein, the court may provide as follows:

43 (a) That a party pay to the other party such amount of money as may be necessary to enable  
44 the other party to prosecute or defend the suit, including costs of expert witnesses, and also such  
45 amount of money to the other party as may be necessary to support and maintain the other party.

1 (b) For the care, custody, support and maintenance, by one party or jointly, of the minor chil-  
2 dren as described in ORS 107.105 (1)(a) and for the parenting time rights of **each parent** as de-  
3 scribed in ORS 107.105 (1)(b) [*of the parent not having custody of such children*].

4 (c) For the restraint of a party from molesting or interfering in any manner with the other party  
5 or the minor children.

6 (d) That if minor children reside in the family home and the court considers it necessary for  
7 their best interest to do so, the court may require either party to move out of the home for such  
8 period of time and under such conditions as the court may determine, whether the home is rented,  
9 owned or being purchased by one party or both parties.

10 (e) Restraining and enjoining either party or both from encumbering or disposing of any of the  
11 real or personal property of either or both of the parties, except as ordered by the court.

12 (f) For the temporary use, possession and control of the real or personal property of the parties  
13 or either of them and the payment of installment liens and encumbrances thereon.

14 (g) That even if no minor children reside in the family home, the court may require one party  
15 to move out of the home for such period of time and under such conditions as the court determines,  
16 whether the home is rented, owned or being purchased by one party or both parties if that party  
17 assaults or threatens to assault the other.

18 (2) A limited judgment under ORS chapter 18 may be entered in an action for dissolution or  
19 annulment of a marriage providing for a support award, as defined by ORS 18.005, or other money  
20 award, as defined by ORS 18.005. Notwithstanding ORS 19.255, a limited judgment entered under this  
21 subsection may not be appealed. Any decision of the court in a limited judgment subject to this  
22 subsection may be appealed as otherwise provided by law upon entry of a general judgment.

23 (3) The court shall not require an undertaking in case of the issuance of an order under sub-  
24 section (1)(c), (d), (e), (f) or (g) of this section.

25 (4) In a suit for annulment or dissolution of marriage or for separation, wherein the parties are  
26 copetitioners or the respondent is found by the court to be in default or the respondent having ap-  
27 peared has waived further appearance or the parties stipulate to the entry of a judgment, the court  
28 may, when the cause is otherwise ready for hearing on the merits, in lieu of such hearing, enter a  
29 judgment of annulment or dissolution or for separation based upon a current affidavit or declaration  
30 under penalty of perjury in the form required by ORCP 1 E, executed by the petitioner or  
31 copetitioners, setting forth a prima facie case, and covering such additional matters as the court  
32 may require. If custody of, **or parenting time with**, minor children is involved, then the affidavit  
33 or declaration under penalty of perjury must also include the name of the party with whom the  
34 children currently reside and the length of time they have so resided.

35 (5) When a court orders relief under subsection (1)(c) or (d) of this section, the court may in-  
36 clude in its order an expiration date for the order to allow entry of the order into the Law  
37 Enforcement Data System and the databases of the National Crime Information Center of the United  
38 States Department of Justice as provided in ORS 107.720. If the person being restrained was pro-  
39 vided notice and an opportunity to be heard, the court shall also include in the order, when appro-  
40 priate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) or (g)(8) to affect the person's ability  
41 to possess firearms and ammunition or engage in activities involving firearms.

42 **SECTION 6.** ORS 107.097 is amended to read:

43 107.097. (1) Except as otherwise provided in subsection (3) of this section, a court may not enter  
44 ex parte a temporary order under ORS 107.095, 109.103 or 109.119 providing for the custody of, or  
45 parenting time with, a child.

1 (2)(a) A party may apply to a court for a temporary protective order of restraint by filing with  
2 the court an affidavit or a declaration under penalty of perjury in the form required by ORCP 1 E,  
3 conforming to the requirements of ORS 109.767.

4 (b) Upon receipt of an application under this subsection, the court may issue a temporary pro-  
5 tective order of restraint restraining and enjoining each party from:

6 (A) Changing the child’s usual place of residence;

7 (B) Interfering with the present placement and daily schedule of the child;

8 (C) Hiding or secreting the child from the other party;

9 (D) Interfering with the other party’s usual contact and parenting time with the child;

10 (E) Leaving the state with the child without the written permission of the other party or the  
11 permission of the court; or

12 (F) In any manner disturbing the current schedule and daily routine of the child until custody  
13 or parenting time has been determined.

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

17 \_\_\_\_\_

18  
19 Notice: You may request a hearing on this order as long as it remains in effect by filing with  
20 the court a request for a hearing. In the request you must tell the court and the other party that  
21 you object to the order and specifically why you disagree with the representation of the status quo  
22 described in the order. In the request you must also inform the court of your telephone number or  
23 contact number and your current residence, mailing or contact address.

24 \_\_\_\_\_

25  
26 (3)(a) A court may enter ex parte a temporary order providing for the custody of, or parenting  
27 time with, a child if:

28 (A) The party requesting an order is present in court and presents an affidavit or a declaration  
29 under penalty of perjury, alleging that the child is in immediate danger; and

30 (B) The court finds, based on the facts presented in the party’s testimony, the party’s affidavit  
31 or declaration under penalty of perjury and the testimony of the other party, if the other party is  
32 present, that the child is in immediate danger.

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

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

38 \_\_\_\_\_

39  
40 Notice: You may request a hearing on this order as long as it remains in effect by filing with  
41 the court a request for a hearing. In the request you must tell the court and the other party that  
42 you object to the order on the ground that the child was not in immediate danger at the time the  
43 order was issued. In the request you must also inform the court of your telephone number or contact  
44 number and your current residence, mailing or contact address.

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(4)(a) A party against whom an order is entered under subsection (2) or (3) of this section may request a hearing by filing with the court a hearing request described in subsection (2) or (3) of this section at any time while the order is in effect.

(b) The court shall make reasonable efforts to hold a hearing within 14 days and shall hold a hearing no later than 21 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 (2) or (3) 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) A temporary protective order of restraint is limited to a determination of the status quo at the time the order was issued. If the child’s usual place of residence cannot be determined, the court may make any further order the court finds appropriate in the best interests of the child.

(B) 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.

(5) The State Court Administrator shall prescribe the content and form of a request for a hearing described in subsections (2) and (3) of this section.

(6) As used in this section:

(a) “Child’s usual place of residence” has the meaning given that term in ORS 107.138.

(b) “Party’s usual contact and parenting time,” “present placement and daily schedule of the child” and “current schedule and daily routine of the child” have the meanings given “parent’s usual contact and parenting time,” “present placement and daily schedule of the child” and “current schedule and daily routine of the child” in ORS 107.138.

**SECTION 7.** ORS 107.102 is amended to read:

107.102. (1) In any proceeding to establish or modify a judgment providing for parenting time with a child, except for matters filed under ORS 107.700 to 107.735, there shall be developed and filed with the court a parenting plan to be included in the judgment. A parenting plan may be either general or detailed.

(2) A general parenting plan may include a general outline of how parental responsibilities and parenting time will be shared and may allow the parents to develop a more detailed agreement on an informal basis. However, a general parenting plan must set forth the minimum amount of parenting time and access [*a noncustodial*] **each** parent is entitled to have.

(3) A detailed parenting plan may include, but need not be limited to, provisions relating to:

- (a) Residential schedule;
- (b) Holiday, birthday and vacation planning;
- (c) Weekends, including holidays, and school in-service days preceding or following weekends;
- (d) **Any delegation of decision-making [*and responsibility*] by the parent having decision-making responsibility to the parent exercising parenting time;**
- (e) **Responsibilities of the parent exercising parenting time;**
- [(e)] (f) Information sharing and access;
- [(f)] (g) Relocation of parents;
- [(g)] (h) Telephone access;
- [(h)] (i) Transportation; and

1        *(i)* **(j)** Methods for resolving disputes.

2        (4)(a) The court shall develop a detailed parenting plan when:

3        (A) So requested by either parent; or

4        (B) The parent or parents are unable to develop a parenting plan.

5        (b) In developing a parenting plan under this subsection, the court may consider only the best  
6 interests of the child and the safety of the parties.

7        **SECTION 8.** ORS 107.105 is amended to read:

8        107.105. (1) Whenever the court renders a judgment of marital annulment, dissolution or sepa-  
9 ration, the court may provide in the judgment:

10        (a) For the future care and custody, by one party or jointly, of all minor children of the parties  
11 born, adopted or conceived during the marriage and for minor children born to the parties prior to  
12 the marriage, as the court may deem just and proper under ORS 107.137. [*The court may hold a*  
13 *hearing to decide the custody issue prior to any other issues.*] When appropriate, the court shall rec-  
14 ognize the value of close contact with both parents and encourage joint [*parental*] custody and joint  
15 responsibility for the welfare of the children.

16        (b) For parenting time rights of the [*parent not having custody of such children*] **parents** and for  
17 visitation rights pursuant to a petition filed under ORS 109.119. When a parenting plan has been  
18 developed as required by ORS 107.102, the court shall review the parenting plan and, if approved,  
19 incorporate the parenting plan into the court's final order. When incorporated into a final order, the  
20 parenting plan is determinative of parenting time rights. If the parents have been unable to develop  
21 a parenting plan or if either of the parents requests the court to develop a detailed parenting plan,  
22 the court shall develop the parenting plan in the best interest of the child, ensuring [*the*  
23 *noncustodial*] **each** parent sufficient access to the child to provide for appropriate quality parenting  
24 time and ensuring the safety of the parties, if implicated. The court shall deny parenting time to a  
25 parent under this paragraph if the court finds that the parent has been convicted of rape under ORS  
26 163.365 or 163.375 or other comparable law of another jurisdiction and the rape resulted in the  
27 conception of the child. Otherwise, the court may deny parenting time to [*the noncustodial*] **a** parent  
28 under this subsection only if the court finds that parenting time would endanger the health or safety  
29 of the child. In the case of a [*noncustodial*] parent who has a disability as defined by the Americans  
30 with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the court may consider the [*noncustodial*]  
31 parent's disability in determining parenting time only if the court finds that behaviors or limitations  
32 related to the [*noncustodial*] parent's disability are endangering or will likely endanger the health,  
33 safety or welfare of the child. The court shall recognize the value of close contact with both parents  
34 and encourage, when practicable, joint responsibility for the welfare of such children and extensive  
35 contact between the minor children of the divided marriage and the parties. If the court awards  
36 parenting time to a [*noncustodial*] parent who has committed abuse, other than being convicted for  
37 rape as described in this paragraph, the court shall make adequate provision for the safety of the  
38 child and the other parent in accordance with the provisions of ORS 107.718 (6).

39        (c) For the support of the children of the marriage by the parties. In ordering child support, the  
40 formula established under ORS 25.275 shall apply. The court may at any time require an accounting  
41 from the [*custodial*] parent **receiving child support** with reference to the use of the money received  
42 as child support. The court is not required to order support for any minor child who has become  
43 self-supporting, emancipated or married or for any child who has ceased to attend school after be-  
44 coming 18 years of age. A general judgment entered under this section may include an amount for  
45 support as requested in a petition filed under ORS 107.085 or under a motion for relief made pur-

1 suant to ORS 107.095 (1)(b) for which a limited judgment was not entered, payment of which com-  
2 mences no earlier than the date the petition or motion was served on the nonrequesting party, and  
3 the amount shall be considered a request for relief that has been decided by the general judgment  
4 for purposes of ORS 18.082 (3).

5 (d) For spousal support, an amount of money for a period of time as may be just and equitable  
6 for one party to contribute to the other, in gross or in installments or both. Unless otherwise ex-  
7 pressly provided in the judgment and except for any unpaid balance of previously ordered spousal  
8 support, liability for the payment of spousal support shall terminate on the death of either party,  
9 and there shall be no liability for either the payment of spousal support or for any payment in cash  
10 or property as a substitute for the payment of spousal support after the death of either party. The  
11 court may approve an agreement for the entry of an order for the support of a party. A general  
12 judgment entered under this section may include an amount for support as requested in a petition  
13 filed under ORS 107.085 or under a motion for relief made pursuant to ORS 107.095 (1)(b) for which  
14 a limited judgment was not entered, payment of which commences no earlier than the date the pe-  
15 tition or motion was served on the nonrequesting party, and the amount shall be considered a re-  
16 quest for relief that has been decided by the general judgment for purposes of ORS 18.082 (3). In  
17 making the spousal support order, the court shall designate one or more categories of spousal sup-  
18 port and shall make findings of the relevant factors in the decision. The court may order:

19 (A) Transitional spousal support as needed for a party to attain education and training neces-  
20 sary to allow the party to prepare for reentry into the job market or for advancement therein. The  
21 factors to be considered by the court in awarding transitional spousal support include but are not  
22 limited to:

- 23 (i) The duration of the marriage;
- 24 (ii) A party's training and employment skills;
- 25 (iii) A party's work experience;
- 26 (iv) The financial needs and resources of each party;
- 27 (v) The tax consequences to each party;
- 28 (vi) A party's *[custodial]* **parenting time** and child support responsibilities; and
- 29 (vii) Any other factors the court deems just and equitable.

30 (B) Compensatory spousal support when there has been a significant financial or other contri-  
31 bution by one party to the education, training, vocational skills, career or earning capacity of the  
32 other party and when an order for compensatory spousal support is otherwise just and equitable in  
33 all of the circumstances. The factors to be considered by the court in awarding compensatory  
34 spousal support include but are not limited to:

- 35 (i) The amount, duration and nature of the contribution;
- 36 (ii) The duration of the marriage;
- 37 (iii) The relative earning capacity of the parties;
- 38 (iv) The extent to which the marital estate has already benefited from the contribution;
- 39 (v) The tax consequences to each party; and
- 40 (vi) Any other factors the court deems just and equitable.

41 (C) Spousal maintenance as a contribution by one spouse to the support of the other for either  
42 a specified or an indefinite period. The factors to be considered by the court in awarding spousal  
43 maintenance include but are not limited to:

- 44 (i) The duration of the marriage;
- 45 (ii) The age of the parties;

- 1 (iii) The health of the parties, including their physical, mental and emotional condition;
- 2 (iv) The standard of living established during the marriage;
- 3 (v) The relative income and earning capacity of the parties, recognizing that the wage earner's
- 4 continuing income may be a basis for support distinct from the income that the supported spouse
- 5 may receive from the distribution of marital property;
- 6 (vi) A party's training and employment skills;
- 7 (vii) A party's work experience;
- 8 (viii) The financial needs and resources of each party;
- 9 (ix) The tax consequences to each party;
- 10 (x) A party's [*custodial*] **parenting time** and child support responsibilities; and
- 11 (xi) Any other factors the court deems just and equitable.
- 12 (e) For the delivery to one party of such party's personal property in the possession or control
- 13 of the other at the time of the giving of the judgment.
- 14 (f) For the division or other disposition between the parties of the real or personal property, or
- 15 both, of either or both of the parties as may be just and proper in all the circumstances. In deter-
- 16 mining the division of property under this paragraph, the following apply:
- 17 (A) A retirement plan or pension or an interest therein shall be considered as property.
- 18 (B) The court shall consider the contribution of a party as a homemaker as a contribution to
- 19 the acquisition of marital assets.
- 20 (C) Except as provided in subparagraph (D) of this paragraph, there is a rebuttable presumption
- 21 that both parties have contributed equally to the acquisition of property during the marriage,
- 22 whether such property is jointly or separately held.
- 23 (D)(i) Property acquired by gift to one party during the marriage and separately held by that
- 24 party on a continuing basis from the time of receipt is not subject to a presumption of equal con-
- 25 tribution under subparagraph (C) of this paragraph.
- 26 (ii) For purposes of this subparagraph, "property acquired by gift" means property acquired by
- 27 one party through gift, devise, bequest, operation of law, beneficiary designation or inheritance.
- 28 (E) Subsequent to the filing of a petition for annulment or dissolution of marriage or separation,
- 29 the rights of the parties in the marital assets shall be considered a species of co-ownership, and a
- 30 transfer of marital assets under a judgment of annulment or dissolution of marriage or of separation
- 31 entered on or after October 4, 1977, shall be considered a partitioning of jointly owned property.
- 32 (F) The court shall require full disclosure of all assets by the parties in arriving at a just
- 33 property division.
- 34 (G) In arriving at a just and proper division of property, the court shall consider reasonable
- 35 costs of sale of assets, taxes and any other costs reasonably anticipated by the parties.
- 36 (H)(i) If a party has been awarded spousal support in lieu of a share of property, the court shall
- 37 so state on the record and shall order the obligor to provide for and maintain life insurance in an
- 38 amount commensurate with the obligation and designating the obligee as beneficiary for the dura-
- 39 tion of the obligation.
- 40 (ii) The obligee or attorney of the obligee shall cause a certified copy of the judgment to be
- 41 delivered to the life insurance company or companies.
- 42 (iii) If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life
- 43 insurance company or companies, identifying the policies involved and requesting such notification
- 44 under this section, the company or companies shall notify the obligee, as beneficiary of the insur-
- 45 ance policy, whenever the policyholder takes any action that will change the beneficiary or reduce



1 the benefits of the policy. Either party may request notification by the insurer when premium pay-  
2 ments have not been made. If the obligor is ordered to provide for and maintain life insurance, the  
3 obligor shall provide to the obligee a true copy of the policy. The obligor shall also provide to the  
4 obligee written notice of any action that will reduce the benefits or change the designation of the  
5 beneficiaries under the policy.

6 (g) For the creation of trusts as follows:

7 (A) For the appointment of one or more trustees to hold, control and manage for the benefit of  
8 the children of the parties, of the marriage or otherwise such of the real or personal property of  
9 either or both of the parties, as the court may order to be allocated or appropriated to their support  
10 and welfare, and to collect, receive, expend, manage or invest any sum of money awarded for the  
11 support and welfare of minor children of the parties.

12 (B) For the appointment of one or more trustees to hold, manage and control such amount of  
13 money or such real or personal property of either or both of the parties, as may be set aside, allo-  
14 cated or appropriated for the support of a party.

15 (C) For the establishment of the terms of the trust and provisions for the disposition or distrib-  
16 ution of such money or property to or between the parties, their successors, heirs and assigns after  
17 the purpose of the trust has been accomplished. Upon petition of a party or a person having an in-  
18 terest in the trust showing a change of circumstances warranting a change in the terms of the trust,  
19 the court may make and direct reasonable modifications in its terms.

20 (h) To change the name of either spouse to a name the spouse held before the marriage. The  
21 court shall order a change if it is requested by the affected party.

22 (i) For a money award for any sums of money found to be then remaining unpaid upon any order  
23 or limited judgment entered under ORS 107.095. If a limited judgment was entered under ORS  
24 107.095, the limited judgment shall continue to be enforceable for any amounts not paid under the  
25 limited judgment unless those amounts are included in the money award made by the general judg-  
26 ment.

27 (j) For an award of reasonable attorney fees and costs and expenses reasonably incurred in the  
28 action in favor of a party or in favor of a party's attorney.

29 **(2) The court may hold a hearing to decide the custody issues or parenting time rights**  
30 **under subsection (1)(a) or (b) of this section prior to any other issues.**

31 [(2)] (3) In determining the proper amount of support and the proper division of property under  
32 subsection (1)(c), (d) and (f) of this section, the court may consider evidence of the tax consequences  
33 on the parties of its proposed judgment.

34 [(3)] (4) Upon the filing of the judgment, the property division ordered shall be deemed effective  
35 for all purposes. This transfer by judgment, which shall affect solely owned property transferred to  
36 the other spouse as well as commonly owned property in the same manner as would a declaration  
37 of a resulting trust in favor of the spouse to whom the property is awarded, is not a taxable sale  
38 or exchange.

39 [(4)] (5) If an appeal is taken from a judgment of annulment or dissolution of marriage or of  
40 separation or from any part of a judgment rendered in pursuance of the provisions of ORS 107.005  
41 to 107.086, 107.095, 107.105, 107.115 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540 and  
42 107.610, the court rendering the judgment may provide in a supplemental judgment for any relief  
43 provided for in ORS 107.095 and shall provide that the relief granted in the judgment is to be in  
44 effect only during the pendency of the appeal. A supplemental judgment under this subsection may  
45 be enforced as provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judgment un-

1 der this subsection may be appealed in the same manner as provided for supplemental judgments  
 2 modifying a domestic relations judgment under ORS 19.275.

3 [(5)] (6) If an appeal is taken from the judgment or other appealable order in a suit for  
 4 annulment or dissolution of a marriage or for separation and the appellate court awards costs and  
 5 disbursements to a party, the court may also award to that party, as part of the costs, such addi-  
 6 tional sum of money as it may adjudge reasonable as an attorney fee on the appeal.

7 [(6)] (7) If, as a result of a suit for the annulment or dissolution of a marriage or for separation,  
 8 the parties to such suit become owners of an undivided interest in any real or personal property,  
 9 or both, either party may maintain supplemental proceedings by filing a petition in such suit for the  
 10 partition of such real or personal property, or both, within two years from the entry of the judgment,  
 11 showing among other things that the original parties to the judgment and their joint or several  
 12 creditors having a lien upon any such real or personal property, if any there be, constitute the sole  
 13 and only necessary parties to such supplemental proceedings. The procedure in the supplemental  
 14 proceedings, so far as applicable, shall be the procedure provided in ORS 105.405 for the partition  
 15 of real property, and the court granting the judgment shall have in the first instance and retain  
 16 jurisdiction in equity therefor.

17 **SECTION 9.** ORS 107.106 is amended to read:

18 107.106. (1) An order or judgment providing for the custody, parenting time, visitation or support  
 19 of a child under ORS chapter 25, 107, 108, 109 or 110 or ORS 419B.400 or 419C.590 shall include:

20 (a) Provisions addressing the issues of:

- 21 (A) Payment of uninsured medical expenses of the child;
- 22 (B) Maintenance of insurance or other security for support; and
- 23 (C) Medical support for the child under ORS 25.321 to 25.343.

24 (b) A statement in substantially the following form:

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25  
 26  
 27 The terms of child support and parenting time [(visitation)] are designed for the child’s benefit  
 28 and not the parents’ benefit. You must pay support even if you are not receiving [visitation] **par-**  
 29 **enting time**. You must comply with [visitation] **parenting time** orders even if you are not receiving  
 30 child support.

31 Violation of child support orders and [visitation] **parenting time** orders is punishable by fine,  
 32 imprisonment or other penalties.

33 Publicly funded help is available to establish, enforce and modify child support orders. Paternity  
 34 establishment services are also available. Contact your local district attorney or the Department of  
 35 Justice at (503) 373-7300 for information.

36 Publicly funded help may be available to establish, enforce and modify [visitation] **parenting**  
 37 **time** orders. Forms are available to enforce visitation orders. Contact the domestic relations court  
 38 clerk or civil court clerk for information.

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41 (2) The court or administrative law judge shall ensure the creation and filing of an order or  
 42 judgment that complies with this section.

43 (3) This section does not apply to an action undertaken by the Division of Child Support of the  
 44 Department of Justice or a district attorney under ORS 25.080.

45 **SECTION 10.** ORS 107.108 is amended to read:

- 1 107.108. (1) As used in this section:
- 2 (a) "Child attending school" means a child of the parties who:
- 3 (A) Is unmarried;
- 4 (B) Is 18 years of age or older and under 21 years of age;
- 5 (C) Is making satisfactory academic progress as defined by the school that the child attends; and
- 6 (D) Has a course load that is no less than one-half of the load that is determined by the school
- 7 to constitute full-time enrollment.
- 8 (b) "Regularly scheduled break" means:
- 9 (A) A summer semester or term;
- 10 (B) A period of time not exceeding four months between graduation from or completion of school
- 11 and the beginning of the next regularly scheduled term, semester or course of study at school;
- 12 (C) A period of time between the end and beginning of regularly scheduled consecutive school
- 13 semesters, terms or courses of study; or
- 14 (D) Any other scheduled break between courses of study that is defined by the school as a reg-
- 15 ularly scheduled break.
- 16 (c) "School" means:
- 17 (A) An educational facility such as a high school, community college, four-year college or uni-
- 18 versity;
- 19 (B) A course of professional, vocational or technical training, including the Job Corps, designed
- 20 to fit the child for gainful employment; or
- 21 (C) A high school equivalency course, including but not limited to a General Educational De-
- 22 velopment (GED) program, an educational program for grade 12 or below and home schooling.
- 23 (2) A support order entered or modified under this chapter or under ORS chapter 25, 108, 109,
- 24 110, 125, 416, 419B or 419C may require either parent, or both of them, to provide for the support
- 25 or maintenance of a child attending school.
- 26 (3) Notwithstanding ORS 416.407, a child attending school is a party to any legal proceeding
- 27 related to the support order. A child attending school may:
- 28 (a) Apply for services under ORS 25.080:
- 29 (A) If a support order provides for the support or maintenance of the child attending school; or
- 30 (B) In accordance with rules adopted by the Department of Justice;
- 31 (b) Request a judicial or administrative modification of the child support amount or may receive
- 32 notice of and participate in any modification proceeding; and
- 33 (c) Agree, in the same manner as an obligee under ORS 25.020 (12), that payments not made to
- 34 the Department of Justice should be credited for amounts that would have been paid to the child
- 35 attending school if the payments had been made to the department.
- 36 (4) Regardless of whether the child is a child attending school, an unmarried child who is 18
- 37 years of age or older and under 21 years of age:
- 38 (a) Is a necessary party to a judicial proceeding under ORS 107.085, 107.135, 107.431, 108.110,
- 39 109.103 or 109.165 in which the child's parents are parties and the court has authority to order or
- 40 modify support for a child attending school; and
- 41 (b) May request notice of any proceeding initiated by the administrator to modify a support or-
- 42 der that may affect the child's rights as a child attending school. To receive notice, the child shall
- 43 provide an address to the administrator, and the administrator shall notify the child of any modifi-
- 44 cation proceeding by first class mail. To be a party to a proceeding, the child must send a written
- 45 request to the administrator within 30 days after the date of the notice of the proceeding.

1 (5)(a) If a support order provides for the support or maintenance of a child attending school and  
2 the child qualifies as a child attending school, unless good cause is found for the distribution of the  
3 payment to be made in some other manner, support shall be distributed to the child if services are  
4 being provided under ORS 25.080 or shall be paid directly to the child if those services are not being  
5 provided.

6 (b) Unless otherwise ordered by the court, administrator or administrative law judge, when there  
7 are multiple children for whom support is ordered, the amount distributed or paid directly to a child  
8 attending school is a prorated share based on the number of children for whom support is ordered.  
9 However, if[, *due to a parenting time or split custody arrangement,*] support was not paid to the par-  
10 ent having [*primary physical custody of*] **the majority of the parenting time with** the child before  
11 the child [*turned*] **has reached** 18 years of age, support may not be distributed or paid directly to  
12 the child attending school unless the support order is modified.

13 (c) The Department of Justice shall adopt rules to define good cause and circumstances under  
14 which the administrator or administrative law judge may allocate support by other than a prorated  
15 share and to determine how support is to be allocated in those circumstances.

16 (6)(a) For support payments to continue to be distributed or paid directly to the child attending  
17 school, the child shall provide to each parent ordered to pay support and, if services are being  
18 provided under ORS 25.080, to the department:

19 (A) Written notice of the child's intent to attend or continue to attend school. The child shall  
20 provide the notice before reaching 18 years of age. The notice must include the name of the school  
21 and the expected graduation date or date when the child will stop attending classes. If the child  
22 changes schools, the child shall provide the information required by this subsection concerning the  
23 subsequent school before the expected graduation date or date when the child will stop attending  
24 classes at the previous school.

25 (B) Written consent that:

26 (i) Is directed to the child's school and is in a form consistent with state and federal require-  
27 ments that restrict disclosure of student records;

28 (ii) Gives the school authority to disclose to each parent ordered to pay support the child's en-  
29 rollment status, whether the child is maintaining satisfactory academic progress, a list of courses  
30 in which the child is enrolled and the child's grades; and

31 (iii) States that the disclosure is for the purpose of permitting each parent to verify the child's  
32 compliance with the requirements of this section.

33 (b) The child shall provide the written consent form described in paragraph (a)(B) of this sub-  
34 section within 30 days after the beginning of the first term or semester after the child reaches 18  
35 years of age, at the beginning of each academic year thereafter and as otherwise required by the  
36 school to disclose the information under this section.

37 (c) If an order of nondisclosure of information has been entered concerning the child under ORS  
38 25.020, the child may provide the information described in paragraph (a)(B) of this subsection in the  
39 manner established by the department by rule.

40 (7) Each parent ordered to pay support shall continue to make support payments, to be distrib-  
41 uted or paid directly, to the child during regularly scheduled breaks as long as the child intends to  
42 continue attending school the next scheduled term or semester.

43 (8) A parent's obligation to pay support to a child attending school is suspended when:

44 (a) The child has reached 18 years of age and has not provided written notice of the child's in-  
45 tent to attend or continue to attend school, or the child has graduated or reached the date to stop

1 attending classes, as provided under subsection (6)(a)(A) of this section;

2 (b)(A) Services are not being provided under ORS 25.080;

3 (B) The parent has provided the child with a written notice of the parent's intent to stop paying  
4 support directly to the child because the child is no longer a child attending school or the child has  
5 not provided the written consent required by subsection (6)(a)(B) of this section; and

6 (C) Thirty days have passed since the parent provided the notice to the child and the parent  
7 has not received:

8 (i) Written confirmation from the school that the child is enrolled in the school and is a child  
9 attending school; or

10 (ii) The written consent from the child as required by subsection (6)(a)(B) of this section;

11 (c)(A) Services are being provided under ORS 25.080;

12 (B) A parent ordered to pay support has provided the department with written notice that the  
13 child is no longer a child attending school or that the child has not provided the written consent  
14 required by subsection (6)(a)(B) of this section;

15 (C) The department has provided written notice to the child requiring:

16 (i) Written confirmation, on a form developed by the department, from the school that the child  
17 is enrolled in the school and is a child attending school; and

18 (ii) Proof that the written consent required by subsection (6)(a)(B) of this section has been pro-  
19 vided to the parent ordered to pay support; and

20 (D) Thirty days have passed since the department provided the notice to the child and the de-  
21 partment has not received:

22 (i) Written confirmation from the school that the child is enrolled in the school and is a child  
23 attending school; or

24 (ii) Proof that the written consent required by subsection (6)(a)(B) of this section has been pro-  
25 vided to the parent ordered to pay support.

26 (9) When a parent's support obligation has been suspended under subsection (8) of this section,  
27 the obligation is reinstated:

28 (a) If services are not being provided under ORS 25.080, effective on the date the parent receives  
29 written confirmation from the school that the child is enrolled in the school and is a child attending  
30 school and receives the written consent from the child as required by subsection (6)(a)(B) of this  
31 section; or

32 (b) If services are being provided under ORS 25.080, effective on the date the department re-  
33 ceives written confirmation from the school that the child is enrolled in the school and is a child  
34 attending school and receives proof that the written consent required by subsection (6)(a)(B) of this  
35 section has been provided to the parent ordered to pay support.

36 (10) If a parent ordered to pay support is paying a prorated share under subsection (5) of this  
37 section and that obligation is suspended under subsection (8) of this section, the parent shall pay  
38 to the obligee the amount previously paid to the child attending school until such time as the sup-  
39 port order is modified. The suspension of a parent's obligation to pay support to a child attending  
40 school is a substantial change of circumstances for purposes of modifying a support order. In a  
41 proceeding to modify a support order, the court, administrator or administrative law judge may or-  
42 der a modified amount of support and may order an amount of support to be paid in the event that  
43 a support obligation is reinstated under subsection (9) of this section.

44 (11)(a) If services are being provided under ORS 25.080 and the department has suspended a  
45 support obligation under subsection (8) of this section or reinstated a support obligation under sub-

1 section (9) of this section, a party may request administrative review of the action within 30 days  
2 after the date of the notice that the department has suspended or reinstated the support obligation.

3 (b) The department may adopt rules specifying the issues that may be considered on review.

4 (c) A party may appeal the department's decision on review under ORS 183.484.

5 (12)(a) Notwithstanding any other provision of this section, if a parent who is required to pro-  
6 vide for the support or maintenance of a child attending school has established a higher education  
7 savings plan for the child's continued education, the court may order payment in accordance with  
8 the plan instead of ordering support that would otherwise be distributed or paid directly to the child  
9 under this section.

10 (b) If the court orders payment in accordance with the plan, the court may not order compliance  
11 with or payment of that provision of the order through the department.

12 (c) As used in this subsection, "higher education savings plan" means a tax-advantaged account  
13 established by a parent on behalf of a child for the purpose of paying qualified higher education  
14 expenses of the child at eligible educational institutions.

15 (13) A support order that provides for the support or maintenance of a child attending school  
16 is subject to this section regardless of when the support order was entered.

17 (14) A support order that provides for the support or maintenance of a child attending school  
18 is intended to recognize the importance of continuing education for a child over 18 years of age who  
19 does not benefit from an intact family or who has been removed from the household. While support  
20 may serve to supplement the resources available to the child attending school, it is not intended to  
21 replace other resources or meet all of the financial needs of a child attending school.

22 **SECTION 11.** ORS 107.135 is amended to read:

23 107.135. (1) The court may at any time after a judgment of annulment or dissolution of marriage  
24 or of separation is granted, upon the motion of either party and after service of notice on the other  
25 party in the manner provided by ORCP 7, and after notice to the Division of Child Support when  
26 required under subsection (9) of this section:

27 (a) Set aside, alter or modify any portion of the judgment that provides for the appointment and  
28 duties of trustees, for the custody, parenting time, visitation, support and welfare of the minor  
29 children and the children attending school, as defined in ORS 107.108, including any health or life  
30 insurance provisions, for the support of a party or for life insurance under ORS 107.820 or 107.830;

31 (b) Make an order, after service of notice to the other party, providing for the future custody,  
32 **parenting time**, support and welfare of minor children residing in the state, who, at the time the  
33 judgment was given, were not residents of the state, or were unknown to the court or were erro-  
34 neously omitted from the judgment;

35 (c) Terminate a duty of support toward any minor child who has become self-supporting,  
36 emancipated or married;

37 (d) After service of notice on the child in the manner provided by law for service of a summons,  
38 suspend future support for any child who has ceased to be a child attending school as defined in  
39 ORS 107.108; and

40 (e) Set aside, alter or modify any portion of the judgment that provides for a property award  
41 based on the enhanced earning capacity of a party that was awarded before October 23, 1999. A  
42 property award may be set aside, altered or modified under this paragraph:

43 (A) When the person with the enhanced earning capacity makes a good faith career change that  
44 results in less income;

45 (B) When the income of the person with the enhanced earning capacity decreases due to cir-

1 cumstances beyond the person's control; or

2 (C) Under such other circumstances as the court deems just and proper.

3 (2) When a party moves to set aside, alter or modify the child support provisions of the judg-  
4 ment:

5 (a) The party shall state in the motion, to the extent known:

6 (A) Whether there is pending in this state or any other jurisdiction any type of support pro-  
7 ceeding involving children of the marriage, including one brought under ORS 25.287, 107.431,  
8 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

9 (B) Whether there exists in this state or any other jurisdiction a support order, as defined in  
10 ORS 110.503, involving children of the marriage, other than the judgment the party is moving to set  
11 aside, alter or modify.

12 (b) The party shall include with the motion a certificate regarding any pending support pro-  
13 ceeding and any existing support order other than the judgment the party is moving to set aside,  
14 alter or modify. The party shall use a certificate that is in a form established by court rule and in-  
15 clude information required by court rule and paragraph (a) of this subsection.

16 (3) In a proceeding under this section to reconsider the spousal or child support provisions of  
17 the judgment, the following provisions apply:

18 (a) A substantial change in economic circumstances of a party, which may include, but is not  
19 limited to, a substantial change in the cost of reasonable and necessary expenses to either party, is  
20 sufficient for the court to reconsider its order of support, except that an order of compensatory  
21 spousal support may only be modified upon a showing of an involuntary, extraordinary and unan-  
22 ticipated change in circumstances that reduces the earning capacity of the paying spouse.

23 (b) If the judgment provided for a termination or reduction of spousal support at a designated  
24 age in anticipation of the commencement of pension, Social Security or other entitlement payments,  
25 and if the obligee is unable to obtain the anticipated entitlement payments, that inability is suffi-  
26 cient change in circumstances for the court to reconsider its order of support.

27 (c) If Social Security is considered in lieu of spousal support or partial spousal support, the  
28 court shall determine the amount of Social Security the party is eligible to collect. The court shall  
29 take into consideration any pension, retirement or other funds available to either party to effect an  
30 equitable distribution between the parties and shall also take into consideration any reduction of  
31 entitlement caused by taking early retirement.

32 (4) In considering under this section whether a change in circumstances exists sufficient for the  
33 court to reconsider spousal or child support provisions of a judgment, the following provisions apply:

34 (a) The court or administrator, as defined in ORS 25.010, shall consider income opportunities and  
35 benefits of the respective parties from all sources, including but not limited to:

36 (A) The reasonable opportunity of each party, the obligor and obligee respectively, to acquire  
37 future income and assets.

38 (B) Retirement benefits available to the obligor and to the obligee.

39 (C) Other benefits to which the obligor is entitled, such as travel benefits, recreational benefits  
40 and medical benefits, contrasted with benefits to which the obligee is similarly entitled.

41 (D) Social Security benefits paid to a child, or to a representative payee administering the funds  
42 for the child's use and benefit, as a result of the obligor's disability or retirement if the benefits:

43 (i) Were not previously considered in the child support order; or

44 (ii) Were considered in an action initiated before May 12, 2003.

45 (E) Apportioned Veterans' benefits or Survivors' and Dependents' Educational Assistance under

1 38 U.S.C. chapter 35 paid to a child, or to a representative payee administering the funds for the  
2 child's use and benefit, as a result of the obligor's disability or retirement if the benefits:

3 (i) Were not previously considered in the child support order; or

4 (ii) Were considered in an action initiated before May 12, 2003.

5 (b) If the motion for modification is one made by the obligor to reduce or terminate support, and  
6 if the obligee opposes the motion, the court shall not find a change in circumstances sufficient for  
7 reconsideration of support provisions, if the motion is based upon a reduction of the obligor's fi-  
8 nancial status resulting from the obligor's taking voluntary retirement, partial voluntary retirement  
9 or any other voluntary reduction of income or self-imposed curtailment of earning capacity, if it is  
10 shown that such action of the obligor was not taken in good faith but was for the primary purpose  
11 of avoiding the support obligation. In any subsequent motion for modification, the court shall deny  
12 the motion if the sole basis of the motion for modification is the termination of voluntarily taken  
13 retirement benefits and the obligor previously has been found not to have acted in good faith.

14 (c) The court shall consider the following factors in deciding whether the actions of the obligor  
15 were not in "good faith":

16 (A) Timing of the voluntary retirement or other reduction in financial status to coincide with  
17 court action in which the obligee seeks or is granted an increase in spousal support.

18 (B) Whether all or most of the income producing assets and property were awarded to the  
19 obligor, and spousal support in lieu of such property was awarded to the obligee.

20 (C) Extent of the obligor's dissipation of funds and assets prior to the voluntary retirement or  
21 soon after filing for the change of circumstances based on retirement.

22 (D) If earned income is reduced and absent dissipation of funds or large gifts, whether the  
23 obligor has funds and assets from which the spousal support could have been paid.

24 (E) Whether the obligor has given gifts of substantial value to others, including a current  
25 spouse, to the detriment of the obligor's ability to meet the preexisting obligation of spousal support.

26 (5) Upon terminating a duty of spousal support, a court shall make specific findings of the basis  
27 for the termination and shall include the findings in the judgment.

28 (6) Any modification of child or spousal support granted because of a change of circumstances  
29 may be ordered effective retroactive to the date the motion for modification was served or to any  
30 date thereafter.

31 (7) The judgment is final as to any installment or payment of money that has accrued up to the  
32 time the nonmoving party, other than the state, is served with a motion to set aside, alter or modify  
33 the judgment. The court may not set aside, alter or modify any portion of the judgment that provides  
34 for any payment of money, either for minor children or for the support of a party, that has accrued  
35 before the motion is served. However:

36 (a) The court may allow a credit against child support arrearages for periods of time, excluding  
37 reasonable parenting time unless otherwise provided by order or judgment, during which the obligor,  
38 with the knowledge and consent of the obligee or pursuant to court order, [*has physical custody of*  
39 *the child*] **exercises parenting time in excess of the amount of parenting time contemplated**  
40 **by the child support order**; and

41 (b) The court may allow, as provided in the rules of the Child Support Program, a dollar-for-  
42 dollar credit against child support arrearages for any Social Security or Veterans' benefits paid  
43 retroactively to the child, or to a representative payee administering the funds for the child's use  
44 and benefit, as a result of an obligor's disability or retirement.

45 (8) In a proceeding under subsection (1) of this section, the court may assess against either party



1 a reasonable attorney fee and costs for the benefit of the other party. If a party is found to have  
2 acted in bad faith, the court shall order that party to pay a reasonable attorney fee and costs of the  
3 defending party.

4 (9) Whenever a motion to establish, modify or terminate child support or satisfy or alter support  
5 arrearages is filed and the child support rights of one of the parties or of a child of both of the  
6 parties have been assigned to the state, a true copy of the motion shall be served by mail or per-  
7 sonal delivery on the Administrator of the Division of Child Support of the Department of Justice  
8 or on the branch office providing support services to the county in which the motion is filed.

9 (10)(a) Except as provided in ORS 109.701 to 109.834, the courts of Oregon, having once acquired  
10 personal and subject matter jurisdiction in a domestic relations action, retain such jurisdiction re-  
11 gardless of any change of domicile.

12 (b) The courts of Oregon, in a proceeding to establish, enforce or modify a child support order,  
13 shall recognize the provisions of the federal Full Faith and Credit for Child Support Orders Act (28  
14 U.S.C. 1738B).

15 (11) In a proceeding under this section to reconsider provisions in a judgment relating to cus-  
16 tody or parenting time, the court may consider repeated and unreasonable denial of, or interference  
17 with, parenting time to be a substantial change of circumstances.

18 (12) In a proceeding under this section to reconsider provisions in a judgment relating to par-  
19 enting time, the court may suspend or terminate a parent's parenting time with a child if the court  
20 finds that the parent has abused a controlled substance and that the parenting time is not in the  
21 best interests of the child. If a court has suspended or terminated a parent's parenting time with  
22 a child for reasons described in this subsection, the court may not grant the parent future parenting  
23 time until the parent has shown that the reasons for the suspension or termination are resolved and  
24 that reinstated parenting time is in the best interests of the child. Nothing in this subsection limits  
25 the court's authority under subsection (1)(a) of this section.

26 (13) In a proceeding under this section to reconsider provisions in a judgment relating to [*cus-*  
27 *tody*] **parenting time**, temporary placement of the child by the [*custodial*] parent **with parenting**  
28 **time** pursuant to ORS 109.056 (3) with the [*noncustodial*] **other** parent as a result of military de-  
29 ployment of the [*custodial*] parent **with parenting time** is not, by itself, a change of circumstances.  
30 Any fact relating to the child and the parties occurring subsequent to the last [*custody judgment*]  
31 **parenting plan**, other than [*the custodial*] a parent's temporary placement of the child pursuant to  
32 ORS 109.056 (3) with the [*noncustodial*] **other** parent, may be considered by the court when making  
33 a change of circumstances determination.

34 (14) Within 30 days after service of notice under subsection (1) of this section, the party served  
35 shall file a written response with the court.

36 (15)(a) It is the policy of this state:

37 (A) To encourage the settlement of cases brought under this section; and

38 (B) For courts to enforce the terms of settlements described in paragraph (b) of this subsection  
39 to the fullest extent possible, except when to do so would violate the law or would clearly  
40 contravene public policy.

41 (b) In a proceeding under subsection (1) of this section, the court may enforce the terms set  
42 forth in a stipulated order or judgment signed by the parties, an order or judgment resulting from  
43 a settlement on the record or an order or judgment incorporating a settlement agreement:

44 (A) As contract terms using contract remedies;

45 (B) By imposing any remedy available to enforce an order or judgment, including but not limited

1 to contempt; or

2 (C) By any combination of the provisions of subparagraphs (A) and (B) of this paragraph.

3 (c) A party may seek to enforce an agreement and obtain remedies described in paragraph (b)  
4 of this subsection by filing a motion, serving notice on the other party in the manner provided by  
5 ORCP 7 and, if a remedy under paragraph (b)(B) of this subsection is sought, complying with the  
6 statutory requirements for that remedy. All claims for relief arising out of the same acts or omis-  
7 sions must be joined in the same proceeding.

8 (d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate pro-  
9 ceeding, to file a motion to modify an order or judgment under subsection (1) of this section or to  
10 seek enforcement of an ancillary agreement to the order or judgment.

11 **SECTION 12.** ORS 107.137 is amended to read:

12 107.137. (1) Except as provided in subsection (6) of this section, in determining custody of, **or**  
13 **allocating parenting time with**, a minor child under ORS **107.102**, 107.105 or 107.135, the court  
14 shall give primary consideration to the best interests and welfare of the child. In determining the  
15 best interests and welfare of the child, the court shall consider the following relevant factors:

16 (a) The emotional ties between the child and other family members;

17 (b) The interest of the parties in and attitude toward the child;

18 (c) The desirability of continuing an existing relationship;

19 (d) The abuse of one parent by the other;

20 (e) The preference for the [*primary caregiver*] **parent with primary responsibility for the**  
21 **supervision and physical care** of the child, if [*the caregiver*] **that parent** is deemed fit by the court;  
22 and

23 (f) The willingness and ability of each parent to facilitate and encourage a close and continuing  
24 relationship between the other parent and the child. However, the court may not consider such  
25 willingness and ability if one parent shows that the other parent has sexually assaulted or engaged  
26 in a pattern of behavior of abuse against the parent or a child and that a continuing relationship  
27 with the other parent will endanger the health or safety of either **the** parent or the child.

28 (2) The best interests and welfare of the child in a custody **or parenting time** matter shall not  
29 be determined by isolating any one of the relevant factors referred to in subsection (1) of this sec-  
30 tion, or any other relevant factor, and relying on it to the exclusion of other factors. However, if  
31 a parent has committed abuse as defined in ORS 107.705, other than as described in subsection (6)  
32 of this section, there is a rebuttable presumption that it is not in the best interests and welfare of  
33 the child to award [*sole*] **custody** or joint custody of, **or parenting time with**, the child to the  
34 parent who committed the abuse.

35 (3) If a party has a disability as defined by the Americans with Disabilities Act of 1990 (42  
36 U.S.C. 12101 et seq.), the court may not consider that party's disability in determining custody **or**  
37 **parenting time** unless the court finds that behaviors or limitations of the party that are related to  
38 the party's disability are endangering or will likely endanger the health, safety or welfare of the  
39 child.

40 (4) In determining custody of, **or parenting time with**, a minor child under ORS **107.102**,  
41 107.105 or 107.135, the court shall consider the conduct, marital status, income, social environment  
42 or lifestyle of either party only if it is shown that any of these factors are causing or may cause  
43 emotional or physical damage to the child.

44 (5) No preference in custody **or parenting time** shall be given to the mother over the father for  
45 the sole reason that she is the mother, nor shall any preference be given to the father over the

1 mother for the sole reason that he is the father.

2 (6)(a) The court determining custody of, **or parenting time with**, a minor child under ORS  
3 **107.102**, 107.105 or 107.135 shall not award [*sole*] **custody** or joint custody of, **or parenting time**  
4 **with**, the child to a parent if:

5 (A) The court finds that the parent has been convicted of rape under ORS 163.365 or 163.375  
6 or other comparable law of another jurisdiction; and

7 (B) The rape resulted in the conception of the child.

8 (b) A denial of custody **or parenting time** under this subsection does not relieve the parent of  
9 any obligation to pay child support.

10 **SECTION 13.** ORS 107.138 is amended to read:

11 107.138. (1)(a) A court, upon the motion of a party, may enter a temporary status quo order to  
12 either party in a proceeding to modify a judgment that awards custody of, **or parenting time with**,  
13 a child after:

14 (A) Notifying the other party; and

15 (B) Giving the other party an opportunity to contest issuance of the order.

16 (b) The motion for a temporary status quo order must be supported by an affidavit or a decla-  
17 ration under penalty of perjury in the form required by ORCP 1 E, setting forth with specificity the  
18 information required by ORS 109.767 and the person with whom the child has lived during the pre-  
19 ceding year and the child's current schedule, daily routine and usual place of residence.

20 (c) Notice to the party against whom the motion for the order is sought must be served at least  
21 21 days before the date set for the hearing. The issue at the hearing is limited to a determination  
22 of the status quo at the time the motion for the order was filed.

23 (2) A temporary status quo order restrains and enjoins each parent from:

24 (a) Changing the child's usual place of residence;

25 (b) Interfering with the present placement and daily schedule of the child;

26 (c) Hiding or secreting the child from the other parent;

27 (d) Interfering with the other parent's usual contact and parenting time with the child;

28 (e) Leaving the state with the child without the written permission of the other parent or the  
29 permission of the court; or

30 (f) In any manner disturbing the current schedule and daily routine of the child until the motion  
31 for modification has been granted or denied.

32 (3) For purposes of this section:

33 (a) "Child's usual place of residence" means the place where the child is living at the time the  
34 motion for the temporary order is filed and has lived continuously for a period of three consecutive  
35 months, excluding any periods of time during which the [*noncustodial*] **other** parent did exercise, or  
36 would otherwise have exercised, parenting time.

37 (b) "Parent's usual contact and parenting time," "present placement and daily schedule of the  
38 child" and "current schedule and daily routine of the child" mean the contact, parenting time,  
39 placement, schedule and routine at the time the motion for the temporary order is filed.

40 **SECTION 14.** ORS 107.145 is amended to read:

41 107.145. (1) The Legislative Assembly finds and declares that:

42 (a) Establishing a fair, efficient and expeditious process to resolve [*child*] custody, **parenting**  
43 **time** and visitation issues when a parent is deployed with the Armed Forces of the United States,  
44 National Guard or other reserve component is in the best interests of the child of such a deployed  
45 parent; and

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

5 (2) As used in this section and ORS 107.146:

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

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

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

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

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

19 (3) Notwithstanding ORS 107.135 and except as provided in subsection (4) of this section, a court  
20 may not set aside, alter or modify any portion of a judgment of annulment, separation or dissolution  
21 of marriage that provides for the custody, parenting time, visitation, support and welfare of a minor  
22 child of a deployed parent until 90 days after the completion of the deployed parent's deployment  
23 unless a motion to set aside, alter or modify was filed with, heard by and decided by the court before  
24 the commencement of the deployed parent's deployment.

25 (4)(a) Notwithstanding ORS 107.138 and 107.139, a court may enter a temporary order modifying  
26 the terms of a preexisting judgment of annulment, separation or dissolution of marriage that pro-  
27 vides for the custody, parenting time, visitation, support and welfare of a minor child of a deployed  
28 parent to reasonably accommodate the circumstances of the deployed parent's deployment in the  
29 best interests of the child, upon motion filed by either party and after service of notice on the other  
30 party in the manner provided by ORCP 7, and after notice to the Administrator of the Division of  
31 Child Support of the Department of Justice or the branch office providing support services when  
32 required by subsection (6) of this section. The nondeployed parent bears the burden of proof that the  
33 provisions of a temporary order made under this subsection are not in the best interests of the child.

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

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

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

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

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

45 (E) That the temporary order entered under this subsection terminates by operation of law upon

1 completion of deployment and that the provisions of the preexisting judgment that have been modi-  
2 fied by the temporary order are automatically reinstated unless a request is made and granted under  
3 subsection (7) of this section;

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

6 (G) That deployment is considered completed for purposes of reinstating the provisions of the  
7 preexisting judgment that have been modified by the temporary order 10 days after the date on  
8 which the deployed parent serves the nondeployed parent and provides to the court and to the Ad-  
9 ministrator of the Division of Child Support of the Department of Justice or the branch office pro-  
10 viding support services to the county in which the motion is filed copies of written orders or other  
11 official notification that the deployed parent is no longer deployed.

12 (5) A temporary order entered under subsection (4) of this section may include a provision al-  
13 lowing or requiring reasonable visitation between the child of a deployed parent and a stepparent,  
14 grandparent or other family member related to the child with whom the child has an ongoing re-  
15 lationship as defined in ORS 109.119. In determining the best interests of the child, the court shall  
16 consider the factors set forth in ORS 109.119 (4) and whether awarding visitation will facilitate the  
17 child's contact with the deployed parent. For purposes of this subsection, a *[legal]* parent is pre-  
18 sumed to act in the best interests of the child. In making an order under this subsection, the court  
19 shall apply a preponderance of the evidence standard.

20 (6) A true copy of a motion under subsection (4) of this section shall be served by the moving  
21 party by mail or personal delivery on the Administrator of the Division of Child Support of the  
22 Department of Justice or on the branch office providing support services to the county in which the  
23 motion is filed.

24 (7) Prior to reinstatement of the provisions of a preexisting judgment, a parent may request ex  
25 parte a temporary order alleging that the child will be irreparably harmed or placed in immediate  
26 danger if the provisions of the preexisting judgment are automatically reinstated upon completion  
27 of deployment.

28 (8) When a court has entered a temporary order under subsection (4) of this section, the absence  
29 of a child from this state during a deployed parent's deployment is considered a temporary absence  
30 for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act and this state shall  
31 retain exclusive continuing jurisdiction in accordance with ORS 109.701 to 109.834.

32 (9) The court may award attorney fees and costs reasonably incurred in a proceeding under this  
33 section if the court finds that a party caused unreasonable delays, failed to provide information as  
34 required by this section or acted to unreasonably interfere with or frustrate contact between a de-  
35 ployed parent and a minor child.

36 **SECTION 15.** ORS 107.154 is amended to read:

37 107.154. Unless otherwise ordered by the court, an order *[of sole]* **awarding** custody to one  
38 parent shall not deprive the other parent of the following authority:

39 (1) To inspect and receive school records and to consult with school staff concerning the child's  
40 welfare and education, to the same extent as the *[custodial]* parent **with decision-making authority**  
41 may inspect and receive *[such]* **school** records and consult with *[such]* **school** staff;

42 (2) To inspect and receive governmental agency and law enforcement records concerning the  
43 child to the same extent as the *[custodial]* parent **with decision-making authority** may inspect and  
44 receive such records;

45 (3) To consult with any person who may provide care or treatment for the child and to inspect

1 and receive the child's medical, dental and psychological records, to the same extent as the [*custodial*]  
 2 parent **with decision-making authority** may consult with such person and inspect and receive  
 3 such records;

4 (4) To authorize emergency medical, dental, psychological, psychiatric or other health care for  
 5 the child if the [*custodial*] parent **with decision-making authority** is, for practical purposes, un-  
 6 available; or

7 (5) To apply to be the child's conservator, guardian ad litem or both.

8 **SECTION 16.** ORS 107.164 is amended to read:

9 107.164. Unless otherwise ordered by the court, both parents shall have a continuing responsi-  
 10 bility, once a custody, **parenting time** or protective order concerning the child is issued, to provide  
 11 addresses and contact telephone numbers to the other parent and to immediately notify the other  
 12 parent of any emergency circumstances or substantial changes in the health of the child.

13 **SECTION 17.** ORS 107.179 is amended to read:

14 107.179. (1) When either party to a [*child*] custody issue, other than one involving temporary  
 15 custody, whether the issue arises from a case of marital annulment, dissolution or separation, or  
 16 from a determination of parentage, requests the court to grant joint custody of the minor children  
 17 of the parties under ORS 107.105, the court, if the other party objects to the request for joint cus-  
 18 tody, shall proceed under this section. The request under this subsection must be made, in the pe-  
 19 tition or the response, or otherwise not less than 30 days before the date of trial in the case, except  
 20 for good cause shown. The court in such circumstances, except as provided in subsection (3) of this  
 21 section, shall direct the parties to participate in mediation in an effort to resolve their differences  
 22 concerning custody. The court may order such participation in mediation within a mediation pro-  
 23 gram established by the court or as conducted by any mediator approved by the court. Unless the  
 24 court or the county provides a mediation service available to the parties, the court may order that  
 25 the costs of the mediation be paid by one or both of the parties, as the court finds equitable upon  
 26 consideration of the relative ability of the parties to pay those costs. If, after 90 days, the parties  
 27 do not arrive at a resolution of their differences, the court shall proceed to determine custody.

28 (2) At its discretion, the court may:

29 (a) Order mediation under this section prior to trial and postpone trial of the case pending the  
 30 outcome of the mediation, in which case the issue of custody shall be tried only upon failure to re-  
 31 solve the issue of custody by mediation;

32 (b) Order mediation under this section prior to trial and proceed to try the case as to issues  
 33 other than custody while the parties are at the same time engaged in the mediation, in which case  
 34 the issue of custody shall be tried separately upon failure to resolve the issue of custody by medi-  
 35 ation; or

36 (c) Complete the trial of the case on all issues and order mediation under this section upon the  
 37 conclusion of the trial, postponing entry of the judgment pending outcome of the mediation, in which  
 38 case the court may enter a limited judgment as to issues other than custody upon completion of the  
 39 trial or may postpone entry of any judgment until the expiration of the mediation period or agree-  
 40 ment of the parties as to custody.

41 (3) If either party objects to mediation on the grounds that to participate in mediation would  
 42 subject the party to severe emotional distress and moves the court to waive mediation, the court  
 43 shall hold a hearing on the motion. If the court finds it likely that participation in mediation will  
 44 subject the party to severe emotional distress, the court may waive the requirement of mediation.

45 (4) Communications made by or to a mediator or between parties as a part of mediation ordered

1 under this section are privileged and are not admissible as evidence in any civil or criminal pro-  
 2 ceeding.

3 **SECTION 18.** ORS 107.415 is amended to read:

4 107.415. (1) If a party is required by a judgment of a court in a domestic relations suit, as de-  
 5 fined in ORS 107.510, to contribute to the support, nurture or education of a minor child while the  
 6 other party [*has custody thereof*] **is exercising parenting time**, the [*custodial*] parent **exercising**  
 7 **parenting time** shall notify the party contributing such money when the minor child receives in-  
 8 come from the gainful employment of the child, or is married or enters the military service.

9 (2) Any [*custodial*] parent **exercising parenting time** who does not provide notice, as required  
 10 by subsection (1) of this section, may be required by the court to make restitution to the contrib-  
 11 uting party of any money paid, as required by the judgment. The court may enter a supplemental  
 12 judgment or satisfy all or part of the support award to accomplish the restitution.

13 **SECTION 19.** ORS 107.425 is amended to read:

14 107.425. (1) In suits or proceedings described in subsection (4) of this section in which there are  
 15 minor children involved, the court may cause an investigation to be made as to the character, family  
 16 relations, past conduct, earning ability and financial worth of the parties for the purpose of pro-  
 17 tecting the children's future interest. The court may defer the entry of a general judgment until the  
 18 court is satisfied that its judgment in such suit or proceeding will properly protect the welfare of  
 19 such children. The investigative findings shall be offered as and subject to all rules of evidence.  
 20 Costs of the investigation may be charged against one or more of the parties or as a cost in the  
 21 proceedings but shall not be charged against funds appropriated for public defense services.

22 (2) The court, on its own motion or on the motion of a party, may order an independent physical,  
 23 psychological, psychiatric or mental health examination of a party or the children and may require  
 24 any party and the children to be interviewed, evaluated and tested by an expert or panel of experts.  
 25 The court may also authorize the expert or panel of experts to interview other persons and to re-  
 26 quest other persons to make available to the expert or panel of experts records deemed by the court  
 27 or the expert or panel of experts to be relevant to the evaluation. The court may order the parties  
 28 to authorize the disclosure of such records. In the event the parties are unable to stipulate to the  
 29 selection of an expert or panel of experts to conduct the examination or evaluation, the court shall  
 30 appoint a qualified expert or panel of experts. The court shall direct one or more of the parties to  
 31 pay for the examination or evaluation in the absence of an agreement between the parties as to the  
 32 responsibility for payment but shall not direct that the expenses be charged against funds appro-  
 33 priated for public defense services. If more than one party is directed to pay, the court may deter-  
 34 mine the amount that each party will pay based on financial ability.

35 (3)(a) In addition to an investigation, examination or evaluation under subsections (1) and (2)  
 36 of this section, the court may appoint an individual or a panel or may designate a program to assist  
 37 the court in creating parenting plans or resolving disputes regarding parenting time and to assist  
 38 parents in creating and implementing parenting plans. The services provided to the court and to  
 39 parents under this section may include:

40 (A) Gathering information;

41 (B) Monitoring compliance with court orders;

42 (C) Providing the parents, their attorneys, if any, and the court with recommendations for new  
 43 or modified parenting time provisions; and

44 (D) Providing parents with problem solving, conflict management and parenting time coordi-  
 45 nation services or other services approved by the court.

1 (b) Services provided under this section may require the provider to possess and utilize medi-  
 2 ation skills, but the services are not comprised exclusively of mediation services under ORS 107.755  
 3 to 107.795. If only mediation services are provided, the provisions of ORS 107.755 to 107.795 apply.

4 (c) The court may order one or more of the parties to pay for services provided under this  
 5 subsection, if the parties are unable to agree on their respective responsibilities for payment. The  
 6 court may not order that expenses be charged against funds appropriated for public defense services.

7 (d) The presiding judge of each judicial district shall establish qualifications for the appointment  
 8 and training of individuals and panels and the designation of programs under this section. In estab-  
 9 lishing qualifications, a presiding judge shall take into consideration any guidelines recommended  
 10 by the statewide family law advisory committee.

11 (4) The provisions of this section apply when:

12 (a) A person files a domestic relations suit, as defined in ORS 107.510;

13 (b) A motion to modify an existing judgment in a domestic relations suit is before the court;

14 (c) A parent of a child born to a person who is not married initiates a civil proceeding to de-  
 15 termine custody or support **of, or parenting time with, the child** under ORS 109.103;

16 (d) A person petitions or files a motion for intervention under ORS 109.119;

17 (e) A person or the administrator files a petition under ORS 109.125 to establish parentage and  
 18 parentage is established; or

19 (f) A habeas corpus proceeding is before the court.

20 (5) Application of the provisions of subsection (1), (2) or (3) of this section to the proceedings  
 21 under subsection (4) of this section does not prevent initiation, entry or enforcement of an order of  
 22 support.

23 (6) The court, on its own motion or on the motion of a party, may appoint counsel for the chil-  
 24 dren. However, if requested to do so by one or more of the children, the court shall appoint counsel  
 25 for the child or children. A reasonable fee for an attorney so appointed may be charged against one  
 26 or more of the parties or as a cost in the proceedings but shall not be charged against funds ap-  
 27 propriated for public defense services.

28 (7) Prior to the entry of an order, the court on its own motion or on the motion of a party may  
 29 take testimony from or confer with the child or children of the marriage and may exclude from the  
 30 conference the parents and other persons if the court finds that such action would be likely to be  
 31 in the best interests of the child or children. However, the court shall permit an attorney for each  
 32 party to attend the conference and question the child, and the conference shall be reported.

33 **SECTION 20.** ORS 107.431 is amended to read:

34 107.431. (1) At any time after a judgment of annulment or dissolution of a marriage or a separa-  
 35 tion is granted, the court may set aside, alter or modify so much of the judgment relating to par-  
 36 enting time with a minor child as it deems just and proper or may terminate or modify that part of  
 37 the order or judgment requiring payment of money for the support of the minor child with whom  
 38 parenting time is being denied after:

39 (a) Motion to set aside, alter or modify is made by the parent having parenting time rights;

40 (b) Service of notice on the parent or other person having custody of the minor child is made  
 41 in the manner provided by law for service of a summons;

42 (c) Service of notice on the Administrator of the Division of Child Support of the Department  
 43 of Justice when the child support rights of one of the parties or of a child of both of the parties have  
 44 been assigned to the state. As an alternative to the service of notice on the administrator, service  
 45 may be made upon the branch office of the division *[which]* **that** provides service to the county in



1 which the motion was filed. Service may be accomplished by personal delivery or first class mail;  
 2 and

3 (d) A showing that *[the]* a parent or other person having custody of the child or a person acting  
 4 in that parent or other person's behalf has interfered with or denied without good cause the exercise  
 5 of *[the]* a parent's parenting time rights.

6 (2) When a party moves to set aside, alter or modify the child support provisions of the judg-  
 7 ment:

8 (a) The party shall state in the motion, to the extent known:

9 (A) Whether there is pending in this state or any other jurisdiction any type of support pro-  
 10 ceeding involving the child, including a proceeding brought under ORS 25.287, 107.135, 109.100,  
 11 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

12 (B) Whether there exists in this state or any other jurisdiction a support order, as defined in  
 13 ORS 110.503, involving the child, other than the judgment the party is moving to set aside, alter or  
 14 modify.

15 (b) The party shall include with the motion a certificate regarding any pending support pro-  
 16 ceeding and any existing support order other than the judgment the party is moving to set aside,  
 17 alter or modify. The party shall use a certificate that is in a form established by court rule and in-  
 18 clude information required by court rule and paragraph (a) of this subsection.

19 (3) The court may request the appearance of the administrator in any proceeding under this  
 20 section in which it finds that the child support rights of one of the parties or of a child of both of  
 21 the parties have been assigned to the state.

22 (4) This section does not apply when the child to whom a duty of support is owed is in another  
 23 state that has enacted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody  
 24 Jurisdiction and Enforcement Act and a court in that state would have subject matter and personal  
 25 jurisdiction under that Act to determine custody and parenting time rights.

26 **SECTION 21.** ORS 107.437 is amended to read:

27 107.437. (1) A person entitled to *[physical custody of]* **parenting time with** a child may make  
 28 an ex parte application for an order of assistance to a court of any county:

29 (a) In which a child is located if the person is entitled to *[the physical custody of]* **parenting**  
 30 **time with** the child under a valid and current order issued in this state; or

31 (b) In which a valid and current *[foreign custody]* **parenting time** order has been filed with a  
 32 petition as provided in subsection (3) of this section.

33 (2) The application must include a certified copy of the *[custody]* **parenting time** order. The  
 34 order of assistance may direct a law enforcement agency having jurisdiction where the child is lo-  
 35 cated to use any reasonable means and force to deliver the child as directed by the court, including  
 36 directing forcible entry into specified premises. The court may issue an order of assistance upon an  
 37 affidavit or a declaration under penalty of perjury in the form required by ORCP 1 E, executed by  
 38 the applicant and a finding of the court that:

39 (a) The applicant is entitled to *[physical custody of]* **parenting time with** the child under a valid  
 40 and current *[custody]* **parenting time** order; and

41 (b) The child is being held by another person in substantial violation of the *[custody]* **parenting**  
 42 **time** order.

43 (3) When the application for an order of assistance is made to a court in which the *[custody]*  
 44 **parenting time** order has been entered or registered, the applicant shall make the application in  
 45 the form of a motion. In all other cases, the applicant shall make the application in the form of a

1 petition. The court may not charge a filing fee for a motion or petition filed under this section.

2 (4) The law enforcement agency to which an order of assistance is directed shall make a return  
3 to the court specifying whether the order was executed, and if so, a statement reflecting the date  
4 on which the order was executed and any other information required by the court in the order of  
5 assistance.

6 *[(5) A court may not issue an order of assistance for the purpose of enforcing parenting time or  
7 visitation rights.]*

8 *[(6)]* (5) Except for intentional torts committed outside the scope of the peace officer's duties,  
9 a peace officer is not civilly or criminally liable for any action taken in recovering *[the custody of]*  
10 a child pursuant to an order issued under this section.

11 **SECTION 22.** ORS 107.710 is amended to read:

12 107.710. (1) Any person who has been the victim of abuse within the preceding 180 days may  
13 petition the circuit court for relief under ORS 107.700 to 107.735, if the person is in imminent danger  
14 of further abuse from the abuser. The person may seek relief by filing a petition with the circuit  
15 court alleging that the person is in imminent danger of abuse from the respondent, that the person  
16 has been the victim of abuse committed by the respondent within the 180 days preceding the filing  
17 of the petition and particularly describing the nature of the abuse and the dates thereof. The abuse  
18 must have occurred not more than 180 days before the filing of the petition. The petition must in-  
19 clude allegations made under oath or affirmation or a declaration under penalty of perjury. The  
20 circuit court shall have jurisdiction over all proceedings under ORS 107.700 to 107.735.

21 (2) The petitioner has the burden of proving a claim under ORS 107.700 to 107.735 by a pre-  
22 ponderance of the evidence.

23 (3) A person's right to relief under ORS 107.700 to 107.735 shall not be affected by the fact that  
24 the person left the residence or household to avoid abuse.

25 (4) A petition filed under ORS 107.700 to 107.735 shall disclose the existence of any **parenting**  
26 **plan**, custody, Family Abuse Prevention Act or Elderly Persons and Persons With Disabilities Abuse  
27 Prevention Act proceedings, or any marital annulment, dissolution or separation proceedings, or any  
28 filiation proceeding, pending between the parties, and the existence of any other custody **or par-**  
29 **enting time** order affecting the children of the parties.

30 (5) When the petitioner requests custody of, **or parenting time with**, any child, the petition  
31 shall comply with ORS 109.767 and disclose:

32 (a) The child's present residence and the length of time the child has resided at the residence;

33 (b) The county and state where the child resided for the five years immediately prior to the  
34 filing of the petition;

35 (c) The name and address of the party or other responsible person with whom the child is  
36 presently residing;

37 (d) The name and current address of any party or other responsible person with whom the child  
38 resided for the five years immediately prior to the filing of the petition;

39 (e) Whether the party participated as a party, witness or in any other capacity, in any other  
40 litigation concerning the custody of, **or parenting time with**, the child in this or any other state;

41 (f) Whether the party has information of any custody **or parenting time** proceeding concerning  
42 the child pending in a court of this or any other state; and

43 (g) Whether the party knows of any person not a party to the proceedings who has *[physical*  
44 *custody of]* **rights to parenting time with** the child or claims to have custody, parenting time or  
45 visitation rights with respect to the child.

(6) For purposes of computing the 180-day period in this section and ORS 107.718, any time during which the respondent is incarcerated or has a principal residence more than 100 miles from the principal residence of the petitioner shall not be counted as part of the 180-day period.

**SECTION 23.** ORS 107.716 is amended to read:

107.716. (1) If the respondent requests a hearing pursuant to ORS 107.718 (10), the court shall hold the hearing within 21 days after the request. However, if the respondent contests the order granting temporary [*child*] custody **of, or parenting time with, the child** to the petitioner, the court shall hold the hearing within five days after the request.

(2)(a) If the court determines under ORS 107.718 (2) that exceptional circumstances exist that affect the custody of, **or parenting time with,** a child, the court shall hold a hearing within 14 days after issuance of the restraining order. The clerk of the court shall provide a notice of the hearing along with the petition and order to the petitioner and, in accordance with ORS 107.718 (8), to the county sheriff for service on the respondent.

(b) The respondent may request an earlier hearing, to be held within five days after the request. The hearing request form shall be available from the clerk of the court in the form prescribed by the State Court Administrator under ORS 107.718 (7). If the respondent requests an earlier hearing, the clerk of the court shall notify the parties of the scheduled hearing date by mailing a notice of the time and place of hearing to the addresses provided in the petition or, for the respondent, to the address provided in the request for hearing, or as otherwise designated by a party.

(c) When the court schedules a hearing under this subsection, the respondent may not request a hearing under ORS 107.718 (10).

(3) In a hearing held pursuant to subsection (1) or (2) of this section, the court may cancel or change any order issued under ORS 107.718 and may assess against either party a reasonable attorney fee and such costs as may be incurred in the proceeding.

(4)(a) If service of a notice of hearing is inadequate to provide a party with sufficient notice of the hearing held pursuant to ORS 107.718 (2) or (10), the court may extend the date of the hearing for up to five days so that the party may seek representation.

(b) If one party is represented by an attorney at a hearing held pursuant to ORS 107.718 (2) or (10), the court may extend the date of the hearing for up to five days at the other party’s request so that the other party may seek representation.

(5) If the court continues the order, with or without changes, at a hearing about which the respondent received actual notice and the opportunity to participate, the court shall include in the order a certificate in substantially the following form in a separate section immediately above the signature of the judge:

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CERTIFICATE OF COMPLIANCE  
WITH THE VIOLENCE  
AGAINST WOMEN ACT

This protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. 2265 (1994). This court has jurisdiction over the parties and the subject matter. The respondent was afforded notice and timely opportunity to be heard as provided by the law of this jurisdiction. This order is valid and entitled to enforcement in this and all other jurisdictions.

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(6) The court may approve any consent agreement to bring about a cessation of abuse of the parties. However, the court may not approve a term in a consent agreement that provides for restraint of a party to the agreement unless the other party petitioned for and was granted an order under ORS 107.710. An order or consent agreement made under this section may be amended at any time and shall continue in effect for a period of one year from the date of the order issued under ORS 107.718, or until superseded as provided in ORS 107.722.

(7) No order or agreement made under ORS 107.705 to 107.720, 133.310 and 133.381 shall in any manner affect title to any real property.

(8) No undertaking shall be required in any proceeding under ORS 107.700 to 107.735.

(9) Any proceeding under ORS 107.700 to 107.735 shall be in addition to any other available civil or criminal remedies.

**SECTION 24.** ORS 107.718 is amended to read:

107.718. (1) When a person files a petition under ORS 107.710, the circuit court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day. Upon a showing that the petitioner has been the victim of abuse committed by the respondent within 180 days preceding the filing of the petition, that there is an imminent danger of further abuse to the petitioner and that the respondent represents a credible threat to the physical safety of the petitioner or the petitioner's child, the court shall, if requested by the petitioner, order:

(a) Except as provided in subsection (2) of this section, that temporary custody of, **and parenting time with**, the children of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent, subject to reasonable parenting time rights of the [*noncustodial*] **other** parent, which the court shall order, unless such parenting time is not in the best interest of the child;

(b) That the respondent be required to move from the petitioner's residence, if in the sole name of the petitioner or if it is jointly owned or rented by the petitioner and the respondent, or if the parties are married to each other;

(c) That the respondent be restrained from entering, or attempting to enter, a reasonable area surrounding the petitioner's current or subsequent residence if the respondent is required to move from petitioner's residence;

(d) That a peace officer accompany the party who is leaving or has left the parties' residence to remove essential personal effects of the party or the party's children, or both, including but not limited to clothing, toiletries, diapers, medications, Social Security cards, certified copies of records of live birth, identification and tools of the trade;

(e) That the respondent be restrained from intimidating, molesting, interfering with or menacing the petitioner, or attempting to intimidate, molest, interfere with or menace the petitioner;

(f) That the respondent be restrained from intimidating, molesting, interfering with or menacing any children [*in the custody of the petitioner*] **with whom the petitioner is exercising parenting time**, or attempting to intimidate, molest, interfere with or menace any children [*in the custody of the petitioner*] **with whom the petitioner is exercising parenting time**;

(g) That the respondent be restrained from entering, or attempting to enter, on any premises and a reasonable area surrounding the premises when it appears to the court that such restraint is necessary to prevent the respondent from intimidating, molesting, interfering with or menacing the petitioner or children [*whose custody*] **for whom parenting time** is awarded to the petitioner;

(h) Other relief that the court considers necessary to:

1 (A) Provide for the safety and welfare of the petitioner and the children [*in the custody of the*  
2 *petitioner*] **with whom the petitioner is exercising parenting time**, including but not limited to  
3 emergency monetary assistance from the respondent; and

4 (B) Prevent the neglect and protect the safety of any service or therapy animal or any animal  
5 kept for personal protection or companionship, but not an animal kept for any business, commercial,  
6 agricultural or economic purpose; or

7 (i) Except as described in subsection (12) of this section or parenting time ordered under this  
8 section, that the respondent have no contact with the petitioner in person, by telephone or by mail.

9 (2) If the court determines that exceptional circumstances exist that affect the custody of, **or**  
10 **parenting time with**, a child, the court shall order the parties to appear and provide additional  
11 evidence at a hearing to determine temporary custody **and parenting time** and resolve other con-  
12 tested issues. Pending the hearing, the court may make any orders regarding the child's residence  
13 and the parties' contact with the child that the court finds appropriate to provide for the child's  
14 welfare and the safety of the parties. The court shall set a hearing time and date as provided in  
15 ORS 107.716 (2) and issue a notice of the hearing at the same time the court issues the restraining  
16 order.

17 (3) The court's order under subsection (1) of this section is effective for a period of one year or  
18 until the order is withdrawn or amended, or until the order is superseded as provided in ORS  
19 107.722, whichever is sooner.

20 (4) If respondent is restrained from entering, or attempting to enter, an area surrounding  
21 petitioner's residence or any other premises, the order restraining respondent shall specifically de-  
22 scribe the area.

23 (5) Imminent danger under this section includes but is not limited to situations in which the  
24 respondent has recently threatened petitioner with additional bodily harm.

25 (6) If the court awards parenting time to a parent who committed abuse, the court shall make  
26 adequate provision for the safety of the child and of the petitioner. The order of the court may in-  
27 clude, but is not limited to, the following:

28 (a) That exchange of a child between parents shall occur at a protected location.

29 (b) That parenting time be supervised by another person or agency.

30 (c) That the perpetrator of the abuse be required to attend and complete, to the satisfaction of  
31 the court, a program of intervention for perpetrators or any other counseling program designated  
32 by the court as a condition of the parenting time.

33 (d) That the perpetrator of the abuse not possess or consume alcohol or controlled substances  
34 during the parenting time and for 24 hours preceding the parenting time.

35 (e) That the perpetrator of the abuse pay all or a portion of the cost of supervised parenting  
36 time, and any program designated by the court as a condition of parenting time.

37 (f) That no overnight parenting time occur.

38 (7) The State Court Administrator shall prescribe the content and form of the petition, order and  
39 related forms for use under ORS 107.700 to 107.735. The clerk of the court shall make available the  
40 forms and an instructional brochure explaining the rights set forth under ORS 107.700 to 107.735.

41 (8) If the court orders relief:

42 (a) The clerk of the court shall provide without charge the number of certified true copies of  
43 the petition and order necessary to provide the petitioner with one copy and to effect service and  
44 shall have a true copy of the petition and order delivered to the county sheriff for service upon the  
45 respondent, unless the court finds that further service is unnecessary because the respondent ap-

1 peared in person before the court. In addition and upon request by the petitioner, the clerk shall  
2 provide the petitioner, without charge, two exemplified copies of the petition and order.

3 (b) The county sheriff shall serve the respondent personally unless the petitioner elects to have  
4 the respondent served personally by a private party or by a peace officer who is called to the scene  
5 of a domestic disturbance at which the respondent is present, and who is able to obtain a copy of  
6 the order within a reasonable amount of time. Proof of service shall be made in accordance with  
7 ORS 107.720. When the order does not contain the respondent's date of birth and service is effected  
8 by the sheriff or other peace officer, the sheriff or officer shall verify the respondent's date of birth  
9 with the respondent and shall record that date on the order or proof of service entered into the Law  
10 Enforcement Data System under ORS 107.720.

11 (c) No filing fee, service fee or hearing fee shall be charged for proceedings seeking only the  
12 relief provided under ORS 107.700 to 107.735.

13 (9) If the county sheriff:

14 (a) Determines that the order and petition are incomplete, the sheriff shall return the order and  
15 petition to the clerk of the court. The clerk of the court shall notify the petitioner, at the address  
16 provided by the petitioner, of the error or omission.

17 (b) After accepting the order and petition, cannot complete service within 10 days, the sheriff  
18 shall notify the petitioner, at the address provided by the petitioner, that the documents have not  
19 been served. If the petitioner does not respond within 10 days, the sheriff shall hold the order and  
20 petition for future service and file a return to the clerk of the court showing that service was not  
21 completed.

22 (10)(a) Within 30 days after a restraining order is served under this section, the respondent  
23 therein may request a court hearing upon any relief granted. The hearing request form shall be  
24 available from the clerk of the court in the form prescribed by the State Court Administrator.

25 (b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the  
26 court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner  
27 with a copy of the respondent's request for a hearing. The petitioner shall give to the clerk of the  
28 court information sufficient to allow such notification.

29 (c) The hearing shall not be limited to the issues raised in the respondent's request for hearing  
30 form. If the respondent seeks to raise an issue at the hearing not previously raised in the request  
31 for hearing form, or if the petitioner seeks relief at the hearing not granted in the original order,  
32 the other party shall be entitled to a reasonable continuance for the purpose of preparing a response  
33 to the issue.

34 (11) If the respondent fails to request a hearing within 30 days after a restraining order is  
35 served, the restraining order is confirmed by operation of law. The provisions of this section are  
36 sufficient to meet the due process requirements of 18 U.S.C. 922(g) in that the respondent received  
37 actual notice of the right to request a hearing and the opportunity to participate at the hearing but  
38 the respondent failed to exercise those rights.

39 (12) Service of process or other legal documents upon the petitioner is not a violation of this  
40 section if the petitioner is served as provided in ORCP 7 or 9.

41 **SECTION 25.** ORS 107.722 is amended to read:

42 107.722. (1) The provisions of an order or judgment, or of a modification to an order or judgment,  
43 issued under ORS 107.095 (1)(b), 107.105, 107.135, 109.103 or 109.155 supersede contrary provisions  
44 of a preexisting order issued under ORS 107.700 to 107.735, except that an order issued under ORS  
45 107.095 (1)(b) supersedes a preexisting order issued under ORS 107.700 to 107.735 only if the party

1 requesting temporary relief consolidates the subsequently filed matter with the preexisting matter  
2 filed under ORS 107.700 to 107.735 and provides the nonmoving party with notice and an opportunity  
3 for a hearing.

4 (2)(a) In a proceeding under ORS 107.700 to 107.735, the court may modify the custody or par-  
5 enting time provisions of a preexisting order or judgment issued under ORS 107.095 (1)(b), 107.105,  
6 107.135, 109.103 or 109.155, or a similar order or judgment issued by the tribunal of another juris-  
7 diction, if necessary to protect the safety and welfare of the child or the petitioner.

8 (b) If the court, in an order issued under ORS 107.700 to 107.735, modifies the custody **or par-**  
9 **enting time** provisions of a preexisting order or judgment issued under ORS 107.095 (1)(b), 107.105,  
10 107.135, 109.103 or 109.155, the court shall specify in the order issued under ORS 107.700 to 107.735  
11 a period that the court considers adequate under the circumstances within which the party seeking  
12 relief may obtain a modification of the preexisting order or judgment under controlling law. Upon  
13 the expiration of the period specified by the court, if a modification of the preexisting order or  
14 judgment has not been obtained, the custody and parenting time provisions of the order issued under  
15 ORS 107.700 to 107.735 expire and the custody and parenting time provisions of the preexisting order  
16 or judgment become immediately effective.

17 (c) If the court, in an order issued under ORS 107.700 to 107.735, modifies the custody **or par-**  
18 **enting time** provisions of a preexisting order or judgment issued by the tribunal of another juris-  
19 diction, ORS 109.701 to 109.834 apply.

20 **SECTION 26.** ORS 107.725 is amended to read:

21 107.725. (1) The court may renew an order entered under ORS 107.716 or 107.718 upon a finding  
22 that:

23 (a) A person in the petitioner's situation would reasonably fear further acts of abuse by the re-  
24 spondent if the order is not renewed; or

25 (b) A person in the situation of a child [*who was in the petitioner's*] **for whom the petitioner**  
26 **had custody or exercised parenting time** during the time the order existed, who was also included  
27 as a protected person in the order and who has reached 18 years of age since the date the order  
28 was entered, would reasonably fear further acts of abuse by the respondent if the order is not re-  
29 newed.

30 (2) A finding that there has been a further act of abuse is not required to renew an order under  
31 subsection (1) of this section.

32 (3) The court may renew an order under subsection (1)(b) of this section regardless of whether  
33 the original petitioner agrees to or seeks renewal of the order. If the petitioner does not agree to  
34 or seek renewal of the order concurrently with the request of the child who has reached 18 years  
35 of age, the court may modify the order upon renewal to exclude the petitioner as a protected person  
36 in the order. A child who has reached 18 years of age may seek renewal under this section without  
37 having to file a petition under ORS 107.710.

38 (4) A court may renew an order on the basis of an ex parte petition alleging facts supporting  
39 the required finding. The petition must include allegations made under oath or affirmation or a  
40 declaration under penalty of perjury. If the renewal order is granted, the provisions of ORS 107.716  
41 (5) and 107.718 (8) to (10) apply except that the court may hear no issue other than the basis for  
42 renewal unless requested in the hearing request form and thereafter agreed to by the petitioner or  
43 the child who has reached 18 years of age. The court shall hold a hearing required under this sec-  
44 tion within 21 days after the respondent's request.

45 **SECTION 27.** ORS 107.732 is amended to read:

1 107.732. (1) An order or a modification to an order issued under ORS 107.700 to 107.735 that  
2 provides for the custody of, **or parenting time with**, a child shall, when requested by the party  
3 awarded custody **or parenting time**, contain a provision ordering a peace officer to assist in re-  
4 covering [*the custody of*] the child and authorizing the use of any reasonable force necessary to that  
5 end, including directing forcible entry into specified premises.

6 (2) An order under ORS 107.718 directing the sheriff to use any reasonable force necessary to  
7 enforce the order authorizes the sheriff to make a forcible entry into the premises specified in the  
8 order.

9 (3) No peace officer shall be civilly or criminally liable for any action taken in recovering [*the*  
10 *custody of*] a child pursuant to an order issued under ORS 107.700 to 107.735, except for intentional  
11 torts outside the scope of the peace officer's duties.

12 **SECTION 28.** ORS 107.735 is amended to read:

13 107.735. The State Court Administrator shall:

14 (1) Track the number of hearings that are scheduled or requested each year under ORS 107.716  
15 (2) or 107.718 (2).

16 (2) In accordance with ORS 3.438 (4)(a)(B), develop training information and materials concern-  
17 ing the issues and hearings under ORS 107.716 (2) or 107.718 (2) related to temporary custody of,  
18 **or parenting time with**, children. The training information and materials are for use by courts,  
19 state agencies, legal services providers and others as determined by the State Court Administrator.

20 **SECTION 29.** ORS 108.015 is amended to read:

21 108.015. (1) Each married person may establish and maintain a domicile in the State of Oregon  
22 as if that person were not married.

23 (2) The domicile of a minor shall follow the domicile of the parents of the minor unless the  
24 parents establish separate domiciles. If the parents establish separate domiciles, the minor's domicile  
25 shall be that of the parent with whom the minor resides. However, if there has been a legal separa-  
26 tion, annulment or dissolution, the minor's domicile shall be that of the parent to whom [*custody*  
27 *of*] **the majority of parenting time, as defined in section 1 of this 2019 Act, with** the minor has  
28 been legally given.

29 **SECTION 30.** ORS 107.755 is amended to read:

30 107.755. (1) Each judicial district shall:

31 (a) Provide a mediation orientation session for all parties in cases in which [*child*] custody[,]  
32 **of, or parenting time or visitation with, a child** is in dispute, and in any other domestic relations  
33 case in which mediation has been ordered. The orientation session may be structured in any way  
34 the circuit court determines best meets the needs of the parties. The orientation session should be  
35 designed to make the parties aware of:

36 (A) What mediation is;

37 (B) Mediation options available to them; and

38 (C) The advantages and disadvantages of each method of dispute resolution.

39 (b) Except in matters tried under ORS 107.097 and 107.138 or upon a finding of good cause, re-  
40 quire parties in all cases described in paragraph (a) of this subsection to attend a mediation orien-  
41 tation session prior to any judicial determination of the issues.

42 (c) Provide mediation under ORS 107.755 to 107.795 in any case in which child custody, parent-  
43 ing time and visitation are in dispute.

44 (d) Have developed a plan that addresses domestic violence issues and other power imbalance  
45 issues in the context of mediation orientation sessions and mediation of any issue in accordance



1 with the following guidelines:

2 (A) All mediation programs and mediators must recognize that mediation is not an appropriate  
3 process for all cases and that agreement is not necessarily the appropriate outcome of all mediation;

4 (B) Neither the existence of nor the provisions of a restraining order issued under ORS 107.718  
5 may be mediated;

6 (C) All mediation programs and mediators must develop and implement:

7 (i) A screening and ongoing evaluation process of domestic violence issues for all mediation  
8 cases;

9 (ii) A provision for opting out of mediation that allows a party to decline mediation after the  
10 party has been informed of the advantages and disadvantages of mediation or at any time during the  
11 mediation; and

12 (iii) A set of safety procedures intended to minimize the likelihood of intimidation or violence  
13 in the orientation session, during mediation or on the way in or out of the building in which the  
14 orientation or mediation occurs;

15 (D) When a mediator explains the process to the parties, the mediator shall include in the ex-  
16 planation the disadvantages of mediation and the alternatives to mediation;

17 (E) All mediators shall obtain continuing education regarding domestic violence and related is-  
18 sues; and

19 (F) Mediation programs shall collect appropriate data. Mediation programs shall be sensitive  
20 to domestic violence issues when determining what data to collect.

21 (e) In developing the plan required by paragraph (d) of this subsection, consult with one or more  
22 of the following:

23 (A) A statewide or local multidisciplinary domestic violence coordinating council.

24 (B) A nonprofit private organization funded under ORS 409.292.

25 (2) Notwithstanding any other provision of law, mediation under ORS 107.755 to 107.795, in-  
26 cluding the mediation orientation session described in subsection (1)(a) of this section, may not be  
27 encouraged or provided in proceedings under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040 or  
28 163.738.

29 (3) The court, as provided in ORS 3.220, may make rules consistent with ORS 107.755 to 107.795  
30 to govern the operation and procedure of mediation provided under this section.

31 (4) If a court provides mediation of financial issues, it shall develop a list of mediators who meet  
32 the minimum education and experience qualifications established by rules adopted under ORS 1.002.  
33 The rules must require demonstrated proficiency in mediation of financial issues. Once the list is  
34 developed, the judicial district shall maintain the list. Mediation of financial issues is subject to the  
35 plan developed under subsection (1)(d) of this section and to the limitations imposed by subsection  
36 (2) of this section.

37 (5) A circuit court may provide mediation in connection with its exercise of conciliation juris-  
38 diction under ORS 107.510 to 107.610, but a circuit court need not provide conciliation services in  
39 order to provide mediation under ORS 107.755 to 107.795.

40 **SECTION 31.** ORS 107.765 is amended to read:

41 107.765. (1) In a domestic relations suit, where it appears on the face of one or more pleadings,  
42 appearances, petitions or motions, including any form of application for the setting aside, alteration  
43 or modification of an order or judgment, that custody[,] **of, or** parenting time or visitation [of] **with,**  
44 a child is contested, the court may, when appropriate, refer the matter for mediation of the con-  
45 tested issues prior to or concurrent with the setting of the matter for hearing. The purpose of the

1 mediation is to assist the parties in reaching a workable settlement of the contested issues instead  
 2 of litigating those issues before the court. Unless the court provides for the mediation of financial  
 3 issues under ORS 107.755 (4), the mediator shall not consider issues of property division or spousal  
 4 or child support, in connection with the mediation of a dispute concerning [*child*] custody, parenting  
 5 time or visitation, or otherwise, without the written approval of both parties or their counsel.

6 (2) The mediator shall report to the court and to counsel for the parties the outcome of the  
 7 mediation at the conclusion of the mediation proceeding. The mediator shall report in writing to the  
 8 court and to counsel for the parties any agreement reached by the parties as a result of the medi-  
 9 ation, and the agreement shall be incorporated in a proposed order or judgment provision prepared  
 10 for the court. If the parties do not reach an agreement, the mediator shall report only that fact to  
 11 the court and to counsel for the parties, but shall not make a recommendation to the court without  
 12 the written consent of the parties or their counsel.

13 **SECTION 32.** ORS 107.775 is amended to read:

14 107.775. (1) A circuit court may obtain mediation services, with the prior approval of the gov-  
 15 erning body of each county involved, by:

16 (a) Using personnel performing conciliation services for the court under ORS 107.510 to 107.610;

17 (b) Contracting or entering into agreements with public or private agencies to provide mediation  
 18 services to the court; or

19 (c) Employing or contracting for mediators directly.

20 (2) Personnel performing mediation services for the circuit court shall have the minimum edu-  
 21 cational and experience qualifications established by rules adopted under ORS 1.002.

22 (3) Subject to the provisions of the Local Budget Law, the compensation and expenses of per-  
 23 sonnel performing mediation services for the circuit court and other expenses of mediation services  
 24 provided by the court shall be paid by the county or as may be agreed upon by the counties in-  
 25 volved. Personnel performing mediation services are not state employees, and their compensation  
 26 and expenses shall not be paid by the state.

27 (4) The parties to a [*child*] custody, parenting time or visitation dispute that is referred by the  
 28 circuit court to mediation may use, at their option and expense, mediation services other than those  
 29 provided by the court.

30 (5) Two or more counties may join together to provide services under ORS 107.510 to 107.610  
 31 and 107.755 to 107.795.

32 **SECTION 33.** ORS 108.045 is amended to read:

33 108.045. (1) The expenses of the family and the education of the minor children, including  
 34 stepchildren, are chargeable upon the property of both spouses in a marriage who are parents or  
 35 stepparents of the minor children, or either of them. However, with regard to stepchildren, the ob-  
 36 ligation shall cease upon entry of a judgment of dissolution.

37 (2) As used in this section, "stepchild" means a child under [*the age of*] **18 years of age**, or a  
 38 child attending school as defined in ORS 107.108, who is [*in the custody*] **under the supervision and**  
 39 **physical care** of one biological or adoptive parent who is married to and not legally separated from  
 40 a person other than the second biological or adoptive parent of such child.

41 (3) Notwithstanding subsection (1) of this section, the legal duty of a parent to provide support  
 42 for a child, as otherwise required by law, shall not be affected.

43 **SECTION 34.** ORS 108.120 is amended to read:

44 108.120. (1) After the hearing of the petition for an order of support the court shall make an  
 45 order granting or denying it and fixing, if allowed, the terms and amount of the support.

1 (2) The court has the same power to compel the attendance of witnesses or the production of  
 2 testimony as in actions and suits, to make such judgment or orders as are equitable in view of the  
 3 circumstances of both parties and to punish violations thereof as other contempts are punished.

4 (3) The judgment or order is final as to any installment or payment of money that has accrued  
 5 up to the time the nonmoving party, other than the state, is served with a motion to set aside, alter  
 6 or modify the judgment or order. The court may not set aside, alter or modify any portion of the  
 7 judgment or order that provides for any payment of money, either for minor children or for the  
 8 support of a party, that has accrued before the motion is served. However, the court may allow a  
 9 credit against child support arrearages for periods of time, excluding reasonable parenting time un-  
 10 less otherwise provided by order or judgment, during which the obligor, with the knowledge and  
 11 consent of the obligee or pursuant to court order, [*has physical custody of*] **exercises supervision**  
 12 **and physical care of** the child.

13 **SECTION 35.** ORS 109.030 is amended to read:

14 109.030. (1) The rights and responsibilities of the parents, in the absence of misconduct, are  
 15 equal, and each parent is as fully entitled to the custody [*and control*] of, **and parenting time with**,  
 16 the children and their earnings as the other parent. In case of the death of one parent, the other  
 17 parent shall come into full and complete control of the children and their estate.

18 (2) **As used in this section, “custody” and “parenting time” have the meanings given**  
 19 **those terms in section 1 of this 2019 Act.**

20 **SECTION 36.** ORS 109.056 is amended to read:

21 109.056. (1) Except as provided in subsection (2) or (3) of this section, a parent or guardian of  
 22 a minor or incapacitated person, by a properly executed power of attorney, may delegate to another  
 23 person, for a period not exceeding six months, any of the powers of the parent or guardian regarding  
 24 **supervision, physical care, custody or property of, or parenting time with**, the minor child or  
 25 ward, except the power to consent to marriage or adoption of a minor ward.

26 (2) A parent or guardian of a minor child may delegate the powers designated in subsection (1)  
 27 of this section to a school administrator for a period not exceeding 12 months.

28 (3)(a) As used in this subsection, “servicemember-parent” means a parent or guardian:

29 (A) Who is:

30 (i) A member of the organized militia of this state;

31 (ii) A member of the Reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of  
 32 the United States;

33 (iii) A member of the commissioned corps of the National Oceanic and Atmospheric Adminis-  
 34 tration; or

35 (iv) A member of the Public Health Service of the United States Department of Health and Hu-  
 36 man Services detailed by proper authority for duty with the Army or Navy of the United States; and

37 (B) Who is required to enter and serve in the active military service of the United States under  
 38 a call or order by the President of the United States or to serve on state active duty as defined in  
 39 the Oregon Code of Military Justice.

40 (b) A servicemember-parent of a minor child may delegate the powers designated in subsection  
 41 (1) of this section for a period not exceeding the term of active duty service plus 30 days.

42 (c) Except as provided in paragraph (d) of this subsection, if the minor child is living with the  
 43 child’s other parent, a delegation under paragraph (b) of this subsection must be to the parent with  
 44 whom the minor child is living unless a court finds that the delegation would not be in the best  
 45 interests of the minor child.

1 (d) When the servicemember-parent has joint custody of the minor child with the child's other  
 2 parent or another individual, and the servicemember-parent is married to an individual other than  
 3 the child's other parent, the servicemember-parent may delegate the powers designated in subsection  
 4 (1) of this section to the spouse of the servicemember-parent for a period not exceeding the term of  
 5 active duty service plus 30 days, unless a court finds that the delegation would not be in the best  
 6 interests of the minor child.

7 **(4) As used in this section, "custody" and "parenting time" have the meanings given**  
 8 **those terms in section 1 of this 2019 Act.**

9 **SECTION 37.** ORS 109.096 is amended to read:

10 109.096. (1) When the parentage of a child has not been established under ORS 109.065, the pu-  
 11 tative father is entitled to reasonable notice in adoption or other court proceedings concerning the  
 12 custody of, **or parenting time with,** the child, except for juvenile court proceedings, if the  
 13 petitioner knows, or by the exercise of ordinary diligence should have known:

14 (a) That the child resided with the putative father at any time during the 60 days immediately  
 15 preceding the initiation of the proceeding, or at any time since the child's birth if the child is less  
 16 than 60 days old when the proceeding is initiated; or

17 (b) That the putative father repeatedly has contributed or tried to contribute to the support of  
 18 the child during the year immediately preceding the initiation of the proceeding, or during the pe-  
 19 riod since the child's birth if the child is less than one year old when the proceeding is initiated.

20 (2) Except as provided in subsection (3) or (4) of this section, a verified statement of the mother  
 21 of the child or of the petitioner, or an affidavit of another person with knowledge of the facts, filed  
 22 in the proceeding and asserting that the child has not resided with the putative father, as provided  
 23 in subsection (1)(a) of this section, and that the putative father has not contributed or tried to con-  
 24 tribute to the support of the child, as provided in subsection (1)(b) of this section, is sufficient proof  
 25 to enable the court to grant the relief sought without notice to the putative father.

26 (3) The putative father is entitled to reasonable notice in a proceeding for the adoption of the  
 27 child if notice of the initiation of filiation proceedings as required by ORS 109.225 was on file with  
 28 the Center for Health Statistics of the Oregon Health Authority prior to the child's being placed in  
 29 the physical [*custody*] **care** of a person or persons for the purpose of adoption by them. If the notice  
 30 of the initiation of filiation proceedings was not on file at the time of the placement, the putative  
 31 father is barred from contesting the adoption proceeding.

32 (4) Except as otherwise provided in subsection (3) of this section, the putative father is entitled  
 33 to reasonable notice in court proceedings concerning the custody of, **or parenting time with,** the  
 34 child, other than juvenile court proceedings, if notice of the initiation of filiation proceedings as  
 35 required by ORS 109.225 was on file with the Center for Health Statistics prior to the initiation of  
 36 the proceedings.

37 (5) Notice under this section is not required to be given to a putative father who was a party  
 38 to filiation proceedings under ORS 109.125 that were dismissed or resulted in a finding that he was  
 39 not the father of the child.

40 (6) The notice required under this section shall be given in the manner provided in ORS 109.330.

41 (7) No notice given under this section need disclose the name of the mother of the child.

42 (8) A putative father has the primary responsibility to protect his rights, and nothing in this  
 43 section shall be used to set aside an act of a permanent nature including, but not limited to,  
 44 adoption or termination of parental rights, unless the father establishes within one year after the  
 45 entry of the final judgment or order fraud on the part of a petitioner in the proceeding with respect

1 to matters specified in subsections (1) to (5) of this section.

2 **SECTION 38.** ORS 109.098 is amended to read:

3 109.098. (1) If a putative father of a child by due appearance in a proceeding of which he is  
4 entitled to notice under ORS 109.096 objects to the relief sought, the court:

5 (a) May stay the adoption or other court proceeding to await the outcome of the filiation pro-  
6 ceedings only if notice of the initiation of filiation proceedings was on file as required by ORS  
7 109.096 (3) or (4).

8 (b) Shall, if filiation proceedings are not pending, inquire as to the paternity of the child, the  
9 putative father's past endeavors to fulfill his obligation to support the child and to contribute to the  
10 pregnancy-related medical expenses, the period that the child has lived with the putative father, the  
11 putative father's fitness to care for and rear the child and whether the putative father is willing to  
12 be declared the father of the child and to assume the responsibilities of a father.

13 (2) If after inquiry under subsection (1)(b) of this section the court finds:

14 (a) That the putative father is the father of the child and is fit and willing to assume the re-  
15 sponsibilities of a father, *[it]* **the court** shall have the power:

16 (A) Upon the request of the putative father, to declare his paternity and to certify the fact of  
17 paternity in the manner provided in ORS 109.094; and

18 (B) To award custody of, **or parenting time with**, the child to either parent as may be in the  
19 best interests of the child, or to take any other action *[which]* **that** the court may take if the parents  
20 are or were married to each other.

21 (b) That the putative father is not the father of the child, *[it]* **the court** may grant the relief  
22 sought in the proceeding without the putative father's consent.

23 (c) That the putative father is the natural father of the child but is not fit or willing to assume  
24 the responsibilities of a father, *[it]* **the court** may grant the relief sought in the proceeding or any  
25 other relief that the court deems to be in the best interests of the child, notwithstanding the father's  
26 objection.

27 (3) If a putative father of a child is given the notice of a proceeding required by ORS 109.096  
28 and he fails to enter due appearance and to object to the relief sought therein within the time  
29 specified in the notice, the court may grant the relief sought without the putative father's consent.

30 (4) **As used in this section, "custody" and "parenting time" have the meanings given**  
31 **those terms in section 1 of this 2019 Act.**

32 **SECTION 39.** ORS 109.100 is amended to read:

33 109.100. (1) Any minor child or the administrator may, in accordance with ORCP 27 A, apply to  
34 the circuit court in the county in which the child resides, or in which the natural or adoptive father  
35 or mother of the child may be found, for an order upon the child's father or mother, or both, to  
36 provide for the child's support. The child or the administrator may apply for the order by filing in  
37 the county a petition setting forth the facts and circumstances relied upon for the order. If satisfied  
38 that a just cause exists, the court shall direct that the father or mother appear at a time set by the  
39 court to show cause why an order of support should not be entered in the matter.

40 (2) The petitioner shall state in the petition, to the extent known:

41 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-  
42 ceeding involving the minor child, including a proceeding brought under ORS 25.287, 107.085,  
43 107.135, 107.431, 108.110, 109.103, 109.165, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS  
44 chapter 110; and

45 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in

1 ORS 110.503, involving the minor child.

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

6 (4) The judgment of a court under subsection (1) of this section is final as to any installment  
7 or payment of money that has accrued up to the time either party makes a motion to set aside, alter  
8 or modify the judgment, and the court may not set aside, alter or modify the judgment, or any por-  
9 tion thereof, that provides for any payment of money that has accrued prior to the filing of the  
10 motion.

11 (5) The provisions of ORS 108.120 apply to proceedings under subsection (1) of this section.

12 (6) In any proceeding under this section, [both] the child's [physical and legal] custodians are  
13 parties to the action. **As used in this subsection, "custodian" includes a person providing**  
14 **supervision and physical care of the child.**

15 **SECTION 40.** ORS 109.103 is amended to read:

16 109.103. (1) If a child is born to an unmarried person and parentage has been established under  
17 ORS 109.065, or if a child is born to a married person by a person other than the birth mother's  
18 spouse and parentage between the person and the child has been established under ORS 109.065,  
19 either parent may initiate a civil proceeding to determine the custody or support of, or parenting  
20 time with, the child. The proceeding shall be brought in the circuit court of the county in which the  
21 child resides or is found or in the circuit court of the county in which either parent resides. The  
22 parents have the same rights and responsibilities regarding the custody and support of, and parent-  
23 ing time with, their child that married or divorced parents would have, and the provisions of ORS  
24 107.094 to 107.449 that relate to custody, support and parenting time, the provisions of ORS 107.755  
25 to 107.795 that relate to mediation procedures, and the provisions of ORS 107.810, 107.820 and  
26 107.830 that relate to life insurance, apply to the proceeding.

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

30 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-  
31 ceeding involving the child, including one brought under ORS 109.100, 109.165, 125.025, 416.400 to  
32 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

33 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in  
34 ORS 110.503, involving the child.

35 (3) The parent shall include with the petition a certificate regarding any pending support pro-  
36 ceeding and any existing support order. The parent shall use a certificate that is in a form estab-  
37 lished by court rule and include information required by court rule and subsection (2) of this section.

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

43 (5)(a) After a petition is filed under this section and upon service of summons and petition upon  
44 the respondent as provided in ORCP 7, a restraining order is issued and in effect against the  
45 petitioner and the respondent until a final judgment is issued, until the petition is dismissed or until

1 further order of the court, restraining the petitioner and the respondent from:

2 (A) Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any  
 3 policy of health insurance that one party maintains to provide coverage for the other party or a  
 4 minor child of the parties, or any life insurance policy that names either of the parties or a minor  
 5 child of the parties as a beneficiary; and

6 (B) Changing beneficiaries or covered parties under any policy of health insurance that one  
 7 party maintains to provide coverage for a minor child of the parties, or any life insurance policy.

8 (b) Either party restrained under this subsection may apply to the court for further temporary  
 9 orders, including modification or revocation of the restraining order issued under this subsection.

10 (c) The restraining order issued under this subsection shall include a notice that either party  
 11 may request a hearing on the restraining order by filing a request for hearing with the court.

12 (d) A copy of the restraining order issued under this subsection must be attached to the sum-  
 13 mons.

14 (e) A party who violates a term of a restraining order issued under this subsection is subject  
 15 to imposition of remedial sanctions under ORS 33.055 based on the violation, but is not subject to:

16 (A) Criminal prosecution based on the violation; or

17 (B) Imposition of punitive sanctions under ORS 33.065 based on the violation.

18 **(6) As used in this section, “custody” and “parenting time” have the meanings given**  
 19 **those terms in section 1 of this 2019 Act.**

20 **SECTION 41.** ORS 109.165 is amended to read:

21 109.165. (1) Upon motion of either party, the court may set aside, alter or modify any portion  
 22 of the judgment that provides for the support of the minor child or child attending school, as defined  
 23 in ORS 107.108. As to any installment or payment of money that has accrued up to the time the  
 24 nonmoving party, other than the state, is served with a motion to set aside, alter or modify the  
 25 judgment, the judgment is final and the court may not change it. However, the court may allow a  
 26 credit against child support arrearages for periods of time, excluding reasonable parenting time un-  
 27 less otherwise provided by order or judgment, during which the obligor, with the knowledge and  
 28 consent of the obligee or pursuant to court order, [*has physical custody of*] **exercises parenting**  
 29 **time, as defined in section 1 of this 2019 Act, with** the child. A child attending school is a party  
 30 for purposes of this section.

31 (2) The moving party shall state in the motion, to the extent known:

32 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-  
 33 ceeding involving the child, including a proceeding brought under ORS 25.287, 109.100, 125.025,  
 34 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

35 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in  
 36 ORS 110.503, involving the child, other than the judgment the party is moving to set aside, alter or  
 37 modify.

38 (3) The moving party shall include with the motion a certificate regarding any pending support  
 39 proceeding and any existing support order other than the judgment the party is moving to set aside,  
 40 alter or modify. The party shall use a certificate that is in a form established by court rule and in-  
 41 clude information required by court rule and subsection (2) of this section.

42 (4)(a) It is the policy of this state:

43 (A) To encourage the settlement of cases brought under this section; and

44 (B) For courts to enforce the terms of settlements described in paragraph (b) of this subsection  
 45 to the fullest extent possible, except when to do so would violate the law or would clearly

1 contravene public policy.

2 (b) In a proceeding under subsection (1) of this section, the court may enforce the terms set  
3 forth in a stipulated order or judgment signed by the parties, an order or judgment resulting from  
4 a settlement on the record or an order or judgment incorporating a settlement agreement:

5 (A) As contract terms using contract remedies;

6 (B) By imposing any remedy available to enforce an order or judgment, including but not limited  
7 to contempt; or

8 (C) By any combination of the provisions of subparagraphs (A) and (B) of this paragraph.

9 (c) A party may seek to enforce an agreement and obtain remedies described in paragraph (b)  
10 of this subsection by filing a motion, serving notice on the other party in the manner provided by  
11 ORCP 7 and, if a remedy under paragraph (b)(B) of this subsection is sought, complying with the  
12 statutory requirements for that remedy. All claims for relief arising out of the same acts or omis-  
13 sions must be joined in the same proceeding.

14 (d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate pro-  
15 ceeding, to file a motion to modify an order or judgment under subsection (1) of this section or to  
16 seek enforcement of an ancillary agreement to the order or judgment.

17 **SECTION 42.** ORS 109.175 is amended to read:

18 109.175. (1) If parentage of a child born out of wedlock is established pursuant to a petition filed  
19 under ORS 109.125 or an order or judgment entered pursuant to ORS 109.124 to 109.230 or ORS  
20 416.400 to 416.465, or if parentage is established by the filing of a voluntary acknowledgment of  
21 paternity as provided by ORS 109.065 (1)(e), the parent [*with physical custody*] **exercising parenting**  
22 **time** at the time of filing of the petition or the notice under ORS 416.415, or the parent [*with*  
23 *physical custody*] **exercising parenting time** at the time of the filing of the voluntary acknowledg-  
24 ment of paternity, has [*sole legal*] custody until a court specifically orders otherwise. The first time  
25 the court determines who should have [*legal*] custody, neither parent shall have the burden of  
26 proving a change of circumstances. The court shall give primary consideration to the best interests  
27 and welfare of the child and shall consider all the standards set out in ORS 107.137.

28 (2) In any proceeding under this section, the court may cause an investigation, examination or  
29 evaluation to be made under ORS 107.425 or may appoint an individual or a panel or may designate  
30 a program to assist the court in creating parenting plans or resolving disputes regarding parenting  
31 time and to assist parents in creating and implementing parenting plans under ORS 107.425 (3).

32 (3) **As used in this section, "custody" and "parenting time" have the meanings given**  
33 **those terms in section 1 of this 2019 Act.**

34 **SECTION 43.** ORS 109.672 is amended to read:

35 109.672. (1) No person licensed, certified or registered to practice a health care profession or  
36 health care facility shall be liable for damages in any civil action arising out of the failure of the  
37 person or facility to obtain the consent of a parent to the giving of medical care or treatment to a  
38 minor child of the parent if consent to the care has been given by the other parent of the child.

39 (2) The immunity provided by subsection (1) of this section shall apply regardless of whether:

40 (a) The parents are married, unmarried or separated at the time of consent or treatment.

41 (b) The consenting parent [*is, or is not, a custodial parent*] **has, or does not have, custody, as**  
42 **defined in section 1 of this 2019 Act,** of the minor.

43 (c) The giving of consent by only one parent is, or is not, in conformance with the terms of any  
44 agreement between the parents, any custody order or any judgment of dissolution or separation.

45 (3) The immunity created by subsection (1) of this section shall not apply if the parental rights



1 of the parent who gives consent have been terminated pursuant to ORS 419B.500 to 419B.524.

2 (4) For the purposes of this section, “health care facility” means a facility as defined in ORS  
3 442.015 or any other entity providing medical service.

4 **SECTION 44.** ORS 109.697 is amended to read:

5 109.697. (1) The Legislative Assembly finds that there are in the State of Oregon unemancipated  
6 minors who are living apart from their parents and are homeless. Many of these minors are able  
7 financially to provide housing and utility services for themselves and their children, but cannot  
8 contract for these necessities due to perceived legal limitations affecting contracts with minors.  
9 The purpose of this legislation is to address those limitations.

10 (2) For purposes of this section, “minor” means an unemancipated and unmarried person who is  
11 living apart from the person’s parent, parents or legal guardian, and who is either:

12 (a) Sixteen or 17 years of age;

13 (b) Under 16 years of age and the parent of a child or children who are living in the physical  
14 *[custody]* **care** of the person; or

15 (c) Under 16 years of age, pregnant and expecting the birth of a child who will be living in the  
16 physical *[custody]* **care** of the person.

17 (3) Notwithstanding any other provision of law, a minor may contract for the necessities of a  
18 residential dwelling unit and for utility services to that unit. Such a contract is binding upon the  
19 minor and cannot be voided or disaffirmed by the minor based upon the minor’s age or status as a  
20 minor.

21 (4) The consent of the parent or legal guardian of such minor shall not be necessary to contract  
22 for a residential dwelling unit or utility services to that unit. The parent or legal guardian of such  
23 minor shall not be liable under a contract by that minor for a residential dwelling unit or for utility  
24 services to that unit unless the parent or guardian is a party to the minor’s contract, or enters an-  
25 other contract, for the purpose of acting as guarantor of the minor’s debt.

26 **SECTION 45.** ORS 3.260 is amended to read:

27 3.260. (1) The circuit courts and the judges thereof shall exercise all juvenile court jurisdiction,  
28 authority, powers, functions and duties.

29 (2) Pursuant to ORS 3.275, in addition to any other jurisdiction vested in it by law, the circuit  
30 court shall exercise exclusive and original judicial jurisdiction, authority, powers, functions, and  
31 duties in the judicial district in any or all of the following matters that on the date specified in the  
32 order entered under ORS 3.275 are not within the jurisdiction of the circuit court:

33 (a) Adoption.

34 (b) Change of name under ORS 33.410.

35 (c) Filiation.

36 (d) Commitment of persons with mental illness or mental retardation.

37 (e) Any suit or civil proceeding involving **parenting time**, custody or other disposition of a  
38 child or the support thereof or the support of a spouse, including enforcement of the Uniform Re-  
39 ciprocal Enforcement of Support Act and enforcement of out-of-state or foreign judgments and de-  
40 crees on domestic relations.

41 (f) Waivers of the three-day waiting period before a marriage license becomes effective under  
42 ORS 106.077.

43 (g) Issuance of delayed reports of live birth.

44 **SECTION 46.** ORS 24.190 is amended to read:

45 24.190. (1) For the purposes of this section:

1 (a) "Foreign restraining order" means a restraining order that is a foreign judgment as defined  
2 by ORS 24.105.

3 (b)(A) "Restraining order" means an injunction or other order issued for the purpose of pre-  
4 venting:

5 (i) Violent or threatening acts or harassment against another person;

6 (ii) Contact or communication with another person; or

7 (iii) Physical proximity to another person.

8 (B) "Restraining order" includes temporary and final orders, other than **parenting time**, support  
9 or [*child*] custody orders, issued by a civil or criminal court regardless of whether the order was  
10 obtained by filing an independent action or as a pendente lite order in another proceeding. However,  
11 for a civil order to be considered a restraining order, the civil order must have been issued in re-  
12 sponse to a complaint, petition or motion filed by or on behalf of a person seeking protection.

13 (2)(a) Except as otherwise provided in paragraph (b) of this subsection, immediately upon the  
14 arrival in this state of a person protected by a foreign restraining order, the foreign restraining  
15 order is enforceable as an Oregon order without the necessity of filing and continues to be en-  
16 forceable as an Oregon order without any further action by the protected person.

17 (b) A foreign restraining order is not enforceable as an Oregon order if:

18 (A) The person restrained by the order shows that:

19 (i) The court that issued the order lacked jurisdiction over the subject matter or lacked personal  
20 jurisdiction over the person restrained by the order; or

21 (ii) The person restrained by the order was not given reasonable notice and an opportunity to  
22 be heard under the law of the jurisdiction in which the order was issued; or

23 (B) The foreign restraining order was issued against a person who had petitioned for a re-  
24 straining order unless:

25 (i) The person protected by the foreign restraining order filed a separate petition seeking the  
26 restraining order; and

27 (ii) The court issuing the foreign restraining order made specific findings that the person was  
28 entitled to the order.

29 (3)(a) A person protected by a foreign restraining order may present a true copy of the order  
30 to a county sheriff for entry into the Law Enforcement Data System maintained by the Department  
31 of State Police. Subject to paragraph (b) of this subsection, the county sheriff shall enter the order  
32 into the Law Enforcement Data System if the person certifies that the order is the most recent order  
33 in effect between the parties and provides proof of service or other written certification that the  
34 person restrained by the order has been personally served with a copy of the order or has actual  
35 notice of the order. Entry into the Law Enforcement Data System constitutes notice to all law  
36 enforcement agencies of the existence of the restraining order. Law enforcement agencies shall es-  
37 tablish procedures adequate to ensure that an officer at the scene of an alleged violation of the or-  
38 der may be informed of the existence and terms of the order. The order is fully enforceable as an  
39 Oregon order in any county or tribal land in this state.

40 (b) The Department of State Police shall specify information that is required for a foreign re-  
41 straining order to be entered into the Law Enforcement Data System.

42 (c) At the time a county sheriff enters an order into the Law Enforcement Data System under  
43 paragraph (a) of this subsection, the sheriff shall also enter the order into the databases of the Na-  
44 tional Crime Information Center of the United States Department of Justice.

45 (4) Pending a contempt hearing for alleged violation of a foreign restraining order, a person

1 arrested and taken into custody pursuant to ORS 133.310 may be released as provided in ORS  
2 135.230 to 135.290. Unless the order provides otherwise, the security amount for release is \$5,000.

3 (5) ORS 24.115, 24.125, 24.129, 24.135, 24.140, 24.150 and 24.155 do not apply to a foreign re-  
4 straining order.

5 (6) A person protected by a foreign restraining order may file a certified copy of the order and  
6 proof of service in the office of the clerk of any circuit court of any county of this state. A judgment  
7 so filed has the same effect and is subject to the same procedures, defenses and proceedings for re-  
8 opening, vacating or staying as a judgment of the circuit court in which the foreign judgment is  
9 filed, and may be enforced or satisfied in like manner. The court may not collect a filing fee for a  
10 filing under this section.

11 **SECTION 47.** ORS 25.080 is amended to read:

12 25.080. (1) The following entity is primarily responsible for providing the support enforcement  
13 services described in subsection (4) of this section when an application as described in ORS 25.084  
14 is made, or when an assignment of support rights is made to the state:

15 (a) The Division of Child Support of the Department of Justice:

16 (A) If support rights are, or were within the past five months, assigned to this or another state;  
17 or

18 (B) In any case where arrearage under a support order is assigned or owed to or the right to  
19 recover back support or state debt is held by this state or another state.

20 (b) Except as provided in subsection (6) of this section, the district attorney in cases other than  
21 those described in paragraph (a) of this subsection if an application as described in ORS 25.084 is  
22 made by the obligee, by the obligor, by a person having [*physical custody*] **responsibility for the**  
23 **supervision and physical care** of a minor child or by a child attending school, as defined in ORS  
24 107.108.

25 (2) The provisions of this section apply to support enforcement services for any order or judg-  
26 ment that is or could be entered under ORS 419B.400 or 419C.590 or ORS chapter 107, 108, 109, 110  
27 or 416. The entity specified in subsection (1) of this section shall provide the support enforcement  
28 services on behalf of the State of Oregon and not on behalf of any other party or on behalf of a  
29 parent. The Department of Justice shall adopt rules addressing the provision of support enforcement  
30 services when the purposes of the state in providing those services may be contradictory in indi-  
31 vidual cases.

32 (3) Notwithstanding the division of responsibility for providing support enforcement services  
33 between the Division of Child Support and the district attorney as described in subsection (1) of this  
34 section, provision of support enforcement services may not be challenged on the basis that the entity  
35 providing the services in a particular case is not the entity responsible for the case under subsection  
36 (1) of this section.

37 (4) When responsible for providing support enforcement services and there is sufficient evidence  
38 available to support the action to be taken, the entity described in subsection (1) of this section:

39 (a) Shall establish and enforce any child support obligation;

40 (b) Shall establish paternity;

41 (c) Shall enforce spousal support when the obligee is living with the obligor's child for whom  
42 support enforcement services are being provided and those services are funded in part by federal  
43 moneys;

44 (d) May enforce any other order or judgment for spousal support;

45 (e) Shall, on behalf of the state, initiate and respond to child support modification proceedings

1 based upon a substantial change of circumstances;

2 (f) Shall, on behalf of the state, initiate and respond to child support modification proceedings  
3 based upon a modification conducted under ORS 25.287 concerning existing child support orders;

4 (g) Shall establish and enforce obligations to provide medical insurance coverage for dependent  
5 children;

6 (h) Shall ensure compliance with the provisions of 42 U.S.C. 651 to 669 and 45 C.F.R. Chapter  
7 III as authorized by state law;

8 (i) Shall carry out the policy of the State of Oregon regarding child support obligations as ex-  
9 pressed in ORS 416.405; and

10 (j) Shall ensure that child support orders are in compliance with the formula established by this  
11 chapter.

12 (5) In any proceeding under subsection (4) of this section, the parties are those described in ORS  
13 416.407.

14 (6) The district attorney of any county and the department may provide by agreement for as-  
15 sumption by the Division of Child Support of the functions of the district attorney under subsection  
16 (1) of this section or for redistribution between the district attorney and the Division of Child Sup-  
17 port of all or any portion of the duties, responsibilities and functions set forth in subsections (1) and  
18 (4) of this section.

19 (7) All county governing bodies and all district attorneys shall enter into child support cooper-  
20 ative agreements with the department. The following apply to this subsection:

21 (a) The agreements shall contain appropriate terms and conditions sufficient for the state to  
22 comply with all child support enforcement service requirements under federal law; and

23 (b) If this state loses any federal funds due to the failure of a county governing body or district  
24 attorney to either enter into an agreement under this subsection or to provide sufficient support  
25 enforcement service, the county shall be liable to the department for, and the liability shall be lim-  
26 ited to, the amount of money the state determines it lost because of the failure. The state shall offset  
27 the loss from any moneys the state is holding for or owes the county or from any moneys the state  
28 would pay to the county for any purpose.

29 (8) The Department of Justice shall enter into an agreement with the Oregon District Attorneys  
30 Association to establish a position or positions to act as a liaison between the Division of Child  
31 Support and those district attorneys who provide support enforcement services under this section.  
32 The department shall fund the position or positions. The Oregon District Attorneys Association shall  
33 administer the liaison position or positions under the agreement. The liaison shall work to:

34 (a) Enhance the participation and interaction of the district attorneys in the development and  
35 implementation of Child Support Program policies and services; and

36 (b) Increase the effectiveness of child support enforcement services provided by the district at-  
37 torneys.

38 (9) The district attorney or the Division of Child Support, whichever is appropriate, shall pro-  
39 vide the services specified in subsections (1) and (4) of this section to any applicant, but may in their  
40 discretion, upon a determination and notice to the applicant that the prospect of successful recovery  
41 from the obligor of a portion of the delinquency or future payments is remote, require payment to  
42 the district attorney or the Division of Child Support of an application fee, in accordance with an  
43 application fee schedule established by rule by the department. If service performed results in the  
44 district attorney or the Division of Child Support recovering any support enforcement fees, the fees  
45 shall be paid to the applicant in an amount equal to the amount of the application fee.

1 (10) An obligee may request the Division of Child Support or a district attorney to cease all  
 2 collection efforts if it is anticipated that physical or emotional harm will be caused to the parent  
 3 or caretaker relative or the child for whom support was to have been paid. The department, by rule,  
 4 shall set out the circumstances under which such requests shall be honored.

5 **SECTION 48.** ORS 25.125 is amended to read:

6 25.125. (1) The Department of Justice may return moneys to an obligor when the department  
 7 determines that the obligor has paid more moneys than are due under a support obligation. How-  
 8 ever, when the obligor has an ongoing support obligation, the department may give the obligor  
 9 credit for the excess amount paid and apply the credit to the future support obligation until the  
 10 credit is fully used. When the department applies a credit to offset a future support obligation, the  
 11 department shall so notify the obligee. The notice must inform the obligee that, if the obligee re-  
 12 quests, the department will conduct an administrative review to determine if the record keeping and  
 13 accounting related to the calculation of the credit balance is correct. The department shall conduct  
 14 the administrative review within 30 days after receiving the request.

15 (2) An overpayment in favor of the state is created when the Department of Justice, under ORS  
 16 25.020, has transmitted moneys received from, or on behalf of, any person or entity, including but  
 17 not limited to an obligor, an obligee or a collection agency, a child support agency of another state  
 18 or an agency of this state, and:

19 (a) The amount transmitted is more than the support obligation requires and the Department  
 20 of Justice has returned the excess to the obligor under subsection (1) of this section;

21 (b) The Department of Justice has misapplied moneys received; or

22 (c) The amount transmitted is attributable in whole or in part to a tax refund offset collection  
 23 all or part of which has been taken back by the Internal Revenue Service or the Department of  
 24 Revenue.

25 (3)(a) The person or entity to which the moneys were transmitted owes the amount of the  
 26 overpayment to the state. The Department of Justice shall:

27 (A) Attempt to recover the overpayment if it is cost-effective to do so;

28 (B) Notify the person or entity to whom the overpayment was made that the person or entity  
 29 owes money to the state and specify the amount of the overpayment to be returned to the depart-  
 30 ment; and

31 (C) Give the person or entity opportunity to object.

32 (b) If the person or entity does not file a timely written objection, the overpayment amount de-  
 33 termined by the department becomes a liquidated debt and creates an account receivable owed to  
 34 the department, and the provisions of subsection (4) of this section apply. If the department does not  
 35 resolve an objection to the person's or entity's satisfaction, an administrative law judge assigned  
 36 from the Office of Administrative Hearings shall hear the objection. An order by the administrative  
 37 law judge becomes a liquidated debt and creates an account receivable owed to the department. The  
 38 person or entity may appeal the decision of an administrative law judge to the circuit court for a  
 39 hearing de novo.

40 (c) Notwithstanding paragraph (a) of this subsection, if an agency of this or another state owes  
 41 the overpayment, the agency shall return the amount of the overpayment to the department without  
 42 notice and opportunity to object.

43 (4)(a) The amount of the overpayment specified in subsection (3)(a) of this section is a liquidated  
 44 debt owed to the state and an associated account receivable. The Department of Justice may recover  
 45 the debt by obtaining from the obligee a voluntary assignment of a portion of future support pay-

1 ments to be applied to the account receivable or in any other way permitted by law.

2 (b) Accounts receivable are considered delinquent for purposes of this subsection and are sub-  
3 ject to the provisions of ORS chapter 293 if:

4 (A) The person or entity fails to make full payment within 90 days of liquidation; or

5 (B) A period of 90 days elapses without a payment as required by a payment agreement between  
6 the department and the obligated person or entity.

7 (5)(a) In addition to the account receivable created under subsection (2) of this section, a debt  
8 in favor of the state and an associated account receivable are created when:

9 (A) The Department of Justice receives payment for support amounts due from an obligor, a  
10 withholder subject to an order to withhold under this chapter or another issuer on behalf of an  
11 obligor;

12 (B) The Department of Justice transmits the amount to any other person or entity; and

13 (C) The payment is dishonored or reversed.

14 (b) When a debt is created under paragraph (a) of this subsection, the amount of money specified  
15 in the payment is owed to the state, and the department may collect the debt from one of the fol-  
16 lowing:

17 (A) The obligor, regardless of who presented the check.

18 (B) The withholder, if the withholder presented the check.

19 (C) The other issuer, if another issuer presented the check.

20 (D) The person or entity to which the amount was transmitted by the department.

21 (c) The Department of Justice shall:

22 (A) Attempt to recover the debt if it is cost-effective to do so;

23 (B) Notify the obligor, withholder or other issuer who made the payment that the person or  
24 entity owes the money to the state; and

25 (C) Specify the amount of the debt to be paid to the department.

26 (d) The amount of the debt specified in paragraph (c) of this subsection is a liquidated debt owed  
27 to the state and an account receivable. The Department of Justice may recover the debt and collect  
28 on the account receivable in any way permitted under law.

29 (e) Accounts receivable are considered delinquent for purposes of this subsection and are subject  
30 to the provisions of ORS chapter 293 when:

31 (A) The person or entity fails to make full payment within 90 days of liquidation; or

32 (B) A period of 90 days elapses without a payment as required by a payment agreement between  
33 the department and the obligated person or entity.

34 (6)(a) When an action is pending to terminate, vacate or set aside a support order or to modify  
35 a support order because of a change in [*physical custody*] **responsibility for supervision and**  
36 **physical care** of the child, the administrator may suspend enforcement of the support order if:

37 (A) Collection of support would result in a credit balance if the motion were granted; or

38 (B) Collection of child support would impair the ability of the obligor with physical [*custody*]  
39 **care and supervision** of all of the parties' children to provide direct support to the children.

40 (b) The obligee may object, within 14 days after the date of the notice of intent to suspend  
41 enforcement of the support order, only on the grounds that:

42 (A) The child is not [*in the physical custody*] **under the supervision and physical care** of the  
43 obligor;

44 (B) The child is [*in the physical custody*] **under the supervision and physical care** of the  
45 obligor without the consent of the obligee; or

1 (C) The basis for the suspension of enforcement is factually incorrect.

2 (c) A party may appeal the administrator's decision to suspend or not to suspend enforcement  
3 of the support order under ORS 183.484.

4 (d) As used in this subsection, "credit balance" means that payments have been made in excess  
5 of all amounts owed by an obligor for ongoing and past due child support.

6 (7) The Department of Justice shall adopt rules to carry out the provisions of this section.

7 **SECTION 49.** ORS 25.164 is amended to read:

8 25.164. (1) If the payment method for support payments set forth in the support judgment does  
9 not require that payments be made through the Department of Justice, an application may be made  
10 to the department for support enforcement services under this chapter and under federal laws and  
11 regulations relating to support payments and enforcement of judgments. An application under this  
12 section may be made by an obligee, by an obligor, by a person having [*physical custody*] **responsi-**  
13 **bility for the supervision and physical care** of a minor child or by a child attending school, as  
14 defined in ORS 107.108.

15 (2) An application under subsection (1) of this section must be in the form prescribed by ORS  
16 25.084.

17 (3) If an application is made under subsection (1) of this section, the administrator shall give  
18 notice to all parties that the application has been made. All support payments under the judgment  
19 that are due after the notice is given must be made through the department.

20 (4) When an application is made under this section, the method of support accounting previously  
21 used for the support judgment terminates on the first day of the month following the month the  
22 application is made, and the department shall thereafter provide support accounting for the support  
23 judgment and disburse amounts paid under the judgment.

24 (5) If an application is made under this section and a complete record of support payments does  
25 not exist, the department may establish a record of arrearage under ORS 25.167.

26 **SECTION 50.** ORS 25.240 is amended to read:

27 25.240. (1) Notwithstanding any other law, where a court or the administrator has the authority  
28 under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400 to 419B.406 or 419C.590, 419C.592 and  
29 419C.597 to require a parent without [*legal*] custody to pay support for a minor child, then the court  
30 or administrator may require a parent with [*legal*] custody to pay support for such a child as long  
31 as that parent [*does not have physical custody of*] **is not providing supervision and physical care**  
32 **for** such child or is not providing the child with the necessities of life, including but not limited to  
33 lodging, food and clothing.

34 (2) **As used in this section, "custody" has the meaning given that terms in section 1 of**  
35 **this 2019 Act.**

36 **SECTION 51.** ORS 25.280 is amended to read:

37 25.280. In any judicial or administrative proceeding for the establishment or modification of a  
38 child support obligation under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400, 419B.923,  
39 419C.590 or 419C.610, the amount of support determined by the formula established under ORS  
40 25.275 is presumed to be the correct amount of the obligation. This is a rebuttable presumption and  
41 a written finding or a specific finding on the record that the application of the formula would be  
42 unjust or inappropriate in a particular case is sufficient to rebut the presumption. The following  
43 criteria shall be considered in making the finding:

44 (1) Evidence of the other available resources of a parent;

45 (2) The reasonable necessities of a parent;

1 (3) The net income of a parent remaining after withholdings required by law or as a condition  
2 of employment;

3 (4) A parent’s ability to borrow;

4 (5) The number and needs of other dependents of a parent;

5 (6) The special hardships of a parent including, but not limited to, any medical circumstances  
6 of a parent affecting the parent’s ability to pay child support;

7 (7) The needs of the child;

8 (8) The desirability of the [*custodial*] parent **with custody, as defined in section 1 of this 2019**  
9 **Act, of the child** remaining in the home as a full-time parent and homemaker;

10 (9) The tax consequences, if any, to both parents resulting from spousal support awarded and  
11 determination of which parent will name the child as a dependent; and

12 (10) The financial advantage afforded a parent’s household by the income of a spouse or another  
13 person with whom the parent lives in a relationship similar to that of a spouse.

14 **SECTION 52.** ORS 40.262 is amended to read:

15 40.262. A professional counselor or a marriage and family therapist licensed by the Oregon  
16 Board of Licensed Professional Counselors and Therapists under ORS 675.715 shall not be examined  
17 in a civil or criminal court proceeding as to any communication given the counselor or therapist  
18 by a client in the course of a noninvestigatory professional activity when such communication was  
19 given to enable the counselor or the therapist to aid the client, except:

20 (1) When the client or those persons legally responsible for the affairs of the client give consent  
21 to the disclosure. If both parties to a marriage have obtained marital and family therapy by a li-  
22 censed marital and family therapist or a licensed counselor, the therapist or counselor shall not be  
23 competent to testify in a domestic relations action other than [*child*] a **custody or parenting time**  
24 action concerning information acquired in the course of the therapeutic relationship unless both  
25 parties consent;

26 (2) When the client initiates legal action or makes a complaint against the licensed professional  
27 counselor or licensed marriage and family therapist to the board;

28 (3) When the communication reveals the intent to commit a crime or harmful act; or

29 (4) When the communication reveals that a minor is or is suspected to be the victim of crime,  
30 abuse or neglect.

31 **(5) As used in this section, “custody” and “parenting time” have the meanings given**  
32 **those terms in section 1 of this 2019 Act.**

33 **SECTION 53.** ORS 416.400 is amended to read:

34 416.400. As used in ORS 416.400 to 416.465, unless the context requires otherwise:

35 (1) “Administrator” has the meaning given that term in ORS 25.010.

36 (2) “Court” means any circuit court of this state and any court in another state having juris-  
37 diction to determine the liability of persons for the support of another person.

38 (3) “Court order” means any judgment or order of any Oregon court that orders payment of a  
39 set or determinable amount of support money by the subject parent and does not include an order  
40 or judgment in any proceeding in which the court did not order support.

41 **(4) “Custody” has the meaning given that term in section 1 of this 2019 Act.**

42 [(4)] (5) “Department” means the Department of Justice of this state or its equivalent in any  
43 other state from which a written request for establishment or enforcement of a support obligation  
44 is received under ORS 416.415.

45 [(5)] (6) “Dependent child” means any person under [*the age of*] **18 years of age** who is not



1 otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United  
2 States. “Dependent child” also means a child attending school as defined in ORS 107.108.

3 [(6)] (7) “Office” means the office of the Division of Child Support or the office of the district  
4 attorney.

5 [(7)] (8) “Parent” means:

6 (a) The natural or adoptive father or mother of a dependent child or youth offender;

7 (b) A person whose parentage has been established under ORS 109.065; or

8 (c) A stepparent when the person has an obligation to support a dependent child under ORS  
9 108.045.

10 (9) **“Parenting time” has the meaning given that term in section 1 of this 2019 Act.**

11 [(8)] (10) “Past support” means the amount of child support that could have been ordered and  
12 accumulated as arrears against a parent for the benefit of a child for any period of time during  
13 which the child was not supported by the parent and for which period no support order was in ef-  
14 fect.

15 [(9)] (11) “Public assistance” means any money payments made by the state that are paid to or  
16 for the benefit of any dependent child or youth offender, including but not limited to payments made  
17 so that food, shelter, medical care, clothing, transportation or other necessary goods, services or  
18 items may be provided, and payments made in compensation for the provision of the necessities.  
19 “Public assistance” does not include money payments made by the state to or for the benefit of a  
20 dependent child as the result of the child’s removal from the parent’s home against the wishes of the  
21 parent, if the Department of Human Services determines after completion of a child protective ser-  
22 vices assessment that the report of abuse is unfounded according to rules adopted by the Depart-  
23 ment of Human Services.

24 [(10)] (12) “Youth offender” has the meaning given that term in ORS 419A.004.

25 **SECTION 54.** ORS 416.407 is amended to read:

26 416.407. (1) In any proceeding under ORS 416.400 to 416.465, the following are parties and shall  
27 be given notice of any such proceeding by the administrator:

28 (a) The State of Oregon.

29 (b) An obligee who [*has physical custody*] **is responsible for the supervision and physical care**  
30 of a child for whose benefit a support order or an order establishing paternity is sought, is being  
31 modified or is being enforced under this chapter.

32 (c) A noncustodial parent or a male who is alleged to be the father of a child when an action  
33 is initiated under this chapter to establish, modify or enforce a support or paternity order.

34 (d) A person joined as a party under subsection (2) of this section.

35 (2) Pursuant to administrative rule, a party may join a person who [*has physical custody*] **is**  
36 **responsible for the supervision and physical care** of a child to a proceeding under ORS 416.400  
37 to 416.465.

38 **SECTION 55.** ORS 416.416 is amended to read:

39 416.416. (1) An order for support of a child entered under ORS 416.400 to 416.465 may provide  
40 for a change to the support award based on a change in the [*child’s physical custody*] **parent who**  
41 **is primarily responsible for the supervision and physical care of the child.** The order may  
42 provide for a change in the support award during periods of time when one parent, with the  
43 knowledge and consent of the other parent or pursuant to court order, [*has physical custody*] **as-**  
44 **sumes primary responsibility for the supervision and physical care** of the child. The provision  
45 may not provide for a change to the support award during periods of parenting time or visitation

1 **set forth in a parenting plan or custody order.**

2 (2) A sworn affidavit of the parent [*having physical custody*] **assuming primary responsibility**  
 3 **for the supervision and physical care** of a child is sufficient to establish a change in [*physical*  
 4 *custody*] **the person responsible for the supervision and physical care** of the child, and of the  
 5 time during which the parent [*has physical custody*] **is primarily responsible for the supervision**  
 6 **and physical care** of the child, for the purposes of a change to a support award under a provision  
 7 described in subsection (1) of this section. The other parent may contest the affidavit by requesting  
 8 a hearing as provided by ORS 416.427.

9 (3) The [*legal*] custody of a child is not affected by a change to a support order under a provision  
 10 described in subsection (1) of this section.

11 **SECTION 56.** ORS 416.417 is amended to read:

12 416.417. An order for support entered pursuant to ORS 416.400 to 416.465 for a child in the care  
 13 and **protective** custody of the Department of Human Services, or a youth offender or other offender  
 14 in the legal or physical custody of the Oregon Youth Authority, may be made contingent upon the  
 15 child, youth offender or other offender residing in a state financed or supported residence, shelter  
 16 or other facility or institution. A certificate signed by the Director of Human Services, the Admin-  
 17 istrator of the Division of Child Support or the Director of the Oregon Youth Authority shall be  
 18 sufficient to establish the periods of residence and to satisfy the order for periods of nonresidence.  
 19 A hearing to contest the period of nonresidency or failure to satisfy shall be held pursuant to ORS  
 20 416.427.

21 **SECTION 57.** ORS 416.425 is amended to read:

22 416.425. (1) Any time support enforcement services are being provided under ORS 25.080, the  
 23 obligor, the obligee, the party holding the support rights or the administrator may move for the  
 24 existing order to be modified under this section. The motion shall be in writing in a form prescribed  
 25 by the administrator, shall set out the reasons for modification and shall state the address of the  
 26 party requesting modification.

27 (2) The moving party shall state in the motion, to the extent known:

28 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-  
 29 ceeding involving the dependent child, including a proceeding brought under ORS 25.287, 107.085,  
 30 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.415, 419B.400 or 419C.590 or ORS  
 31 chapter 110; and

32 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in  
 33 ORS 110.503, involving the dependent child, other than the order the party is moving to modify.

34 (3) The moving party shall include with the motion a certificate regarding any pending support  
 35 proceeding and any existing support order other than the order the party is moving to modify. The  
 36 party shall use a certificate that is in a form prescribed by the administrator and include informa-  
 37 tion required by the administrator and subsection (2) of this section.

38 (4) The moving party shall serve the motion upon the obligor, the obligee, the party holding the  
 39 support rights and the administrator, as appropriate. The nonrequesting parties must be served in  
 40 the same manner as provided for service of the notice and finding of financial responsibility under  
 41 ORS 416.415 (1)(a). Notwithstanding ORS 25.085, the requesting party must be served by first class  
 42 mail to the requesting party's last known address. The nonrequesting parties have 30 days to resolve  
 43 the matter by stipulated agreement or to serve the moving party by regular mail with a written  
 44 response setting forth any objections to the motion and a request for hearing. The hearing shall be  
 45 conducted under ORS 416.427.

1 (5) When the moving party is other than the administrator and no objections and request for  
2 hearing have been served within 30 days, the moving party may submit a true copy of the motion  
3 to the administrative law judge as provided in ORS 416.427, except the default may not be construed  
4 to be a contested case as defined in ORS chapter 183. Upon proof of service, the administrative law  
5 judge shall issue an order granting the relief sought.

6 (6) When the moving party is the administrator and no objections and request for hearing have  
7 been served within 30 days, the administrator may enter an order granting the relief sought.

8 (7) A motion for modification made under this section does not stay the administrator from en-  
9 forcing and collecting upon the existing order unless so ordered by the court in which the order is  
10 entered.

11 (8) An administrative order filed in accordance with ORS 416.440 is a final judgment as to any  
12 installment or payment of money that has accrued up to the time the nonrequesting party is served  
13 with a motion to set aside, alter or modify the judgment. The administrator may not set aside, alter  
14 or modify any portion of the judgment that provides for any payment of money for minor children  
15 that has accrued before the motion is served. However:

16 (a) The administrator may allow a credit against child support arrearages for periods of time,  
17 excluding reasonable parenting time unless otherwise provided by order or judgment, during which  
18 the obligor, with the knowledge and consent of the obligee or pursuant to court order, [*has physical*  
19 *custody*] **assumes primary responsibility for the supervision and physical care** of the child; and

20 (b) The administrator may allow a credit against child support arrearages for any Social Secu-  
21 rity or veterans' benefits paid retroactively to the child, or to a representative payee administering  
22 the funds for the child's use and benefit, as a result of a parent's disability or retirement.

23 (9) The party requesting modification has the burden of showing a substantial change of cir-  
24 cumstances or that a modification is appropriate under the provisions of ORS 25.287.

25 (10) The obligee is a party to all proceedings under this section.

26 (11) An obligor's incarceration for a period of at least 180 consecutive days or an obligor's re-  
27 lease from incarceration is considered a substantial change of circumstances for purposes of pro-  
28 ceedings brought under this section.

29 (12)(a) Notwithstanding subsections (1) to (11) of this section, any time support enforcement  
30 services are being provided under ORS 25.080, upon request of a party to a support order or judg-  
31 ment or on the administrator's own motion, the administrator may move to suspend the order or  
32 judgment and issue a temporary modification order under this subsection when:

33 (A) There is a period of significant unemployment as that term is described in paragraph (b) of  
34 this subsection; and

35 (B) A party to the support order or judgment experiences an employment-related change of in-  
36 come as defined by rule in ORS 416.455.

37 (b) Proceedings under this subsection may be initiated only when there is a period of significant  
38 unemployment in Oregon. The Attorney General shall determine when a "period of significant un-  
39 employment" exists in Oregon and designate the beginning and ending dates thereof. In making the  
40 determination of when a period of significant unemployment exists in Oregon, the Attorney General  
41 may consider whether there is in effect an "extended benefit period" as that term is defined in ORS  
42 657.321.

43 (c) Except as otherwise provided in this subsection, the provisions of subsections (1) to (11) of  
44 this section apply to a motion for an order of suspension and temporary modification under this  
45 subsection.

1 (d) A party's employment-related change of income during a period of significant unemployment  
2 is considered a substantial change of circumstances for purposes of proceedings brought under this  
3 section.

4 (e) The motion for an order of suspension and temporary modification must be in writing and  
5 must include, but need not be limited to:

6 (A) The amount of the existing support order or judgment;

7 (B) The amount of the obligor's and obligee's income immediately preceding the party's  
8 employment-related change of income, if known;

9 (C) The reason for the party's employment-related change of income;

10 (D) How the party's employment-related change of income affects the party's employment status,  
11 income and, if applicable, ability to pay support;

12 (E) The obligor's and the obligee's current sources of income, if known;

13 (F) The proposed amount of the temporary modification order;

14 (G) A statement that if a party objects to the motion for an order of suspension and temporary  
15 modification, then the party may request a hearing within 14 days of service of the motion as pro-  
16 vided in paragraph (g) of this subsection;

17 (H) A statement that the preexisting support order or judgment will be reinstated as provided  
18 in paragraph (h) of this subsection; and

19 (I) A statement that a party may request a renewal of the order of suspension and temporary  
20 modification prior to its expiration as provided in paragraph (j) of this subsection.

21 (f) The administrator shall serve the motion filed under this subsection upon the parties by  
22 regular first class mail, facsimile or electronic mail unless a party signs a form agreeing to accept  
23 service of the motion.

24 (g) A party may request a hearing within 14 days of service of the motion. If a hearing is re-  
25 quested, the provisions of ORS 416.427 apply. When there has been no request for hearing, the ad-  
26 ministrator may enter an order of suspension and temporary modification under this subsection. The  
27 order must be consistent with the provisions of the motion filed under this subsection and be in  
28 substantial compliance with the formula established under ORS 25.275.

29 (h) An order of suspension and temporary modification issued under this subsection is temporary  
30 and remains in effect for six months from the date the order is filed under ORS 416.440 or until the  
31 date specified in the notice provided under paragraph (i) of this subsection informing of the party's  
32 reemployment, whichever is earlier, at which time the preexisting support order or judgment be-  
33 comes immediately effective and payable on the first day of the following month unless an order of  
34 renewal is issued under paragraph (j) of this subsection.

35 (i) The administrator may issue a notice of reinstatement at any time during which an order of  
36 suspension and temporary modification is in effect under this subsection when a party obtains em-  
37 ployment and receives income that is sufficient to reinstate support in an amount substantially  
38 similar to the amount in the preexisting support order or judgment. The notice shall be served as  
39 provided in paragraph (f) of this subsection and must state that, unless a request for hearing is re-  
40 ceived within 14 days of service of the notice, the administrator will enter an order terminating the  
41 order of suspension and temporary modification and reinstating the amount of the preexisting sup-  
42 port order or judgment effective on a date to be specified in the notice. If a hearing is requested,  
43 the provisions of ORS 416.427 apply. When there is no request for hearing, the administrator may  
44 enter an order terminating the order of suspension and temporary modification and reinstating the  
45 preexisting support order or judgment effective upon the date specified in the notice.

1 (j) Prior to expiration of an order of suspension and temporary modification under this sub-  
 2 section and upon request of a party, the administrator may renew the order of suspension and tem-  
 3 porary modification for additional six-month periods or until the party obtains employment as  
 4 described in paragraph (i) of this subsection, whichever occurs first, if the circumstances under  
 5 which the order was originally issued continue to exist unchanged.

6 **SECTION 58.** ORS 416.443 is amended to read:

7 416.443. (1) As used in this section, "blood tests" has the meaning given that term in ORS  
 8 109.251.

9 (2) No later than one year after an order establishing paternity is entered under ORS 416.440  
 10 and if blood tests have not been completed, a party may apply to the administrator to have the issue  
 11 of paternity reopened and for an order for blood tests.

12 (3) No later than one year after a voluntary acknowledgment of paternity is filed in this state  
 13 and if blood tests have not been completed, a party to the acknowledgment, or the Department of  
 14 Human Services if the child named in the acknowledgment is in the care and **protective** custody  
 15 of the department under ORS chapter 419B, may apply to the administrator for services under ORS  
 16 25.080 and for an order for blood tests.

17 (4) Upon receipt of a timely application, the administrator shall order:

18 (a) The mother and the male party to submit to blood tests; and

19 (b) The person having [*physical custody*] **primary responsibility for the supervision and**  
 20 **physical care** of the child to submit the child to blood tests.

21 (5) If a party refuses to comply with an order under subsection (4) of this section, the issue of  
 22 paternity shall, upon the motion of the administrator, be resolved against that party by an order of  
 23 the court either affirming or setting aside the order establishing paternity or the voluntary ac-  
 24 knowledgment of paternity.

25 (6) If the results of the blood tests exclude the male party as the biological father of the child,  
 26 the administrator may file a motion with the court for an order setting aside the order establishing  
 27 paternity or the voluntary acknowledgment of paternity and for a judgment of nonpaternity.

28 (7) Support paid before an order establishing paternity or a voluntary acknowledgment of  
 29 paternity is set aside under this section may not be returned to the payer.

30 (8) The administrator shall send a court-certified true copy of a judgment of nonpaternity to the  
 31 State Registrar of the Center for Health Statistics. Upon receipt of the judgment, the state registrar  
 32 shall correct any records maintained by the state registrar that indicate that the male party is the  
 33 parent of the child.

34 (9) The Child Support Program shall pay any state registrar fees and any costs for blood tests  
 35 ordered under this section, subject to recovery from the party who requested the tests.

36 **SECTION 59.** ORS 19.270 is amended to read:

37 19.270. (1) The Supreme Court or the Court of Appeals has jurisdiction of the cause when the  
 38 notice of appeal has been served and filed as provided in ORS 19.240, 19.250 and 19.255. The trial  
 39 court may exercise those powers in connection with the appeal as are conferred by law, and retains  
 40 jurisdiction in the matter for the following purposes:

41 (a) Deciding requests for attorney fees, costs and disbursements or expenses pursuant to ORCP  
 42 68 or other provision of law.

43 (b) Enforcing the judgment, subject to any stay of the judgment.

44 (c) Deciding a motion for judgment notwithstanding the verdict under ORCP 63.

45 (d) Deciding a motion for new trial under ORCP 64.

1 (e) Deciding a motion for relief from judgment under ORCP 71 B.

2 (2) The following requirements of ORS 19.240, 19.250 and 19.255 are jurisdictional and may not  
3 be waived or extended:

4 (a) Service of the notice of appeal on all parties identified in the notice of appeal as adverse  
5 parties or, if the notice of appeal does not identify adverse parties, on all parties who have appeared  
6 in the action, suit or proceeding, as provided in ORS 19.240 (2)(a), within the time limits prescribed  
7 by ORS 19.255.

8 (b) Filing of the original of the notice of appeal with the Court of Appeals as provided in ORS  
9 19.240 (3), within the time limits prescribed by ORS 19.255.

10 (3) After the Supreme Court or the Court of Appeals has acquired jurisdiction of the cause, the  
11 omission of a party to perform any of the acts required in connection with an appeal, or to perform  
12 such acts within the time required, shall be cause for dismissal of the appeal. In the event of such  
13 omission, the court, on motion of a party or on its own motion may dismiss the appeal. An appeal  
14 dismissed on a party's motion or on the court's own motion may be reinstated upon showing of good  
15 cause.

16 (4) Notwithstanding the filing of a notice of appeal, the trial court has jurisdiction, with leave  
17 of the appellate court, to enter an appealable judgment or order if the appellate court determines  
18 that:

19 (a) At the time of the filing of the notice of appeal the trial court intended to enter an  
20 appealable judgment or order; and

21 (b) The judgment or order from which the appeal is taken is defective in form or was entered  
22 at a time when the trial court did not have jurisdiction of the cause under subsection (1) of this  
23 section, or the trial court had not yet entered an appealable judgment or order.

24 (5) Notwithstanding the filing of a notice of appeal, the trial court has jurisdiction:

25 (a) To enter in the trial court register a judgment or order that the trial judge signed before the  
26 notice of appeal was filed;

27 (b) To enter an order or supplemental judgment under ORCP 71 or ORS 19.275, 107.105 [(4)] (5)  
28 or 107.452; and

29 (c) To enter an order or supplemental judgment for the purpose of implementing a settlement  
30 as allowed by ORS 19.410 (3).

31 (6) Jurisdiction of the appellate court over a cause ends when a copy of the appellate judgment  
32 is mailed by the State Court Administrator to the court from which the appeal was taken pursuant  
33 to ORS 19.450, except that the appellate court may:

34 (a) Recall the appellate judgment as justice may require;

35 (b) Stay enforcement of the appellate judgment to allow the filing of a petition for writ of  
36 certiorari to the Supreme Court of the United States; and

37 (c) Stay enforcement of the appellate judgment pending disposition of the matter by the Supreme  
38 Court of the United States or for such other time as the Oregon appellate court may deem appro-  
39 priate.

40 (7) If a limited or supplemental judgment is appealed, the jurisdiction of the appellate court is  
41 limited to the matters decided by the limited or supplemental judgment, and the trial court retains  
42 jurisdiction over all other matters in the proceeding.

43 (8) After jurisdiction of the appellate court ends, all orders which may be necessary to carry the  
44 appellate judgment into effect shall be made by the court from which the appeal was taken.