

Requested by Representative NERON

**PROPOSED AMENDMENTS TO
HOUSE BILL 2959**

1 On page 1 of the printed bill, line 2, delete “107.101”.

2 Delete line 3 and insert “107.101, 107.102 and 107.425.”.

3 Delete lines 5 through 31 and delete page 2 and insert:

4 **“SECTION 1. (1) At any hearing under ORS chapter 107, the court,**
5 **on its own motion or upon the motion of a party, may take testimony,**
6 **or, if requested to do so by one or more of the children, shall take**
7 **testimony, from any child appearing as a witness and may exclude the**
8 **child’s parents and other persons if the court finds such action would**
9 **be likely to be in the best interests of the child. However, the court**
10 **may not exclude the attorney for each party and the testimony shall**
11 **be reported.**

12 **“(2) The court shall, on its own motion or upon the motion of any**
13 **other party, allow a child appearing under this section to appear in**
14 **person or by other means, including, but not limited to, telephonic or**
15 **other electronic means.**

16 **“SECTION 2. ORS 107.101 is amended to read:**

17 **“107.101. It is the policy of this state to:**

18 **“(1) Assure minor children of frequent and continuing contact with par-**
19 **ents who have shown the ability to act in the best interests of the child;**

20 **“(2) Encourage such parents to share in the rights and responsibilities**
21 **of raising their children after the parents have separated or dissolved their**

1 marriage;

2 “(3) Encourage parents to develop their own parenting plan with the as-
3 sistance of legal and mediation professionals, if necessary;

4 “(4) Grant parents and courts the widest discretion in developing a par-
5 enting plan; *[and]*

6 “(5) **Ensure that parenting plans involving children who are 14 years
7 of age or older reflect the child’s wishes; and**

8 “[5] (6) Consider the best interests of the child and the safety of the
9 parties in developing a parenting plan.

10 “**SECTION 3.** ORS 107.102 is amended to read:

11 “107.102. (1) In any proceeding to establish or modify a judgment provid-
12 ing for parenting time with a child, except for matters filed under ORS
13 107.700 to 107.735, there shall be developed and filed with the court a par-
14 enting plan to be included in the judgment. A parenting plan may be either
15 general or detailed.

16 “(2) A general parenting plan may include a general outline of how par-
17 ental responsibilities and parenting time will be shared and may allow the
18 parents to develop a more detailed agreement on an informal basis. However,
19 a general parenting plan must set forth the minimum amount of parenting
20 time and access a noncustodial parent is entitled to have.

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

23 “(a) Residential schedule;

24 “(b) Holiday, birthday and vacation planning;

25 “(c) Weekends, including holidays, and school in-service days preceding
26 or following weekends;

27 “(d) Decision-making and responsibility;

28 “(e) Information sharing and access;

29 “(f) Relocation of parents;

30 “(g) Telephone access;

1 “(h) Transportation; and

2 “(i) Methods for resolving disputes.

3 “(4) In addition to the provisions listed in subsection (3) of this section,
4 a detailed parenting plan may include one or both of the following require-
5 ments:

6 “(a) That the custodial parent notify the noncustodial parent regarding
7 specified matters concerning the child.

8 “(b) That the custodial parent provide the noncustodial parent with an
9 opportunity to comment regarding specified matters concerning the child.

10 “(5)(a) The court shall develop a detailed parenting plan when:

11 “(A) So requested by either parent; or

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

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

15 “(c) In developing a parenting plan under this subsection, the court may
16 order equal parenting time. If a parent requests that the court order equal
17 parenting time in the parenting plan, the court may deny the request if the
18 court determines, by written findings, that equal parenting time is not in the
19 best interests of the child or endangers the safety of the parties.

20 “(6) **If the child is 14 years of age or older, a parenting plan under**
21 **this section may not be entered into or ordered without the consent**
22 **of the child.**

23 “**SECTION 4.** ORS 107.425 is amended to read:

24 “107.425. (1) In suits or proceedings described in subsection (4) of this
25 section in which there are minor children involved, the court may cause an
26 investigation to be made as to the character, family relations, past conduct,
27 earning ability and financial worth of the parties for the purpose of pro-
28 tecting the children’s future interest. The court may defer the entry of a
29 general judgment until the court is satisfied that its judgment in such suit
30 or proceeding will properly protect the welfare of such children. The inves-

1 tigative findings shall be offered as and subject to all rules of evidence. Costs
2 of the investigation may be charged against one or more of the parties or
3 as a cost in the proceedings but shall not be charged against funds appro-
4 priated for public defense services.

5 “(2) The court, on its own motion or on the motion of a party, may order
6 an independent physical, psychological, psychiatric or mental health exam-
7 ination of a party or the children and may require any party and the children
8 to be interviewed, evaluated and tested by an expert or panel of experts. The
9 court may also authorize the expert or panel of experts to interview other
10 persons and to request other persons to make available to the expert or panel
11 of experts records deemed by the court or the expert or panel of experts to
12 be relevant to the evaluation. The court may order the parties to authorize
13 the disclosure of such records. In the event the parties are unable to stipu-
14 late to the selection of an expert or panel of experts to conduct the exam-
15 ination or evaluation, the court shall appoint a qualified expert or panel of
16 experts. The court shall direct one or more of the parties to pay for the ex-
17 amination or evaluation in the absence of an agreement between the parties
18 as to the responsibility for payment but shall not direct that the expenses
19 be charged against funds appropriated for public defense services. If more
20 than one party is directed to pay, the court may determine the amount that
21 each party will pay based on financial ability.

22 “(3)(a) In addition to an investigation, examination or evaluation under
23 subsections (1) and (2) of this section, the court may appoint an individual
24 or a panel or may designate a program to assist the court in creating par-
25 enting plans or resolving disputes regarding parenting time and to assist
26 parents in creating and implementing parenting plans. The services provided
27 to the court and to parents under this section may include:

28 “(A) Gathering information;

29 “(B) Monitoring compliance with court orders;

30 “(C) Providing the parents, their attorneys, if any, and the court with

1 recommendations for new or modified parenting time provisions; and

2 “(D) Providing parents with problem solving, conflict management and
3 parenting time coordination services or other services approved by the court.

4 “(b) Services provided under this section may require the provider to
5 possess and utilize mediation skills, but the services are not comprised ex-
6 clusively of mediation services under ORS 107.755 to 107.795. If only medi-
7 ation services are provided, the provisions of ORS 107.755 to 107.795 apply.

8 “(c) The court may order one or more of the parties to pay for services
9 provided under this subsection, if the parties are unable to agree on their
10 respective responsibilities for payment. The court may not order that ex-
11 penses be charged against funds appropriated for public defense services.

12 “(d) The presiding judge of each judicial district shall establish quali-
13 fications for the appointment and training of individuals and panels and the
14 designation of programs under this section. In establishing qualifications, a
15 presiding judge shall take into consideration any guidelines recommended
16 by the statewide family law advisory committee.

17 “(4) The provisions of this section apply when:

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

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

21 “(c) A parent of a child born to a person who is not married initiates a
22 civil proceeding to determine custody or support under ORS 109.103;

23 “(d) A person petitions or files a motion for intervention under ORS
24 109.119;

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

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

28 “(5) Application of the provisions of subsection (1), (2) or (3) of this sec-
29 tion to the proceedings under subsection (4) of this section does not prevent
30 initiation, entry or enforcement of an order of support.

1 “(6) The court, on its own motion or on the motion of a party, may ap-
2 point counsel for the children. However, if requested to do so by one or more
3 of the children, the court shall appoint counsel for the child or children. A
4 reasonable fee for an attorney so appointed may be charged against one or
5 more of the parties or as a cost in the proceedings but shall not be charged
6 against funds appropriated for public defense services.

7 “(7) Prior to the entry of an order, the court on its own motion or on the
8 motion of a party may take testimony, **or, if requested to do so by one**
9 **or more of the children, shall take testimony**, from or confer with the
10 child or children of the marriage and may exclude from the conference the
11 parents and other persons if the court finds that such action would be likely
12 to be in the best interests of the child or children. However, the court shall
13 permit an attorney for each party to attend the conference and question the
14 child, and the conference shall be reported.”.

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