

# House Bill 2638

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Representative Kim Wallan)

## 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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes to what a court can order with regard to the parties' property rights while a case to end the marriage is pending. (Flesch Readability Score: 66.5).

Modifies the court's authority regarding the parties' property rights while a proceeding to terminate a marriage is pending.

## A BILL FOR AN ACT

1  
2 Relating to family law; amending ORS 107.095.

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

4 **SECTION 1.** ORS 107.095 is amended to read:

5 107.095. (1) After the commencement of a suit for marital annulment, dissolution or separation  
6 and until a general judgment therein, the court may provide as follows:

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

10 (b) For the care, custody, support and maintenance, by one party or jointly, of the minor chil-  
11 dren as described in ORS 107.105 (1)(a) and for the parenting time rights as described in ORS 107.105  
12 (1)(b) of the parent not having custody of such children.

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

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

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

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

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

27 (2) A limited judgment under ORS chapter 18 may be entered in an action for dissolution or  
28 annulment of a marriage providing for a support award, as defined by ORS 18.005, or other money  
29 award, as defined by ORS 18.005. Notwithstanding ORS 19.255, a limited judgment entered under this

**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 subsection may not be appealed. Any decision of the court in a limited judgment subject to this  
2 subsection may be appealed as otherwise provided by law upon entry of a general judgment.

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

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

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

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