

# TITLE 11

## DOMESTIC RELATIONS

- Chapter 106. Marriage; Domestic Partnership  
107. Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services; Family Abuse Prevention  
108. Husband and Wife Relationship; Property Rights; Premarital Agreements  
109. Parent and Child Rights and Relationships  
110. Uniform Interstate Family Support Act

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### Chapter 106

2009 EDITION

#### Marriage; Domestic Partnership

MARRIAGE	
106.010	Marriage as civil contract; age of parties
106.020	Prohibited and void marriages
106.030	Voidable marriages
106.041	Marriage license; application; record
106.045	Fee for marriage license; purpose
106.050	Proof of age; when affidavit required
106.060	Consent of parent or guardian if applicant under 18
106.077	Issuance of marriage license; waiting period; exception
106.081	Fetal alcohol syndrome pamphlets
106.100	County clerk's records
106.110	Unlawful issuance of marriage license prohibited
106.120	Who may solemnize marriage; fee; personal payment; records
106.130	Validity of marriage solemnized by unauthorized person
106.140	Solemnizing marriage unlawfully or without authority
106.150	Form of solemnization; witnesses; solemnization before congregation
106.160	Delivery of commemorative marriage certificate
106.165	Form of commemorative marriage certificate; preparation; rules
106.170	Report of marriage to county clerk
106.190	Legitimacy of issue of certain imperfect marriages
106.220	Surname upon entering into marriage
DOMESTIC PARTNERSHIP	
106.300	Short title
106.305	Legislative findings
106.310	Definitions for ORS 106.300 to 106.340
106.315	Prohibited and void domestic partnerships
106.320	Form of declaration and certificate of domestic partnership
106.325	Contents of declaration; filing with county clerk; registry; consent to circuit court jurisdiction
106.330	Registration fee
106.335	Surname upon entering into domestic partnership; legal effect
106.340	Certain privileges, immunities, rights, benefits and responsibilities granted or imposed
PENALTIES	
106.990	Penalties



**MARRIAGE**

**106.010 Marriage as civil contract; age of parties.** Marriage is a civil contract entered into in person by males at least 17 years of age and females at least 17 years of age, who are otherwise capable, and solemnized in accordance with ORS 106.150. [Amended by 1965 c.422 §1; 1975 c.583 §1]

**106.020 Prohibited and void marriages.** The following marriages are prohibited; and, if solemnized within this state, are absolutely void:

(1) When either party thereto had a wife or husband living at the time of such marriage.

(2) When the parties thereto are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law, except that when the parties are first cousins by adoption only, the marriage is not prohibited or void. [Amended by 1989 c.647 §1]

**106.030 Voidable marriages.** When either party to a marriage is incapable of making such contract or consenting thereto for want of legal age or sufficient understanding, or when the consent of either party is obtained by force or fraud, such marriage shall be void from the time it is so declared by judgment of a court having jurisdiction thereof. [Amended by 2003 c.576 §372]

**106.040** [Repealed by 1953 c.143 §9]

**106.041 Marriage license; application; record.** (1) All persons wishing to enter into a marriage contract shall obtain a marriage license from the county clerk upon application, directed to any person or religious organization or congregation authorized by ORS 106.120 to solemnize marriages, and authorizing the person, organization or congregation to join together as husband and wife the persons named in the license.

(2) The State Registrar of the Center for Health Statistics shall provide a standard form of the application, license and record of marriage to be used in this state that must include:

(a) Each applicant's Social Security number recorded on a confidential portion of the application, license and record of marriage;

(b) Certain statistical data regarding age, place of birth, sex, occupation, residence and previous marital status of each applicant;

(c) The name and address of the affiant under ORS 106.050, if required; and

(d) Each applicant's name after marriage as provided in ORS 106.220.

(3) Each applicant for a marriage license shall file with the county clerk from whom the marriage license is sought a written ap-

plication for the license on forms prescribed for this purpose by the Center for Health Statistics.

(4) A marriage license must contain the following statement: "Neither you nor your spouse is the property of the other. The laws of the State of Oregon affirm your right to enter into marriage and at the same time to live within the marriage free from violence and abuse."

(5) An applicant may not intentionally make a material false statement in the records required by this section.

(6) The county clerk may not issue a marriage license until the provisions of this section and ORS 106.050 and 106.060 are complied with. [1953 c.143 §2; 1981 c.152 §1; 1993 c.324 §1; 1995 c.555 §4; 1999 c.80 §67; 2007 c.703 §1]

**106.043** [1953 c.143 §2; 1971 c.282 §1; repealed by 1981 c.152 §6]

**106.045 Fee for marriage license; purpose.** (1) In addition to any other fees provided by law, the county clerk shall collect a fee of \$25 upon the application for a marriage license.

(2) The county clerk shall regularly pay over to the Oregon Health Authority all moneys collected under subsection (1) of this section to be credited to the Domestic Violence Fund pursuant to ORS 409.300. [1981 c.357 §1; 1983 c.480 §6; 1987 c.740 §1; 2009 c.595 §65a]

**Note:** 106.045 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 106 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**106.050 Proof of age; when affidavit required.** (1) The county clerk may accept any reasonable proof of the applicant's age satisfactory to the clerk. The clerk may require proof of age by affidavit of some person other than either of the parties seeking the license if the clerk deems it necessary in order to determine the age of an applicant to the clerk's satisfaction.

(2) If an applicant for a marriage license is less than 18 years of age, the applicant must file with the county clerk an affidavit of some person other than either of the parties seeking the license showing the facts other than age necessary to be shown under ORS 106.060 in the particular case, except the consent of the parent or guardian required by ORS 106.060 shall not be part of the affidavit. The affidavit is sufficient authority to the clerk, so far as the facts stated therein, for issuing the license. [Amended by 1965 c.467 §1; 1969 c.242 §1; 1987 c.340 §1]

**106.060 Consent of parent or guardian if applicant under 18.** A marriage license shall not be issued without the written consent of the parent or guardian, if any, of an applicant who is less than 18 years of age,

nor in any case unless the parties are each of an age, as provided in ORS 106.010, capable of contracting marriage. If either party under 18 years of age has no parent or guardian resident within this state and either party has resided within the county in which application is made for the six months immediately preceding the application, the license may issue, if otherwise proper, without the consent of the nonresident parent or guardian. [Amended by 1965 c.467 §2; 1969 c.242 §2; 1973 c.827 §12; 1975 c.583 §2; 1987 c.340 §2]

**106.070** [Repealed by 1953 c.143 §9]

**106.071** [1953 c.143 §4(1),(2),(3),(4),(5),(6); 1959 c.377 §1; 1971 c.282 §2; 1977 c.582 §4; 1979 c.731 §3; repealed by 1981 c.152 §6]

**106.074** [1953 c.143 §4(7); 1971 c.282 §3; repealed by 1981 c.152 §6]

**106.075** [Repealed by 1953 c.143 §9]

**106.077 Issuance of marriage license; waiting period; exception.** (1) When the county clerk has received the written application for the marriage license from both applicants, and all other legal requirements for issuance of the marriage license have been met, the county clerk shall issue a marriage license which shall become effective three days after the date on which the application was signed by the applicants. The county clerk shall indicate on the license the date on which the license becomes effective. A license shall be valid for 60 days after the effective date.

(2) For good and sufficient cause shown, a written order waiving the three-day waiting period provided in subsection (1) of this section may be signed by:

(a) A judge of probate of the county;

(b) A circuit court judge of the county in which the circuit court judge is not the judge of probate if the jurisdiction of the circuit court has been extended to cover this section pursuant to ORS 3.275;

(c) A judge of a county court of the county in which the judge of the county court is not the judge of probate if the circuit court judge does not reside therein; or

(d) The county clerk or official responsible for issuing the marriage license. [1953 c.143 §4(8); 1957 c.592 §1; 1963 c.429 §1; 1967 c.534 §13; 1971 c.456 §1; 1979 c.724 §2; 1981 c.152 §2; 1983 c.156 §1; 1989 c.508 §1]

**106.079** [1953 c.143 §4(9); 1981 c.152 §3; repealed by 2007 c.703 §11]

**106.080** [Amended by 1953 c.143 §9; repealed by 1971 c.282 §4]

**106.081 Fetal alcohol syndrome pamphlets.** When the county clerk issues a marriage license, the county clerk shall also give to the licensees a pamphlet describing the medical condition known as fetal alcohol syndrome, its causes and its effects. The

pamphlet shall be provided to the counties by the Oregon Health Authority under ORS 431.825 for distribution under this section. [1987 c.340 §3; 2009 c.595 §66]

**Note:** 106.081 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 106 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**106.090** [Repealed by 1981 c.152 §6]

**106.100 County clerk's records.** (1) The county clerk who issues the marriage license shall maintain records relating to marriages licensed in the county. The records must include the names of the parties, the consent of the parent or guardian, if any, the name of the affiant, the substance of the affidavit upon which the license issued and the date of the license.

(2) Upon return of the completed application, license and record of marriage under ORS 106.170, the county clerk shall add the date of the marriage ceremony to the clerk's records maintained under subsection (1) of this section and file the completed application, license and record of marriage. Except as provided in ORS 205.320, the county clerk may not charge a fee for filing, recording or indexing the application, license and record of marriage.

(3) The county clerk shall, upon completion of the requirements of this section and ORS 106.077, deliver the original completed application, license and record of marriage to the Center for Health Statistics as required under ORS 432.405.

(4) Notwithstanding any other provision of law, the record of marriage maintained by a county clerk is not a vital record as defined in ORS 432.005 and is a public record open and subject to full disclosure. [Amended by 2007 c.703 §2]

**106.110 Unlawful issuance of marriage license prohibited.** No county clerk shall issue a license contrary to the provisions of ORS 106.041 to 106.077 or 106.100.

**106.120 Who may solemnize marriage; fee; personal payment; records.** (1) As used in this section, "judicial officer" means:

(a) A judicial officer of this state as that term is defined in ORS 1.210 and includes but is not limited to a judge of a municipal court and a justice of the peace.

(b) An active judge of a federal court.

(c) An active United States magistrate judge.

(2) Marriages may be solemnized by:

(a) A judicial officer;

(b) A county clerk;

(c) Religious congregations or organizations as indicated in ORS 106.150 (2); or

(d) A clergyperson of any religious congregation or organization who is authorized by the congregation or organization to solemnize marriages.

(3) A person authorized to solemnize marriages under subsection (2) of this section may solemnize a marriage anywhere in this state.

(4)(a) When a marriage is solemnized by a tax, appellate or circuit judge of this state, the clerk of the court or the county clerk shall collect a fee of \$25 and deposit the fee in the Judicial Department Operating Account established in ORS 1.009.

(b) When a marriage is solemnized by a county clerk, the county clerk shall collect a fee of \$25, as provided in ORS 205.320.

(c) The fee described in this subsection may be collected only if:

(A) The marriage is solemnized during normal working hours, excluding holidays;

(B) The marriage is solemnized in court facilities or a county clerk's office; or

(C) More than a minimal amount of staff time or other court or county clerk's office resources are used in connection with the solemnization.

(d) The Chief Justice of the Supreme Court or the county clerk may establish a written procedure for waiver of the fee required under this subsection in exigent circumstances, including but not limited to indigency of the parties to the marriage.

(5) In addition to any fee collected under subsection (4) of this section, a judicial officer of this state and a county clerk may charge and accept an agreed upon personal payment not to exceed \$100 plus actual costs for the solemnization of a marriage if that solemnization is performed:

(a) At a place other than the courthouse where the judicial officer or county clerk serves; or

(b) Outside of the judicial officer's or county clerk's normal working hours.

(6) The charging and accepting of a personal payment by a judicial officer of this state or a county clerk under subsection (5) of this section does not constitute a violation of any of the provisions of ORS chapter 244.

(7) The amount of actual costs charged by a judicial officer of this state or a county clerk under subsection (5) of this section may not exceed:

(a) Actual expenses for food and lodging as verified by receipts.

(b) If travel is made by personal vehicle, the actual number of round-trip miles from the judicial officer's or county clerk's home or office, whichever is greater, compensated

at the rate of reimbursement then provided by the State of Oregon to its employees or, if travel is made by a commercial carrier, reimbursement shall be made of the actual costs thereof, verified by receipts.

(8) A judicial officer of this state or a county clerk shall maintain records of the amount of personal payments received for performing marriages, of actual costs and the supporting documentation related thereto for a period of four years.

(9) The parties to a marriage solemnized by a tax, appellate or circuit judge of this state shall show to the judge proof of payment of the fee required under subsection (4)(a) of this section before solemnization. Except as provided in subsection (4)(d) of this section, the judge may not solemnize a marriage without proof of payment of the fee. [Amended by 1971 c.621 §22; 1975 c.607 §22; 1977 c.518 §2; 1979 c.724 §3; 1979 c.833 §24; 1981 c.176 §1; 1991 c.282 §1; 1991 c.458 §1; 1997 c.424 §1; 1999 c.776 §1; 2001 c.501 §1; 2003 c.565 §1; 2003 c.737 §111]

**106.130 Validity of marriage solemnized by unauthorized person.** A marriage solemnized before any person professing to be a judicial officer of this state, a county clerk or a clergyperson of a religious congregation or organization therein is not void, nor shall the validity thereof be in any way affected, on account of any want of power or authority in such person, if such person was acting at the time in the office or the capacity of a person authorized to solemnize marriage and if such marriage is consummated with the belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. [Amended by 1979 c.724 §4; 2001 c.501 §5]

**106.140 Solemnizing marriage unlawfully or without authority.** No person shall undertake to join others in marriage knowing that the person is not lawfully authorized so to do. No person authorized to solemnize marriage shall join persons in marriage contrary to any of the provisions of ORS 106.010 to 106.060 or 106.100 to 106.190.

**106.150 Form of solemnization; witnesses; solemnization before congregation.** (1) In the solemnization of a marriage no particular form is required except that the parties thereto shall assent or declare in the presence of the clergyperson, county clerk or judicial officer solemnizing the marriage and in the presence of at least two witnesses, that they take each other to be husband and wife.

(2) All marriages, to which there are no legal impediments, solemnized before or in any religious organization or congregation according to the established ritual or form commonly practiced therein, are valid. In such case, the person presiding or officiating

in the religious organization or congregation shall deliver to the county clerk who issued the marriage license the application, license and record of marriage in accordance with ORS 106.170. [Amended by 1979 c.724 §5; 2001 c.501 §2; 2007 c.703 §3]

**106.160 Delivery of commemorative marriage certificate.** The county clerk shall give to the parties to the marriage a commemorative marriage certificate in accordance with ORS 106.165 upon issuing the marriage license. [Amended by 1975 c.277 §4; 2007 c.703 §4]

**106.165 Form of commemorative marriage certificate; preparation; rules.** (1) The county clerk shall prescribe a standard form of a commemorative marriage certificate to be issued by the county clerk and kept by the married couple. The certificate must contain the names and addresses of the parties and of at least two witnesses, the date and place of the marriage, the signature of the person who solemnized the marriage, the date of the marriage license and the name of the county clerk who issued the license.

(2) The commemorative marriage certificate must contain the following wording in legible font type: "This is a commemorative certificate. This certificate is not the legal marriage record."

(3) The commemorative marriage certificate shall be of such size and appearance as to emphasize the importance of the event. [1975 c.277 §§1,2; 2001 c.501 §6; 2007 c.703 §5]

**Note:** 106.165 was added to and made a part of ORS chapter 106 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**106.170 Report of marriage to county clerk.** A person solemnizing a marriage shall, within 10 days after the marriage ceremony, complete the original application, license and record of marriage form and deliver the form to the county clerk who issued the marriage license. The person solemnizing the marriage may keep a copy of the application, license and record of marriage form. [Amended by 1981 c.176 §2; 2001 c.501 §3; 2007 c.703 §7]

**106.180** [Amended by 1999 c.776 §2; repealed by 2007 c.703 §11]

**106.190 Legitimacy of issue of certain imperfect marriages.** (1) The issue of marriages void under ORS 106.020 are legitimate.

(2) All children conceived or born of parents who married or who may hereafter marry prior to the expiration of six months from the date of a judgment of divorce or declaring a marriage void rendered in a suit to which one of the parents was a party or during the period of an appeal from such a judgment, if the marriage is in all other re-

spects regular, are legitimate. [Amended by 2003 c.576 §373]

**106.200** [Repealed by 1957 c.411 §7]

**106.210** [1955 c.694 §1; 1959 c.531 §1; repealed by 2007 c.22 §7]

**106.220 Surname upon entering into marriage.** (1) Upon entering into marriage, either party may retain the party's surname prior to the marriage or change the party's surname to the surname of the other party or to a hyphenated combination of the surnames of both parties. If a party requests a surname change under this section, that party may also change the party's middle name to the party's surname prior to the marriage. Each party must indicate on the application, license and record of marriage the party's name after marriage.

(2) The name of each party after marriage as indicated on the application, license and record of marriage shall become the sole legal name of each party after marriage. If a party indicates a name change other than as described in subsection (1) of this section, the party shall request approval of the court pursuant to ORS 33.410. [1975 c.733 §3; 1981 c.775 §7; 2007 c.703 §12]

## DOMESTIC PARTNERSHIP

**106.300 Short title.** ORS 106.300 to 106.340 may be cited as the Oregon Family Fairness Act. [2007 c.99 §1]

**Note:** 106.300 to 106.340 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 106 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**106.305 Legislative findings.** The Legislative Assembly finds that:

(1) Section 20, Article I of the Oregon Constitution, has always enshrined the principle that all citizens of this state are to be provided with equal privileges and immunities under the laws of the State. In addition, as provided in ORS 659A.006, it has long been the public policy of this state that discrimination against any of the citizens of this state is a matter of state concern that threatens not only the rights and privileges of the state's inhabitants but menaces the institutions and foundation of a free democratic state. These fundamental principles are integral to Oregon's constitutional form of government, to its guarantees of political and civil rights and to the continued vitality of political and civil society in this state.

(2) The ability to enter into a committed, long-term relationship with another individual that is recognized not only by friends and family, but also by the laws of this state, is a significant and fundamental ability afforded to opposite-sex couples by the marriage laws of this state. Legal recognition of marriage

by the state is the primary and, in a number of instances, the exclusive source of numerous rights, benefits and responsibilities available to married individuals under Oregon law. Marriage is limited to the union of one man and one woman by section 5a, Article XV of the Oregon Constitution.

(3) Many gay and lesbian Oregonians have formed lasting, committed, caring and faithful relationships with individuals of the same sex, despite long-standing social and economic discrimination. These couples live together, participate in their communities together and often raise children and care for family members together, just as do couples who are married under Oregon law. Without the ability to obtain some form of legal status for their relationships, same-sex couples face numerous obstacles and hardships in attempting to secure rights, benefits and responsibilities for themselves and their children. Many of the rights, benefits and responsibilities that the families of married couples take for granted cannot be obtained in any way other than through state recognition of committed same-sex partnerships.

(4) This state has a strong interest in promoting stable and lasting families, including the families of same-sex couples and their children. All Oregon families should be provided with the opportunity to obtain necessary legal protections and status and the ability to achieve their fullest potential.

(5) ORS 106.300 to 106.340 are intended to better align Oregon law with the values embodied in the Constitution and public policy of this state, and to further the state's interest in the promotion of stable and lasting families, by extending benefits, protections and responsibilities to committed same-sex partners and their children that are comparable to those provided to married individuals and their children by the laws of this state.

(6) The establishment of a domestic partnership system will provide legal recognition to same-sex relationships, thereby ensuring more equal treatment of gays and lesbians and their families under Oregon law.

(7) The Legislative Assembly recognizes that the Oregon Constitution limits marriage to the union of one man and one woman. The Legislative Assembly does not seek to alter this definition of marriage in any way through the Oregon Family Fairness Act and recognizes that the Legislative Assembly cannot bestow the status of marriage on partners in a domestic partnership. The Legislative Assembly recognizes that numerous distinctions will exist between these two legally recognized relationships. The Legislative Assembly recognizes that the legal recognition of domestic partnerships under

the laws of this state may not be effective beyond the borders of this state and cannot impact restrictions contained in federal law.

(8) ORS 106.300 to 106.340 do not require the performance of any solemnization ceremony to enter into a binding domestic partnership contract. It is left to the dictates and conscience of partners entering into a domestic partnership to determine whether to seek a ceremony or blessing over the domestic partnership and to the dictates of each religious faith to determine whether to offer or permit a ceremony or blessing of domestic partnerships. Providing recognition to same-sex partnerships through a domestic partnership system in no way interferes with the right of each religious faith to choose freely to whom to grant the religious status, sacrament or blessing of marriage under the rules or practices of that faith. [2007 c.99 §2]

**Note:** See note under 106.300.

**106.310 Definitions for ORS 106.300 to 106.340.** As used in ORS 106.300 to 106.340 (Oregon Family Fairness Act):

(1) "Domestic partnership" means a civil contract described in ORS 106.300 to 106.340 entered into in person between two individuals of the same sex who are at least 18 years of age, who are otherwise capable and at least one of whom is a resident of Oregon.

(2) "Partner" means an individual joined in a domestic partnership. [2007 c.99 §3; 2009 c.561 §1]

**Note:** Section 7, chapter 561, Oregon Laws 2009, provides:

**Sec. 7.** The amendments to sections 3 [106.310] and 4 [106.315], chapter 99, Oregon Laws 2007, by sections 1 and 2 of this 2009 Act apply to declarations of domestic partnership entered into before, on or after the effective date of this 2009 Act [September 28, 2009]. [2009 c.561 §7]

**Note:** See note under 106.300.

**106.315 Prohibited and void domestic partnerships.** (1) A domestic partnership is prohibited and void when:

(a) Either party to the domestic partnership had a partner, wife or husband living at the time of the domestic partnership unless the partner, wife or husband was the other party to the domestic partnership.

(b) The parties to the domestic partnership are first cousins or any nearer of kin to each other, whether of the whole or half blood, whether by blood or adoption, computing by the rules of the civil law. However, when the parties are first cousins by adoption only, the domestic partnership is not prohibited or void.

(2) When either party to a domestic partnership is incapable of making the civil contract or consenting to the contract for want of legal age or sufficient understanding, or when the consent of either party is ob-

tained by force or fraud, the domestic partnership is void from the time it is so declared by a judgment of a court having jurisdiction of the domestic partnership. [2007 c.99 §4; 2009 c.561 §2]

**Note:** See first note under 106.310.

**Note:** See note under 106.300.

**106.320 Form of declaration and certificate of domestic partnership.** (1) The Oregon Health Authority shall prepare forms entitled:

(a) "Declaration of Domestic Partnership" meeting the requirements of ORS 106.325; and

(b) "Certificate of Registered Domestic Partnership."

(2) The authority shall distribute the forms to each county clerk. The authority and each county clerk shall make the Declaration of Domestic Partnership forms available to the public. [2007 c.99 §5; 2009 c.595 §65b]

**Note:** See note under 106.300.

**106.325 Contents of declaration; filing with county clerk; registry; consent to circuit court jurisdiction.** (1) Two individuals wishing to become partners in a domestic partnership may complete and file a Declaration of Domestic Partnership with the county clerk.

(2) In accordance with the requirements of this section, the county clerk shall register the Declaration of Domestic Partnership in a domestic partnership registry and return a copy of the registered form and a Certificate of Registered Domestic Partnership to the partners in person or at the mailing address provided by the partners.

(3) An individual who has filed a Declaration of Domestic Partnership may not file a new Declaration of Domestic Partnership or enter a marriage with someone other than the individual's registered partner unless a judgment of dissolution or annulment of the most recent domestic partnership has been entered. This prohibition does not apply if the previous domestic partnership ended because one of the partners died.

(4) Each individual signing a Declaration of Domestic Partnership consents to the jurisdiction of the circuit courts of Oregon for the purpose of an action to obtain a judgment of dissolution or annulment of the domestic partnership, for legal separation of the partners in the domestic partnership or for any other proceeding related to the partners' rights and obligations, even if one or both partners cease to reside in, or to maintain a domicile in, this state. Notwithstanding ORS 107.086, a petition for dissolution or annulment of the domestic partnership, for legal separation of the partners in the domestic partnership or for any other proceed-

ing related to the partners' rights and obligations may be filed in the county in which either the petitioner or respondent last resided.

(5) On the Declaration of Domestic Partnership, each individual who wants to become a partner in a domestic partnership shall:

(a) State that the individual is at least 18 years of age and is otherwise capable to enter into a domestic partnership at the time the individual signs the form;

(b) State whether the individual is a resident of Oregon;

(c) Provide a mailing address;

(d) State that the individual consents to the jurisdiction of the circuit courts of Oregon for the purpose of an action to obtain a judgment of dissolution or annulment of the domestic partnership or for legal separation of the partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners cease to reside in, or to maintain a domicile in, this state;

(e) Indicate the individual's name after domestic partnership as provided in ORS 106.335;

(f) Sign the form with a declaration that representations made on the form are true, correct and contain no material omissions of fact to the best knowledge and belief of the individual; and

(g) Have a notary public acknowledge the individual's signature.

(6) Both partners' signatures must be affixed to one Declaration of Domestic Partnership form. Filing an intentionally and materially false Declaration of Domestic Partnership is punishable as a misdemeanor.

(7) The county clerk may accept any reasonable proof of an individual's age satisfactory to the clerk. The clerk may require proof of age by affidavit of some individual other than either of the parties seeking to file the Declaration of Domestic Partnership if the clerk deems it necessary in order to determine the age of the individual to the clerk's satisfaction.

(8) The county clerk may not register a Declaration of Domestic Partnership or return a copy of the registered form and a Certificate of Registered Domestic Partnership to the partners until the provisions of this section, ORS 106.330 and all other legal requirements are complied with.

(9) Notwithstanding ORS 432.121 or any other provision of law, the registry of domestic partnerships maintained by a county clerk is a public record and subject to full disclosure. [2007 c.99 §6; 2009 c.561 §3]

**Note:** Section 8, chapter 561, Oregon Laws 2009, provides:

**Sec. 8.** The amendments to sections 6 [106.325] and 8 [106.335], chapter 99, Oregon Laws 2007, by sections 3 and 4 of this 2009 Act become operative January 1, 2010. [2009 c.561 §8]

**Note:** See note under 106.300.

**106.330 Registration fee.** (1) In addition to any other fees provided by law, the county clerk shall collect a fee of \$25 for registering a Declaration of Domestic Partnership.

(2) The county clerk shall regularly pay over to the Oregon Health Authority all moneys collected under subsection (1) of this section to be credited to the Domestic Violence Fund pursuant to ORS 409.300. [2007 c.99 §7; 2009 c.595 §65c]

**Note:** See note under 106.300.

**106.335 Surname upon entering into domestic partnership; legal effect.** (1) Upon entering into a domestic partnership, either party to the domestic partnership may retain the party's surname prior to the domestic partnership or change the party's surname to the surname of the other party or to a hyphenated combination of the surnames of both parties. If a party requests a surname change under this section, that party may also change the party's middle name to the party's surname prior to the domestic partnership. Each party must indicate on the Declaration of Domestic Partnership the party's name after domestic partnership.

(2) The name of each party after domestic partnership as indicated on the Declaration of Domestic Partnership shall become the sole legal name of each party after domestic partnership. If a party indicates a name change other than as described in subsection (1) of this section, the party shall request approval of the court pursuant to ORS 33.410. [2007 c.99 §8; 2009 c.561 §4]

**Note:** See first note under 106.325.

**Note:** See note under 106.300.

**106.340 Certain privileges, immunities, rights, benefits and responsibilities granted or imposed.** (1) Any privilege, immunity, right or benefit granted by statute, administrative or court rule, policy, common law or any other law to an individual because the individual is or was married, or because the individual is or was an in-law in a specified way to another individual, is granted on equivalent terms, substantive and procedural, to an individual because the individual is or was in a domestic partnership or because the individual is or was, based on a domestic partnership, related in a specified way to another individual.

(2) Any responsibility imposed by statute, administrative or court rule, policy, common law or any other law on an individual be-

cause the individual is or was married, or because the individual is or was an in-law in a specified way to another individual, is imposed on equivalent terms, substantive and procedural, on an individual because the individual is or was in a domestic partnership or because the individual is or was, based on a domestic partnership, related in a specified way to another individual.

(3) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to or on a spouse with respect to a child of either of the spouses is granted or imposed on equivalent terms, substantive and procedural, to or on a partner with respect to a child of either of the partners.

(4) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, administrative or court rule, policy, common law or any other law to or on a former or surviving spouse with respect to a child of either of the spouses is granted or imposed on equivalent terms, substantive and procedural, to or on a former or surviving partner with respect to a child of either of the partners.

(5) Many of the laws of this state are intertwined with federal law, and the Legislative Assembly recognizes that it does not have the jurisdiction to control federal laws or the privileges, immunities, rights, benefits and responsibilities related to federal laws.

(6) ORS 106.300 to 106.340 do not require or permit the extension of any benefit under ORS chapter 238 or 238A, or under any other retirement, deferred compensation or other employee benefit plan, if the plan administrator reasonably concludes that the extension of benefits would conflict with a condition for tax qualification of the plan, or a condition for other favorable tax treatment of the plan, under the Internal Revenue Code or regulations adopted under the Internal Revenue Code.

(7) ORS 106.300 to 106.340 do not require the extension of any benefit under any employee benefit plan that is subject to federal regulation under the Employee Retirement Income Security Act of 1974.

(8) For purposes of administering Oregon tax laws, partners in a domestic partnership, surviving partners in a domestic partnership and the children of partners in a domestic partnership have the same privileges, immunities, rights, benefits and responsibilities as are granted to or imposed on spouses in a marriage, surviving spouses and their children. [2007 c.99 §9]

**Note:** See note under 106.300.

**PENALTIES**

**106.990 Penalties.** (1) Violation of ORS 106.041 (5) is punishable, upon conviction, by a fine of not more than \$100 or by imprisonment in the county jail for not more than 30 days, or both.

(2) Violation of ORS 106.110 or 106.140 is punishable upon conviction by imprisonment in the custody of the Department of Corrections or county jail for not more than one

year, or by a fine of not more than \$500 nor less than \$100.

(3) Refusal or neglect to comply with ORS 106.170 shall result in the forfeiture of a penalty of not less than \$10 nor more than \$50 to be recovered by action for every five days of such refusal or neglect. [Amended by 1953 c.143 §9; subsection (1) enacted as 1953 c.143 §5; 1981 c.152 §4; 1987 c.320 §16; 1999 c.776 §3; 2001 c.501 §7; 2007 c.703 §8]

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