Chapter 107

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Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services; Family Abuse Prevention

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DISSOLUTION, ANNULMENT AND SEPARATION

107.005 Annulment of void marriage; declaration of validity; effect of declaration. (1) A marriage may be declared void from the beginning for any of the causes specified in ORS 106.020; and, whether so declared or not, shall be deemed and held to be void in any action, suit or proceeding in which it may come into question.

(2) When either husband or wife claims or pretends that the marriage is void or voidable under the provisions of ORS 106.020, it may at the suit of the other be declared valid or that it was void from the beginning or that it is void from the time of the judgment.

(3) A marriage once declared valid by the judgment of a court having jurisdiction thereof, in a suit for that purpose, cannot afterward be questioned for the same cause directly or otherwise. [1971 c.280 §7; 2003 c.576 §102]

107.010 [Repealed by 1971 c.280 §28]

107.015 Grounds for annulment or dissolution of marriage. (1) Except as provided in subsection (2) of this section, a judgment for the annulment or dissolution of a marriage may be rendered:

(a) When either party to the marriage was incapable of making the marriage contract or consenting to the marriage for want of legal age or sufficient understanding; or

(b) When the consent of either party was obtained by force or fraud.

(2) A judgment for the annulment or dissolution of a marriage may not be rendered for a reason described in subsection (1) of this section if the marriage contract was afterward ratified. [1971 c.280 §8; 2003 c.576 §103; 2007 c.22 §2]

107.020 [Repealed by 1971 c.280 §28]

107.025 Irreconcilable differences as grounds for dissolution or separation. (1) A judgment for the dissolution of a marriage or a permanent or unlimited separation may be rendered when irreconcilable differences between the parties have caused the irremediable breakdown of the marriage.

(2) A judgment for separation may be rendered when:

(a) Irreconcilable differences between the parties have caused a temporary or unlimited breakdown of the marriage;

(b) The parties make and file with the court an agreement suspending for a period not less than one year their obligation to live together as husband and wife, and the court finds such agreement to be just and equitable; or

(c) Irreconcilable differences exist between the parties and the continuation of their status as married persons preserves or protects legal, financial, social or religious interest. [1971 c.280 §9; 1973 c.502 §1; 2003 c.576 §104]

107.030 [Amended by 1953 c.439 §2; 1965 c.311 §1; repealed by 1971 c.280 §28]

107.035 [1969 c.264 §2; repealed by 1971 c.280 §28]

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

(2) The court shall not receive evidence of specific acts of misconduct, excepting where child custody is an issue and such evidence is relevant to that issue, or excepting at a hearing when the court finds such evidence necessary to prove irreconcilable differences.

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

(4) Where satisfactory proof of grounds for the annulment or dissolution of a marriage or for separation has been made, the court shall render a judgment for the annulment or dissolution of the marriage or for separation. A judgment of separation shall state the duration of the separation. [1971 c.280 §10; 1973 c.502 §2; 2003 c.576 §105]

107.040 [Amended by 1965 c.388 §1; repealed by 1971 c.280 §28]

107.045 [1957 c.444 §1; 1965 c.603 §1; repealed by 1971 c.280 §28]

107.046 Appearance by public official. The district attorney, or in appropriate cases the Division of Child Support, shall appear in any suit for the annulment or dissolution of a marriage or for separation when requested by the court. [1971 c.280 §4; 1973 c.502 §3; 1979 c.482 §1]

107.050 [Amended by 1965 c.603 §2; repealed by 1971 c.280 §28]

107.055 Appearance by respondent; affirmative defenses abolished. The respondent shall not be required to answer a petition for annulment or dissolution of a marriage or for separation except by filing a general appearance or a general appearance with counterclaims relating to matters other than

the grounds for annulment, dissolution or separation. Affirmative defenses are abolished. [1971 c.280 §11; 1973 c.502 §4]

107.060 [Amended by 1965 c.603 §3; repealed by 1971 c.280 §28]

107.065 [1971 c.280 §6; 1979 c.284 §99; 1999 c.569 §1; 2003 c.576 §243; repealed by 2011 c.114 §1]

107.070 [Repealed by 1971 c.280 §28]

107.075 Residence requirements. (1) If the marriage was solemnized in this state and either party is a resident of or domiciled in the state at the time the suit is commenced, a suit for its annulment or dissolution may be maintained where the ground alleged is one set forth in ORS 106.020 or 107.015.

(2) When the marriage was not solemnized in this state or when any ground other than set forth in ORS 106.020 or 107.015 is alleged, at least one party must be a resident of or be domiciled in this state at the time the suit is commenced and continuously for a period of six months prior thereto.

(3) In a suit for separation, one of the parties must be a resident of or domiciled in this state at the time the suit is commenced.

(4) Residence or domicile under subsection (2) or (3) of this section is sufficient to give the court jurisdiction without regard to the place where the marriage was solemnized or where the cause of suit arose. [1971 c.280 §5; 1973 c.502 §5]

107.080 [Repealed by 1971 c.280 §28]

107.085 Petition; title; content. (1) A suit for marital annulment, dissolution or separation shall be entitled: "IN THE MATTER OF THE MARRIAGE OF (names of parties): PETITION FOR (ultimate relief sought)." The moving party shall be designated as the "Petitioner" and the other party the "Respondent." Nothing in this section shall preclude both parties from acting as "Copetitioners."

(2) The petitioner shall state the following in the petition:

(a) The names and dates of birth of all of the children born or adopted during the marriage, and a reference to and expected date of birth of any children conceived during the marriage but not yet born;

(b) The names and dates of birth of all children born to the parties prior to the marriage;

(c) To the extent known:

(A) Whether there is pending in this state or any other jurisdiction a domestic relations suit, as defined in ORS 107.510;

(B) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving dependents of the same marriage, including one brought under this section or ORS 108.110, 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

(C) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving dependents of the same marriage; and

(d) That the petitioner acknowledges that by filing the petition the petitioner is bound by the terms of the restraining order issued under ORS 107.093.

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

(4) At or prior to the hearing of a suit for marital annulment, dissolution or separation, the moving party or the party attending the hearing shall file with the court a written statement setting forth the full names and any former names of the parties, the residence, mailing or contact addresses of the parties, the ages of both parties, the date and place of the marriage of the parties, and the names and ages of the children born to or adopted by the parties. This information shall be incorporated in and made a part of the judgment.

(5) If real property is involved, the petitioner may have a notice of pendency of the action recorded at the time the petition is filed, as provided in ORS 93.740.

(6) The Social Security numbers of the parties and of the children born or adopted during the marriage and children born to the parties prior to the marriage shall be provided as established in ORS 107.840. [1971 c.280 §2; 1973 c.502 §6; 1979 c.144 §1; 1979 c.421 §14; 1983 c.728 §1; 1987 c.586 §25; 1993 c.448 §4; 2003 c.116 §3; 2003 c.380 §3; 2003 c.414 §4; 2003 c.576 §106]

107.086 Where to file petition. A petition for marital annulment, dissolution or separation may be filed only in a county in which the petitioner or respondent resides. [2003 c.289 §6]

107.087 When petition to be served on Division of Child Support. Whenever a suit for dissolution, separation or annulment is initiated under ORS 107.085 and the child support rights of one of the parties or of a child of both of the parties have been assigned to the state, a true copy of the petition shall be served by mail or personal delivery on the Administrator of the Division of Child Support of the Department of Justice or on the branch office providing support

services to the county in which the suit is filed. [1979 c.90 §6; 2001 c.334 §3]

107.088 Clerk of court to furnish certain information when petition is filed. (1) At the time a suit for legal separation or for dissolution is filed, the clerk of the court shall furnish to the petitioner a copy of ORS 107.089. The petitioner may serve a copy of ORS 107.089 upon the respondent and shall provide proof of service to the court in accordance with ORCP 9.

(2) Regardless of whether the petitioner serves the respondent with a copy of ORS 107.089, the respondent may serve the petitioner with a copy of ORS 107.089 at any time and provide proof of service in accordance with ORCP 9. [1995 c.800 §4; 1997 c.707 §32]

107.089 Documents parties must furnish to each other; effect of failure to furnish. (1) If served with a copy of this section as provided in ORS 107.088, each party in a suit for legal separation or for dissolution shall provide to the other party copies of the following documents in their possession or control:

(a) All federal and state income tax returns filed by either party for the last three calendar years.

(b) If income tax returns for the last calendar year have not been filed, all W-2 statements, year-end payroll statements, interest and dividend statements and all other records of income earned or received by either party during the last calendar year.

(c) All records showing any income earned or received by either party for the current calendar year.

(d) All financial statements, statements of net worth and credit card and loan applications prepared by or for either party during the last two calendar years.

(e) All documents such as deeds, real estate contracts, appraisals and most recent statements of assessed value relating to real property in which either party has any interest.

(f) All documents showing debts of either party, including the most recent statement of any loan, credit line or charge card balance due.

(g)(A) Certificates of title or registrations of all automobiles, motor vehicles, boats or other personal property registered in either party's name or in which either party has any interest.

(B) For all automobiles, motor vehicles and boats described in subparagraph (A) of this paragraph, documentation evidencing the vehicle identification number or other unique identifying number.

(h) Documents showing stocks, bonds, secured notes, mutual funds and other investments in which either party has any interest.

(i) The most recent statement describing any retirement plan, IRA pension plan, profit-sharing plan, stock option plan or deferred compensation plan in which either party has any interest.

(j) All financial institution or brokerage account records on any account in which either party has had any interest or signing privileges in the past year, whether or not the account is currently open or closed.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection, the party shall provide the information listed in subsection (1) of this section to the other party no later than 30 days after service of a copy of this section.

(b) If a support hearing is pending fewer than 30 days after service of a copy of this section on either party, the party upon whom a copy of this section is served shall provide the information listed in subsection (1)(a) to (d) of this section no later than three judicial days before the hearing.

(3)(a) If a party does not provide information as required by subsections (1) and (2) of this section, the other party may apply for a motion to compel as provided in ORCP 46.

(b) Notwithstanding ORCP 46 A(4), if the motion is granted and the court finds that there was willful noncompliance with the requirements of subsections (1) and (2) of this section, the court shall require the party whose conduct necessitated the motion or the party or attorney advising the action, or both, to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney fees.

(4) If a date for a support hearing has been set and the information listed in subsection (1)(a) to (d) of this section has not been provided as required by subsection (2) of this section:

(a) By the obligor, the judge shall postpone the hearing, if requested to do so by the obligee, and provide in any future order for support that the support obligation is retroactive to the date of the original hearing; or

(b) By the obligee, the judge shall postpone the hearing, if requested to do so by the obligor, and provide that any support ordered in a future hearing may be prospective only.

(5) The provisions of this section do not limit in any way the discovery provisions of the Oregon Rules of Civil Procedure or any other discovery provision of Oregon law. [1995 c.800 §5; 1997 c.631 §402; 1997 c.707 §33; 2013 c.171 §1]

107.090 [Amended by 1953 c.602 §2; 1955 c.648 §4; 1959 c.572 §1; 1969 c.221 §1; repealed by 1971 c.280 §28]

107.092 Notice that spouse may continue health insurance coverage; liability of clerk. (1) The clerk of the court shall furnish to both parties in a suit for legal separation or for dissolution, at the time the suit is filed, a notice of ORS 743.600, 743.601, 743.602 and 743.610 entitling a spouse to continue health insurance coverage.

(2) The notice shall be prepared by the Director of the Department of Consumer and Business Services and also shall include a summary of the provisions of ORS 743.600.

(3) A clerk of the court is not liable for damages arising from information contained in or omitted from a notice furnished under this section. [1981 c.752 §16; 1987 c.505 §6; 1995 c.603 §31]

107.093 Restraining order; request for hearing. (1) After a petition for marital annulment, separation or dissolution is filed and upon service of summons and petition upon the respondent as provided in ORCP 7, a restraining order is in effect against the petitioner and the respondent until a final judgment is issued, until the petition for marital annulment, separation or dissolution is dismissed, or until further order of the court.

(2) The restraining order issued under this section shall restrain the petitioner and respondent from:

(a) Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any policy of health insurance, homeowner or renter insurance or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary.

(b) Changing beneficiaries or covered parties under any policy of health insurance, homeowner or renter insurance or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy.

(c) Transferring, encumbering, concealing or disposing of property in which the other party has an interest, in any manner, without written consent of the other party or an order of the court, except in the usual course of business or for necessities of life. This paragraph does not apply to payment by either party of:

(A) Attorney fees in the existing action;

(B) Real estate and income taxes;

(C) Mental health therapy expenses for either party or a minor child of the parties; or

(D) Expenses necessary to provide for the safety and welfare of a party or a minor child of the parties.

(d) Making extraordinary expenditures without providing written notice and an accounting of the extraordinary expenditures to the other party. This paragraph does not apply to payment by either party of expenses necessary to provide for the safety and welfare of a party or a minor child of the parties.

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

(4) The restraining order issued under this section shall also include a notice that either party may request a hearing on the restraining order by filing a request for hearing with the court.

(5) A copy of the restraining order issued under this section shall be attached to the summons.

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

(a) Criminal prosecution based on the violation; or

(b) Imposition of punitive sanctions under ORS 33.065 based on the violation. [2003 c.414 §2; 2007 c.22 §3]

107.094 Forms for restraining order and request for hearing. (1) Forms shall be established by court rule for:

(a) The restraining order issued under ORS 107.093; and

(b) The request for hearing under ORS 107.093.

(2) The forms established under subsection (1) of this section must include the terms of the restraining order described in ORS 107.093. [2003 c.414 §3]

107.095 Provisions court may make after commencement of suit and before judgment; entry of judgment upon affidavit establishing prima facie case. (1) After the commencement of a suit for marital annulment, dissolution or separation and until a general judgment therein, the court may provide as follows:

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

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

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

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

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

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

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

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

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

(4) In a suit for annulment or dissolution of marriage or for separation, wherein the parties are copetitioners or the respondent is found by the court to be in default or the respondent having appeared has waived further appearance or the parties stipulate to the entry of a judgment, the court may, when the cause is otherwise ready for hearing on the merits, in lieu of such hearing, enter a judgment of annulment or dissolution or for separation based upon a current affidavit of the petitioner or copetitioners, setting forth a prima facie case, and covering such additional matters as the court may require. If custody of minor children is involved, then the affidavit must also include the name of the party with whom the children currently reside and the length of time they have so resided.

(5) When a court orders relief under subsection (1)(c) or (d) of this section, the court may include in its order an expiration date for the order to allow entry of the order into the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice as provided in ORS 107.720. If the person being restrained was provided notice and an opportunity to be heard, the court shall also include in the order, when appropriate, terms and findings sufficient under 18 U.S.C. 922 (d)(8) or (g)(8) to affect the person's ability to possess firearms and ammunition or engage in activities involving firearms. [1971 c.280 §12; 1973 c.502 §7; 1977 c.205 §1; 1977 c.847 §1; 1977 c.878 §1a; 1979 c.86 §1; 1981 c.668 §1; 1987 c.873 §27; 1987 c.885 §1; 1991 c.82 §1; 1993 c.223 §4; 1993 c.716 §2; 1997 c.704 §41; 1997 c.707 §5; 1999 c.569 §2; 1999 c.1052 §5; 2001 c.286 §1; 2003 c.576 §107; 2011 c.115 §1; 2013 c.155 §3]

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

(2)(a) A party may apply to a court for a temporary protective order of restraint by filing with the court an affidavit conforming to the requirements of ORS 109.767.

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

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

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

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

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

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

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

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

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

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

(A) The party requesting an order is present in court and presents an affidavit alleging that the child is in immediate danger; and

(B) The court finds, based on the facts presented in the party's testimony and affidavit and in the testimony of the other party, if the other party is present, that the child is in immediate danger.

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

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

Notice: You may request a hearing on this order as long as it remains in effect by filing with the court a request for a hearing. In the request you must tell the court and the other party that you object to the order on the ground that the child was not in immediate danger at the time the order was issued. In the request you must also inform the court of your telephone number or contact 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. [1995 c.792 §1; 1997 c.136 §1; 1997 c.386 §3; 1997 c.707 §6; 1999 c.59 §19; 1999 c.649 §44; 2007 c.11 §1]

107.100 [Amended by 1953 c.553 §2; 1953 c.635 §2; 1961 c.540 §1; 1963 c.476 §1; 1965 c.603 §6; 1969 c.198 §53; 1969 c.591 §283; repealed by 1971 c.280 §28]

107.101 Policy regarding parenting. It is the policy of this state to:

(1) Assure minor children of frequent and continuing contact with parents who have shown the ability to act in the best interests of the child;

(2) Encourage such parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage;

(3) Encourage parents to develop their own parenting plan with the assistance of

legal and mediation professionals, if necessary;

(4) Grant parents and courts the widest discretion in developing a parenting plan; and

(5) Consider the best interests of the child and the safety of the parties in developing a parenting plan. [1997 c.707 §1]

107.102 Parenting plan; content. (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 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) Decision-making and responsibility;

(e) Information sharing and access;

(f) Relocation of parents;

(g) Telephone access;

(h) Transportation; and

(i) Methods for resolving disputes.

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

(A) So requested by either parent; or

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

(b) In developing a parenting plan under this subsection, the court may consider only the best interests of the child and the safety of the parties. [1997 c.707 §2]

107.104 Policy regarding settlement; enforcement of settlement terms; remedies. (1) It is the policy of this state:

(a) To encourage the settlement of suits for marital annulment, dissolution or separation; and

(b) For courts to enforce the terms of settlements described in subsection (2) of this section to the fullest extent possible, except when to do so would violate the law or would clearly contravene public policy.

(2) In a suit for marital annulment, dissolution or separation, the court may enforce the terms set forth in a stipulated judgment signed by the parties, a judgment resulting from a settlement on the record or a judgment incorporating a marital settlement agreement:

(a) As contract terms using contract remedies;

(b) By imposing any remedy available to enforce a judgment, including but not limited to contempt; or

(c) By any combination of the provisions of paragraphs (a) and (b) of this subsection.

(3) A party may seek to enforce an agreement and obtain remedies described in subsection (2) of this section by filing a motion, serving notice on the other party in the manner provided by ORCP 7 and, if a remedy under subsection (2)(b) of this section is sought, complying with the statutory requirements for that remedy. All claims for relief arising out of the same acts or omissions must be joined in the same proceeding.

(4) Nothing in subsection (2) or (3) of this section limits a party's ability, in a separate proceeding, to file a motion to set aside, alter or modify a judgment under ORS 107.135 or to seek enforcement of an ancillary agreement to the judgment. [2001 c.203 §2; 2003 c.576 §108]

107.105 Provisions of judgment. (1) Whenever the court renders a judgment of marital annulment, dissolution or separation, the court may provide in the judgment:

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

(b) For parenting time rights of the parent not having custody of such children and for visitation rights pursuant to a petition filed under ORS 109.119. When a parenting plan has been developed as required by ORS 107.102, the court shall review the parenting plan and, if approved, incorporate the parenting plan into the court's final order. When incorporated into a final order, the parenting plan is determinative of parenting time rights. If the parents have been unable to develop a parenting plan or if either of the

parents requests the court to develop a detailed parenting plan, the court shall develop the parenting plan in the best interest of the child, ensuring the noncustodial parent sufficient access to the child to provide for appropriate quality parenting time and ensuring the safety of the parties, if implicated. The court shall deny parenting time to a parent under this paragraph if the court finds that the parent has been convicted of rape under ORS 163.365 or 163.375 or other comparable law of another jurisdiction and the rape resulted in the conception of the child. Otherwise, the court may deny parenting time to the noncustodial parent under this subsection only if the court finds that parenting time would endanger the health or safety of the child. In the case of a noncustodial parent who has a disability as defined by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the court may consider the noncustodial parent's disability in determining parenting time only if the court finds that behaviors or limitations related to the noncustodial parent's disability are endangering or will likely endanger the health, safety or welfare of the child. The court shall recognize the value of close contact with both parents and encourage, when practicable, joint responsibility for the welfare of such children and extensive contact between the minor children of the divided marriage and the parties. If the court awards parenting time to a noncustodial parent who has committed abuse, other than being convicted for rape as described in this paragraph, the court shall make adequate provision for the safety of the child and the other parent in accordance with the provisions of ORS 107.718 (6).

(c) For the support of the children of the marriage by the parties. In ordering child support, the formula established under ORS 25.275 shall apply. The court may at any time require an accounting from the custodial parent with reference to the use of the money received as child support. The court is not required to order support for any minor child who has become self-supporting, emancipated or married or for any child who has ceased to attend school after becoming 18 years of age. A general judgment entered under this section may include an amount for support as requested in a petition filed under ORS 107.085 or under a motion for relief made pursuant to ORS 107.095 (1)(b) for which a limited judgment was not entered, payment of which commences no earlier than the date the petition or motion was served on the nonrequesting party, and the amount shall be considered a request for relief that has been decided by the general judgment for purposes of ORS 18.082 (3).

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

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

(i) The duration of the marriage;

(ii) A party's training and employment skills;

(iii) A party's work experience;

(iv) The financial needs and resources of each party;

(v) The tax consequences to each party;

(vi) A party's custodial and child support responsibilities; and

(vii) Any other factors the court deems just and equitable.

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

(i) The amount, duration and nature of the contribution;

(ii) The duration of the marriage;

(iii) The relative earning capacity of the parties;

(iv) The extent to which the marital estate has already benefited from the contribution;

(v) The tax consequences to each party; and

(vi) Any other factors the court deems just and equitable.

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

(i) The duration of the marriage;

(ii) The age of the parties;

(iii) The health of the parties, including their physical, mental and emotional condition;

(iv) The standard of living established during the marriage;

(v) The relative income and earning capacity of the parties, recognizing that the wage earner's continuing income may be a basis for support distinct from the income that the supported spouse may receive from the distribution of marital property;

(vi) A party's training and employment skills;

(vii) A party's work experience;

(viii) The financial needs and resources of each party;

(ix) The tax consequences to each party;

(x) A party's custodial and child support responsibilities; and

(xi) Any other factors the court deems just and equitable.

(e) For the delivery to one party of such party's personal property in the possession or control of the other at the time of the giving of the judgment.

(f) For the division or other disposition between the parties of the real or personal property, or both, of either or both of the parties as may be just and proper in all the circumstances. In determining the division of property under this paragraph, the following apply:

(A) A retirement plan or pension or an interest therein shall be considered as property.

(B) The court shall consider the contribution of a party as a homemaker as a contribution to the acquisition of marital assets.

(C) Except as provided in subparagraph (D) of this paragraph, there is a rebuttable presumption that both parties have contributed equally to the acquisition of property during the marriage, whether such property is jointly or separately held.

(D)(i) Property acquired by gift to one party during the marriage and separately held by that party on a continuing basis from the time of receipt is not subject to a presumption of equal contribution under subparagraph (C) of this paragraph.

(ii) For purposes of this subparagraph, "property acquired by gift" means property acquired by one party through gift, devise, bequest, operation of law, beneficiary designation or inheritance.

(E) Subsequent to the filing of a petition for annulment or dissolution of marriage or separation, the rights of the parties in the marital assets shall be considered a species of co-ownership, and a transfer of marital assets under a judgment of annulment or dissolution of marriage or of separation entered on or after October 4, 1977, shall be considered a partitioning of jointly owned property.

(F) The court shall require full disclosure of all assets by the parties in arriving at a just property division.

(G) In arriving at a just and proper division of property, the court shall consider reasonable costs of sale of assets, taxes and any other costs reasonably anticipated by the parties.

(H)(i) If a party has been awarded spousal support in lieu of a share of property, the court shall so state on the record and shall order the obligor to provide for and maintain life insurance in an amount commensurate with the obligation and designating the obligee as beneficiary for the duration of the obligation.

(ii) The obligee or attorney of the obligee shall cause a certified copy of the judgment to be delivered to the life insurance company or companies.

(iii) If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life insurance company or companies, identifying the policies involved and requesting such notification under this section, the company or companies shall notify the obligee, as beneficiary of the insurance policy, whenever the policyholder takes any action that will change the beneficiary or reduce the benefits of the policy. Either party may request notification by the insurer when premium payments have not been made. If the obligor is ordered to provide for and maintain life insurance, the obligor shall provide to the obligee a true copy of the

policy. The obligor shall also provide to the obligee written notice of any action that will reduce the benefits or change the designation of the beneficiaries under the policy.

(g) For the creation of trusts as follows:

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

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

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

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

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

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

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

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

(4) If an appeal is taken from a judgment of annulment or dissolution of marriage or of separation or from any part of a judgment rendered in pursuance of the provisions of ORS 107.005 to 107.086, 107.095, 107.105, 107.115 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540 and 107.610, the court rendering the judgment may provide in a supplemental judgment for any relief provided for in ORS 107.095 and shall provide that the relief granted in the judgment is to be in effect only during the pendency of the appeal. A supplemental judgment under this subsection may be enforced as provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judgment under this subsection may be appealed in the same manner as provided for supplemental judgments modifying a domestic relations judgment under ORS 19.275.

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

(6) If, as a result of a suit for the annulment or dissolution of a marriage or for separation, the parties to such suit become owners of an undivided interest in any real or personal property, or both, either party may maintain supplemental proceedings by filing a petition in such suit for the partition of such real or personal property, or both, within two years from the entry of the judgment, showing among other things that the original parties to the judgment and their joint or several creditors having a lien upon any such real or personal property, if any there be, constitute the sole and only necessary parties to such supplemental proceedings. The procedure in the supplemental proceedings, so far as applicable, shall be the procedure provided in ORS 105.405 for the partition of real property, and the court granting the judgment shall have in the first instance and retain jurisdiction in equity therefor. [1971 c.280 §13; 1973 c.502 §8; 1975 c.722 §1; 1975 c.733 §2; 1977 c.205 §2; 1977 c.847 §2; 1977 c.878 §2a; 1979 c.144 §2; 1981 c.775 §1; 1983 c.728 §2; 1987 c.795 §9; 1987 c.885 §2; 1989 c.811 §6; 1993 c.315 §1; 1993 c.716 §3; 1995 c.22 §1; 1995 c.608 §3; 1997 c.22 §1; 1997 c.71 §19; 1997 c.707 §7; 1999 c.587 §1; 1999 c.762 §1; 2001 c.873 §5; 2003 c.576 §109; 2005 c.536 §7; 2005 c.568 §29; 2007 c.71 §27; 2011 c.115 §2; 2011 c.306 §1; 2011 c.438 §4; 2013 c.72 §2; 2013 c.126 §1]

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

(a) Provisions addressing the issues of:

(A) Payment of uninsured medical expenses of the child;

(B) Maintenance of insurance or other security for support; and

(C) Medical support for the child under ORS 25.321 to 25.343.

(b) A statement in substantially the following form:

The terms of child support and parenting time (visitation) are designed for the child's benefit and not the parents' benefit. You must pay support even if you are not receiving visitation. You must comply with visitation orders even if you are not receiving child support.

Violation of child support orders and visitation orders is punishable by fine, imprisonment or other penalties.

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

Publicly funded help may be available to establish, enforce and modify visitation orders. Forms are available to enforce visitation orders. Contact the domestic relations court clerk or civil court clerk for information.

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

(3) This section does not apply to an action undertaken by the Division of Child Support of the Department of Justice or a district attorney under ORS 25.080. [1995 c.800 §9; 1997 c.249 §36; 1997 c.707 §8; 2003 c.73 §49a; 2003 c.75 §83; 2003 c.637 §17; 2009 c.351 §8]

107.107 [1981 c.775 §4; repealed by 1983 c.728 §9]

107.108 Support or maintenance for child attending school; rules. (1) As used in this section:

(a) "Child attending school" means a child of the parties who:

(A) Is unmarried;

(B) Is 18 years of age or older and under 21 years of age;

(C) Is making satisfactory academic progress as defined by the school that the child attends; and

(D) Has a course load that is no less than one-half of the load that is determined by the school to constitute full-time enrollment.

(b) "Regularly scheduled break" means:

(A) A summer semester or term;

(B) A period of time not exceeding four months between graduation from or completion of school and the beginning of the next regularly scheduled term, semester or course of study at school;

(C) A period of time between the end and beginning of regularly scheduled consecutive school semesters, terms or courses of study; or

(D) Any other scheduled break between courses of study that is defined by the school as a regularly scheduled break.

(c) "School" means:

(A) An educational facility such as a high school, community college, four-year college or university;

(B) A course of professional, vocational or technical training, including the Job Corps, designed to fit the child for gainful employment; or

(C) A high school equivalency course, including but not limited to a General Educational Development (GED) program, an educational program for grade 12 or below and home schooling.

(2) A support order entered or modified under this chapter or under ORS chapter 25, 108, 109, 110, 125, 416, 419B or 419C may require either parent, or both of them, to provide for the support or maintenance of a child attending school.

(3) Notwithstanding ORS 416.407, a child attending school is a party to any legal proceeding related to the support order. A child attending school may:

(a) Apply for services under ORS 25.080:

(A) If a support order provides for the support or maintenance of the child attending school; or

(B) In accordance with rules adopted by the Department of Justice;

(b) Request a judicial or administrative modification of the child support amount or may receive notice of and participate in any modification proceeding; and

(c) Agree, in the same manner as an obligee under ORS 25.020 (12), that payments not made to the Department of Justice should be credited for amounts that would

have been paid to the child attending school if the payments had been made to the department.

(4) Regardless of whether the child is a child attending school, an unmarried child who is 18 years of age or older and under 21 years of age:

(a) Is a necessary party to a judicial proceeding under ORS 107.085, 107.135, 107.431, 108.110, 109.103 or 109.165 in which the child's parents are parties and the court has authority to order or modify support for a child attending school; and

(b) May request notice of any proceeding initiated by the administrator to modify a support order that may affect the child's rights as a child attending school. To receive notice, the child shall provide an address to the administrator, and the administrator shall notify the child of any modification proceeding by first class mail. To be a party to a proceeding, the child must send a written request to the administrator within 30 days after the date of the notice of the proceeding.

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

(b) Unless otherwise ordered by the court, administrator or administrative law judge, when there are multiple children for whom support is ordered, the amount distributed or paid directly to a child attending school is a prorated share based on the number of children for whom support is ordered. However, if, due to a parenting time or split custody arrangement, support was not paid to the parent having primary physical custody of the child before the child turned 18 years of age, support may not be distributed or paid directly to the child attending school unless the support order is modified.

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

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

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

(B) Written consent that:

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

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

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

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

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

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

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

(a) The child has reached 18 years of age and has not provided written notice of the child's intent to attend or continue to attend school, or the child has graduated or reached the date to stop attending classes, as provided under subsection (6)(a)(A) of this section;

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

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

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

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

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

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

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

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

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

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

(D) Thirty days have passed since the department provided the notice to the child and the department has not received:

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

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

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

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

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

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

(11)(a) If services are being provided under ORS 25.080 and the department has suspended a support obligation under subsection (8) of this section or reinstated a support obligation under subsection (9) of this section, a party may request administrative review of the action within 30 days after the date of the notice that the department has suspended or reinstated the support obligation.

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

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

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

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

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

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

(14) A support order that provides for the support or maintenance of a child attending

school is intended to recognize the importance of continuing education for a child over 18 years of age who does not benefit from an intact family or who has been removed from the household. While support may serve to supplement the resources available to the child attending school, it is not intended to replace other resources or meet all of the financial needs of a child attending school. [1973 c.827 §12b; 1981 c.669 §1; 1989 c.518 §1; 1995 c.343 §21; 1997 c.704 §51; 2003 c.73 §50a; 2003 c.75 §84; 2003 c.576 §110; 2005 c.591 §1]

107.110 [Amended by 1965 c.603 §4; 1969 c.179 §1; 1969 c.198 §54; 1969 c.591 §284; repealed by 1971 c.280 §28]

107.111 When parents equally responsible for funeral expenses of child. Whenever a court imposes upon the parents of a person under 18 years of age a shared obligation to support the person financially, the parents, unless the order creating the obligation of support specifically provides otherwise, shall be equally responsible financially for funeral expenses resulting from the death of the person before reaching the age of 18 years. [1983 c.728 §8]

107.115 Effect of judgment; effective date; appeal pending upon death of party. (1) A judgment of annulment or dissolution of a marriage restores the parties to the status of unmarried persons, unless a party is married to another person. The judgment gives the court jurisdiction to award, to be effective immediately, the relief provided by ORS 107.105. The judgment shall revoke:

(a) A will pursuant to ORS 112.315.

(b) A transfer on death deed pursuant to ORS 93.981.

(2) The marriage relationship is terminated when the court signs the judgment of dissolution of marriage.

(3)(a) The Court of Appeals or Supreme Court shall continue to have jurisdiction of an appeal pending at the time of the death of either party. The appeal may be continued by the personal representative of the deceased party. The attorney of record on the appeal, for the deceased party, may be allowed a reasonable attorney fee, to be paid from the decedent's estate. However, costs on appeal may not be awarded to either party.

(b) The Court of Appeals or Supreme Court shall have the power to determine finally all matters presented on such appeal. Before making final disposition, the Court of Appeals or Supreme Court may refer the proceeding back to the trial court for such additional findings of fact as are required. [1971 c.280 §14; 1981 c.537 §2; 1987 c.586 §26; 1993 c.149 §1; 1999 c.569 §3; 2003 c.576 §111; 2011 c.212 §25]

Note: Section 31, chapter 212, Oregon Laws 2011, provides:

Sec. 31. Sections 19 to 21 of this 2011 Act [93.981 to 93.985] and the amendments to ORS 86.740 [renumbered 86.764], 93.030, 93.040, 107.115, 112.465, 112.570 and 125.440 by sections 22 to 28 of this 2011 Act apply to a transfer on death deed made before, on or after the effective date of this 2011 Act [January 1, 2012] by a transferor dying on or after the effective date of this 2011 Act. [2011 c.212 §31]

107.118 Definitions for ORS 107.118 to 107.131. As used in ORS 107.118 to 107.131:

(1) "Designation of beneficiary" means the naming of a person in a governing instrument for the purpose of a transfer of moneys or other benefits upon the death of the principal.

(2) "Governing instrument" means a policy of life insurance executed by a principal before a suit for marital dissolution, separation or annulment or a document executed by the principal before a suit for marital dissolution, separation or annulment for the purpose of designating a beneficiary under:

(a) An employee pension benefit plan, as defined in 29 U.S.C. 1002 (2) for the purposes of the Employee Retirement Income Security Act of 1974;

(b) A public retirement system of a public body, as defined in ORS 174.109, or of any other state or local government;

(c) A federal retirement system created by the federal government for any officer or employee of the United States, including any person retired from service in the United States Civil Service, the Armed Forces of the United States or any agency or subdivision thereof;

(d) A deferred compensation plan under section 457 of the Internal Revenue Code;

(e) An individual retirement account, annuity or trust or simplified employee pension under section 408 or 408A of the Internal Revenue Code;

(f) An employee annuity, including custodial accounts treated as annuities, under section 403(a) or (b) of the Internal Revenue Code; or

(g) A retirement account, stock certificate, mutual fund account, bank account or other financial account that is not jointly owned by the principal and the principal's spouse and that is payable or transferable upon the death of the principal.

(3) "Principal" means the person who designates a beneficiary in a governing instrument and who is a party to a suit for marital dissolution, separation or annulment.

(4) "Relative of the spouse" means a person who is related to a spouse by blood, adoption or marriage and who is not related

to the principal by blood, adoption or marriage.

(5) "Spouse" means a person who is or was married to the principal. [2005 c.285 §2]

Note: 107.118 to 107.131 were added to and made a part of ORS chapter 107 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

107.120 [Repealed by 1971 c.280 §28]

107.121 Revocation of designation of beneficiary upon entry of judgment. (1) A judgment of dissolution, separation or annulment may revoke a designation of beneficiary made by a principal in favor of a spouse or a relative of the spouse if the designation of beneficiary is revocable as described in subsection (2) of this section.

(2) A designation of beneficiary is revocable for the purposes of this section if the principal at the time of the judgment may, by law or under the terms of the instrument, cancel or change the designation of beneficiary.

(3) A designation of beneficiary is revocable for the purposes of this section without regard to whether the principal is:

(a) Competent at the time of the entry of judgment; or

(b) Able to designate the principal in place of the spouse or in place of the relative of the spouse.

(4) The revocation of a designation of beneficiary under this section becomes effective upon entry of the judgment. [2005 c.285 §3]

Note: See note under 107.118.

107.124 Effect of revocation. If a designation of beneficiary is revoked under ORS 107.121, the designation of beneficiary must be given effect as if the spouse or the relative of the spouse had predeceased the principal. [2005 c.285 §4]

Note: See note under 107.118.

107.125 [1965 c.386 §3; repealed by 1971 c.280 §28]

107.126 [1971 c.280 §15; 1993 c.716 §4; 1993 c.763 §7; 1997 c.801 §148; repealed by 2003 c.576 §580]

107.127 Notice of revocation; payments made under governing instrument. (1) A person is not liable for having made a payment to a beneficiary designated in a governing instrument, or for having taken any other action in good-faith reliance on the governing instrument, unless the person has received written notice of the revocation of designation of beneficiary under ORS 107.121.

(2) Written notice of the revocation under this section shall be mailed to the home or office of the person by regular United States mail or be given by a means designed to provide the person with notice of the revocation.

(3) Upon receipt of written notice of the revocation under this section, a person may pay the amount owed under a governing instrument to any court in which probate proceedings for the estate of the principal are pending. If probate proceedings for the estate of the principal have not been commenced, the person may pay the amount to the circuit court for the county in which the principal resided at the time of death. The court shall hold the funds and shall order disbursement in accordance with the court's determination of the effect on the judgment of dissolution, separation or annulment. Payments made to the court under this section discharge the person making the payment from all claims for the amount paid to the court. [2005 c.285 §5]

Note: See note under 107.118.

107.130 [Amended by 1961 c.429 §1; repealed by 1971 c.280 §28]

107.131 Conveyance or release of contingent or expectant interests. In addition to the revocation of designation of beneficiary under ORS 107.121, a judgment of dissolution, separation or annulment may require conveyance or release of contingent or expectant interests, including right of survivorship, that are necessary to effectuate a division of assets between the principal and the spouse in the marital dissolution, separation or annulment. [2005 c.285 §6]

Note: See note under 107.118.

107.135 Vacation or modification of judgment; policy regarding settlement; enforcement of settlement terms; remedies. (1) The court may at any time after a judgment of annulment or dissolution of marriage or of separation is granted, upon the motion of either party and after service of notice on the other party in the manner provided by ORCP 7, and after notice to the Division of Child Support when required under subsection (9) of this section:

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

(b) Make an order, after service of notice to the other party, providing for the future custody, support and welfare of minor children residing in the state, who, at the time the judgment was given, were not residents of the state, or were unknown to the court

or were erroneously omitted from the judgment;

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

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

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

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

(B) When the income of the person with the enhanced earning capacity decreases due to circumstances beyond the person's control; or

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

(2) When a party moves to set aside, alter or modify the child support provisions of the judgment:

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

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

(B) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving children of the marriage, other than the judgment the party is moving to set aside, alter or modify.

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) Apportioned Veterans' benefits or Survivors' and Dependents' Educational Assistance under 38 U.S.C. chapter 35 paid to a child, or to a representative payee administering the funds for the child's use and

benefit, as a result of the obligor's disability or retirement if the benefits:

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

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

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

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

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

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

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

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

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

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

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

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

(a) The court may allow a credit against child support arrearages for periods of time, excluding reasonable parenting time unless otherwise provided by order or judgment, during which the obligor, with the knowledge and consent of the obligee or pursuant to court order, has physical custody of the child; and

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

(8) In a proceeding under subsection (1) of this section, the court may assess against either party a reasonable attorney fee and costs for the benefit of the other party. If a party is found to have acted in bad faith, the court shall order that party to pay a reasonable attorney fee and costs of the defending party.

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

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

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

(11) In a proceeding under this section to reconsider provisions in a judgment relating

to custody or parenting time, the court may consider repeated and unreasonable denial of, or interference with, parenting time to be a substantial change of circumstances.

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

(13) In a proceeding under this section to reconsider provisions in a judgment relating to custody, temporary placement of the child by the custodial parent pursuant to ORS 109.056 (3) with the noncustodial parent as a result of military deployment of the custodial parent is not, by itself, a change of circumstances. Any fact relating to the child and the parties occurring subsequent to the last custody judgment, other than the custodial parent's temporary placement of the child pursuant to ORS 109.056 (3) with the noncustodial parent, may be considered by the court when making a change of circumstances determination.

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

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

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

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

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

(A) As contract terms using contract remedies;

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

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

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

(d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate proceeding, to file a motion to modify an order or judgment under subsection (1) of this section or to seek enforcement of an ancillary agreement to the order or judgment. [1971 c.280 §16; 1973 c.502 §9; 1981 c.775 §2a; 1981 c.855 §1; 1983 c.728 §3; 1983 c.761 §9; 1987 c.795 §10; 1987 c.885 §3; 1989 c.545 §1; 1991 c.888 §2; 1993 c.315 §2; 1995 c.22 §2; 1997 c.91 §1; 1997 c.475 §6; 1997 c.704 §52; 1997 c.707 §9; 1999 c.80 §65; 1999 c.587 §2; 1999 c.1030 §2; 2001 c.104 §32; 2001 c.203 §4; 2001 c.334 §4; 2003 c.14 §41; 2003 c.116 §4; 2003 c.419 §1; 2003 c.572 §13a; 2003 c.576 §§112,112a,112b; 2005 c.708 §6; 2007 c.611 §11; 2009 c.80 §5]

107.136 Reinstatement of terminated spousal support. (1) When a court has terminated the duty of spousal support under ORS 107.135, the court may reinstate the remaining duration and remaining amount of the support award if the moving party alleges and proves that:

(a) The basis for the termination has ceased to exist; and

(b) The reinstatement is just and equitable under all the circumstances.

(2) For the purposes of this section:

(a) The remaining duration of a support award is the term of the award remaining as if the award had not been terminated and support had been paid from the date of termination to the date of reinstatement. For example, if the applicable judgment required payment of spousal support for 10 years, the award was terminated in year three and reinstatement of the award was sought at the end of year seven, the maximum remaining duration of the support award that could be reinstated would be three years.

(b) The remaining amount of a support award is the amount of support owed as if the award had not been terminated and support had been paid from the date of termination to the date of reinstatement. For example, if the applicable judgment required support payments of $1,000 per month for five years and $500 per month for the next five years, the award was terminated in year three and reinstatement of the award was

sought at the end of year seven, the maximum remaining amount of the support award that could be reinstated would be $500 per month.

(3) A motion for reinstatement of a spousal support award under this section must be brought within the remaining duration of the award or within 10 years after the entry of the judgment terminating the award, whichever is sooner.

(4) In exercising the discretion granted under subsection (1) of this section, the court shall consider the basis for the spousal support award, the basis for the termination of the award and the totality of the circumstances of each party existing since the termination of the award.

(5) Either party may file a motion to modify spousal support under ORS 107.135 in a proceeding to reinstate the spousal support award. In addition to considering the factors under ORS 107.135 (3) and (4), the court shall consider the factors described in subsection (4) of this section.

(6) At any time, the parties may waive their rights under this section in writing, signed by both parties and referencing this section.

(7) Any reinstatement of a spousal support award may be ordered effective retroactive to the date the motion was served or to any date thereafter. [1991 c.888 §1; 2007 c.430 §1]

107.137 Factors considered in determining custody of child. (1) Except as provided in subsection (6) of this section, in determining custody of a minor child under ORS 107.105 or 107.135, the court shall give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court shall consider the following relevant factors:

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

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

(c) The desirability of continuing an existing relationship;

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

(e) The preference for the primary caregiver of the child, if the caregiver is deemed fit by the court; and

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

(2) The best interests and welfare of the child in a custody matter shall not be determined by isolating any one of the relevant factors referred to in subsection (1) of this section, or any other relevant factor, and relying on it to the exclusion of other factors. However, if a parent has committed abuse as defined in ORS 107.705, other than as described in subsection (6) of this section, there is a rebuttable presumption that it is not in the best interests and welfare of the child to award sole or joint custody of the child to the parent who committed the abuse.

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

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

(5) No preference in custody shall be given to the mother over the father for the sole reason that she is the mother, nor shall any preference be given to the father over the mother for the sole reason that he is the father.

(6)(a) The court determining custody of a minor child under ORS 107.105 or 107.135 shall not award sole or joint custody of the child to a parent if:

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

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

(b) A denial of custody under this subsection does not relieve the parent of any obligation to pay child support. [1975 c.722 §2; 1987 c.795 §14; 1997 c.707 §35; 1999 c.762 §2; 2011 c.438 §3; 2013 c.72 §1]

107.138 Temporary status quo order regarding child custody. (1)(a) A court, upon the motion of a party, may enter a temporary status quo order to either party in a proceeding to modify a judgment that awards custody of a child after:

(A) Notifying the other party; and

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

(b) The motion for a temporary status quo order must be supported by an affidavit setting forth with specificity the information required by ORS 109.767 and the person with whom the child has lived during the preceding year and the child's current schedule, daily routine and usual place of residence.

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

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

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

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

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

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

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

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

(3) For purposes of this section:

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

(b) "Parent's usual contact and parenting time," "present placement and daily schedule of the child" and "current schedule and daily routine of the child" mean the contact, parenting time, placement, schedule and routine at the time the motion for the temporary order is filed. [1995 c.792 §2; 1997 c.136 §2; 1997 c.386 §1; 1997 c.707 §§10,10a; 1999 c.649 §47]

107.139 Post-judgment ex parte temporary custody or parenting time order; hearing. (1)(a) Following entry of a judgment, a court may enter ex parte a temporary order providing for the custody of, or parenting time with, a child if:

(A) A parent of the child is present in court and presents an affidavit alleging that the child is in immediate danger;

(B) The parent has made a good faith effort to confer with the other party regarding the purpose and time of this court appearance; and

(C) The court finds by clear and convincing evidence, based on the facts presented in the parent's testimony and affidavit and in the testimony of the other party, if the other party is present, that the child is in immediate danger.

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

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

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

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(2)(a) A party against whom an order is entered under subsection (1) of this section may request a hearing by filing with the court a hearing request described in subsection (1) of this section at any time while the order is in effect.

(b) The court shall hold a hearing within 14 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 (1) 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 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.

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

(4) A party seeking relief under this section shall concurrently file, or have pending, a motion under ORS 107.135 to set aside, alter or modify any portion of the judgment that provides for custody, parenting time or visitation. [1997 c.386 §2; 1997 c.707 §6a; 2007 c.11 §2; 2011 c.114 §3]

107.140 [Paragraph (f) of subsection (1) of 1959 Replacement Part enacted as 1955 c.72 §1; repealed by 1961 c.551 §2]

107.141 [1961 c.551 §1; repealed by 1971 c.280 §28]

107.142 [1971 c.280 §17; 1973 c.530 §1; 1981 c.537 §1; repealed by 2003 c.576 §580]

107.145 Vacation or modification of judgment for deployed parent; temporary order; service; absence of child from state. (1) As used in this section and ORS 107.146:

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

(b) "Deployment" or "deployed":

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

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

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

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

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

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

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

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

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

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

(E) That the temporary order entered under this subsection terminates by operation of law upon completion of deployment and that the provisions of the preexisting judgment that have been modified by the temporary order are automatically reinstated unless a request is made and granted under subsection (5) of this section;

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

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

(4) A true copy of a motion under subsection (3) of this section shall be served by the moving party by mail or personal delivery on the Administrator of the Division of Child Support of the Department of Justice or on the branch office providing support services to the county in which the motion is filed.

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

(6) When a court has entered a temporary order under subsection (3) of this section, the absence of a child from this state during a deployed parent's deployment is considered a temporary absence for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act and this state shall retain exclusive continuing jurisdiction in accordance with ORS 109.701 to 109.834.

(7) The court may award attorney fees and costs reasonably incurred in a proceeding under this section if the court finds that a party caused unreasonable delays, failed to provide information as required by this section or acted to unreasonably interfere with or frustrate contact between a deployed parent and a minor child. [2011 c.64 §2]

Note: 107.145 and 107.146 were added to and made a part of 107.094 to 107.449 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

107.146 Expedited hearing upon motion by deployed parent; provision for alternate testimony when deployed parent cannot personally appear. (1) Upon motion filed by a deployed parent or a parent whose deployment is imminent, the court shall hold an expedited hearing in:

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

(b) In any proceeding under ORS 107.135, 107.138 and 107.139 where a deployed parent or a parent whose deployment is imminent is a party; and

(c) A proceeding under ORS 107.145 (3).

(2) In any proceeding listed under subsection (1) of this section, whether or not a motion to expedite a hearing has been filed, the court shall make reasonable accommodations to allow a deployed parent, or a parent whose deployment is imminent, to provide video, electronic or Internet testimony if the proceeding involves the custody, parenting time, visitation, support and welfare of the parent's child and where the deployed parent or the parent whose deployment is imminent cannot personally appear. [2011 c.64 §3]

Note: See note under 107.145.

107.149 Policy regarding parents and their children. It is the policy of this state to assure minor children of frequent and continuing contact with parents who have shown the ability to act in the best interest of the child and to encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage. [1987 c.795 §2]

107.150 [Subsection (5) enacted as 1953 c.491 §1; 1959 c.228 §1; subsection (6) enacted as 1965 c.603 §7; subsection (7) enacted as 1965 c.386 §4; repealed by 1971 c.280 §28]

107.154 Authority of parent when other parent granted sole custody of child. Unless otherwise ordered by the court, an order of sole custody to one parent shall not deprive the other parent of the following authority:

(1) To inspect and receive school records and to consult with school staff concerning the child's welfare and education, to the same extent as the custodial parent may inspect and receive such records and consult with such staff;

(2) To inspect and receive governmental agency and law enforcement records concerning the child to the same extent as the custodial parent may inspect and receive such records;

(3) To consult with any person who may provide care or treatment for the child and to inspect and receive the child's medical, dental and psychological records, to the same extent as the custodial parent may consult with such person and inspect and receive such records;

(4) To authorize emergency medical, dental, psychological, psychiatric or other health care for the child if the custodial parent is, for practical purposes, unavailable; or

(5) To apply to be the child's conservator, guardian ad litem or both. [1987 c.795 §3]

107.159 Notice of change of residence. (1) In any court order or judgment granting custody of a minor child and parenting time or visitation rights relating to the child, except for an order under ORS 107.700 to 107.735, the court shall include in its order a provision requiring that neither parent may move to a residence more than 60 miles further distant from the other parent without giving the other parent reasonable notice of the change of residence and providing a copy of such notice to the court.

(2) Notwithstanding subsection (1) of this section, a parent is not required to give notice of a change of residence if the court, upon ex parte or other motion of the parent and for good cause, enters an order suspending the requirement. [1987 c.795 §4; 1997 c.707 §11; 2003 c.576 §113]

107.160 [Amended by 1963 c.497 §4; repealed by 1971 c.280 §28]

107.164 Parents' duty to provide information to each other. Unless otherwise ordered by the court, both parents shall have a continuing responsibility, once a custody or protective order concerning the child is issued, to provide addresses and contact telephone numbers to the other parent and to immediately notify the other parent of any emergency circumstances or substantial changes in the health of the child. [1987 c.795 §5]

107.169 Joint custody of child; modification. (1) As used in this chapter, "joint custody" means an arrangement by which parents share rights and responsibilities for major decisions concerning the child, including, but not limited to, the child's residence, education, health care and religious training. An order providing for joint custody may specify one home as the primary residence of the child and designate one parent to have sole power to make decisions about specific matters while both parents retain equal rights and responsibilities for other decisions.

(2) The existence of an order of joint custody shall not, by itself, determine the responsibility of each parent to provide for the support of the child.

(3) The court shall not order joint custody, unless both parents agree to the terms and conditions of the order.

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

(5) Modification of a joint custody order shall require showing of changed circumstances and a showing that the modification is in the best interests of the child such as would support modification of a sole custody order. Inability or unwillingness to continue to cooperate shall constitute a change of circumstances sufficient to modify a joint custody order.

(6)(a) The inability of a parent to comply with the terms and conditions of a joint custody order due to the parent's temporary absence does not constitute a change of circumstances if the parent's temporary absence is caused by the parent being:

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

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

(b) As used in this subsection, "temporary absence" means a period not exceeding 30 consecutive months. [1987 c.795 §6; 2003 c.576 §114; 2005 c.79 §3; 2013 c.81 §21]

107.170 [1955 c.648 §1; repealed by 1961 c.210 §6]

107.174 Modification of order for parenting time; stipulation; exception for nonresident child. (1) Except as otherwise provided in this subsection, the court shall order modification under ORS 107.135 of so much of a judgment as relates to the parenting time with a minor child, if the parents submit to the court a notarized stipulation signed by both of the parents and requesting such modification together with a form of order. The content and form of such stipulation and order shall be as prescribed by the State Court Administrator. At its discretion, the court may order the matter set for a hearing and require the parties to appear personally before the court.

(2) This section shall not apply when the child to whom a duty of support is owed is in another state which has enacted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and a court in that state would have subject matter and personal jurisdiction under that Act to determine custody and parenting time rights. [1987 c.795 §12; 1997 c.707 §12; 1999 c.649 §48; 2003 c.576 §115]

107.179 Request for joint custody of children; mediation. (1) When either party to a child custody issue, other than one involving temporary custody, whether the issue arises from a case of marital annulment, dissolution or separation, or from a determination of paternity, requests the court to grant joint custody of the minor children of the parties under ORS 107.105, the court, if the other party objects to the request for joint custody, shall proceed under this section. The request under this subsection must be made, in the petition or the response, or otherwise not less than 30 days before the date of trial in the case, except for good cause shown. The court in such circumstances, except as provided in subsection (3) of this section, shall direct the parties to participate in mediation in an effort to resolve their differences concerning custody. The court may order such participation in mediation within a mediation program established by the court or as conducted by any mediator approved by the court. Unless the court or the county provides a mediation service available to the parties, the court

may order that the costs of the mediation be paid by one or both of the parties, as the court finds equitable upon consideration of the relative ability of the parties to pay those costs. If, after 90 days, the parties do not arrive at a resolution of their differences, the court shall proceed to determine custody.

(2) At its discretion, the court may:

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

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

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

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

(4) Communications made by or to a mediator or between parties as a part of mediation ordered under this section are privileged and are not admissible as evidence in any civil or criminal proceeding. [1987 c.795 §13; 2003 c.576 §116]

107.180 [1959 c.534 §1; renumbered 107.430]

107.210 [Repealed by 1973 c.502 §18]

107.220 [Repealed by 1973 c.502 §18]

107.230 [Repealed by 1973 c.502 §18]

107.240 [Repealed by 1973 c.502 §18]

107.250 [Amended by 1955 c.648 §5; 1959 c.572 §2; 1969 c.221 §2; 1969 c.313 §1; repealed by 1973 c.502 §18]

107.260 [Repealed by 1973 c.502 §18]

107.270 [Amended by 1969 c.198 §55; repealed by 1973 c.502 §18]

107.280 [Amended by 1959 c.572 §3; 1969 c.591 §285; repealed by 1973 c.502 §18]

107.290 [Amended by 1971 c.314 §2; repealed by 1973 c.502 §18]

107.300 [Amended by 1971 c.280 §23; repealed by 1973 c.502 §18]

107.310 [Amended by 1973 c.502 §10; renumbered 107.455]

107.320 [Repealed by 1973 c.502 §18]

107.400 Amendment of pleadings in dissolution, annulment or separation proceedings to change relief sought. At any time prior to the entry of a judgment, upon motion of a party and due notice to the other party in the manner provided by law for service of summons, the court may allow an amendment of pleadings to change the relief sought from annulment to dissolution or separation, from dissolution to annulment or separation, or from separation to annulment or dissolution. [1973 c.502 §15(2); 2003 c.576 §117]

107.405 Powers of court in dissolution, annulment or separation proceedings. When a court is sitting in proceedings for annulment or dissolution of a marriage, or for separation, it shall have full equity powers. [1971 c.280 §1]

107.406 Finding; policy regarding spousal support. (1) The Legislative Assembly finds that it is in the best interests of a former spouse for whom a court has awarded spousal support, as well as the people of this state, that the spousal support obligations be fulfilled.

(2) It is the policy of this state that a former spouse for whom a court has awarded spousal support must be supported by the other former spouse in accordance with the court's judgment. [2005 c.265 §3]

Note: 107.406 was added to and made a part of ORS chapter 107 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

107.407 Petition to set aside spousal support provisions of judgment. If an individual has paid an amount of money in installments for more than 10 years for the support of a former spouse under a judgment of annulment or dissolution of marriage that ordered such payment, and when the former spouse has not made a reasonable effort during that period of time to become financially self-supporting and independent of the support provided under the judgment, the individual paying the support may petition the court that issued the judgment to set aside so much of the judgment as may provide for the support of the former spouse. The petition shall not be granted if spousal support was granted in the judgment in lieu of a share of property in order to provide the other spouse with a tax benefit. [1975 c.500 §2; 1983 c.728 §7; 2003 c.576 §118]

107.410 [1961 c.418 §1; repealed by 1971 c.280 §28]

107.412 Procedure applicable to ORS 107.407; matters considered; attorney fees. (1) Upon petition of an individual and after service of notice on the other party in

the manner provided by law for service of a summons, the court shall conduct a proceeding to determine whether so much of its judgment as provides for the support of a party shall be set aside.

(2) Except as provided in subsections (3) and (4) of this section, if the court finds that the party receiving support has not made a reasonable effort during the previous 10 years to become financially self-supporting and independent of the support provided under the judgment, the court shall order that support terminated. In making its finding under this subsection, the court shall consider the following matters:

(a) The age of the party receiving support;

(b) The health, work experience and earning capacity of the party;

(c) The ages, health and dependency conditions of the minor children of the party; and

(d) Efforts made by the party during the previous 10 years to improve opportunities for gainful or improved employment including, but not limited to, attendance at any school, community college or university or attendance at courses of professional or technical training.

(3) A court does not have power under ORS 107.407 and this section to set aside any payment of money for the support of a party that has accrued prior to the filing of the petition under subsection (1) of this section.

(4) ORS 107.407 and this section do not affect a judgment, or any portion of it, that provides for the payment of money for the support of minor children or for the support of a party who is 60 years of age or older when the proceeding under subsection (1) of this section is held.

(5) In a proceeding held under subsection (1) of this section, the court may assess against either party a reasonable attorney fee for the benefit of the other party. [1975 c.500 §3; 1995 c.343 §22; 2003 c.576 §119]

107.415 Notice of change of status of child; effect of failure to give notice. (1) If a party is required by a judgment of a court in a domestic relations suit, as defined in ORS 107.510, to contribute to the support, nurture or education of a minor child while the other party has custody thereof, the custodial parent shall notify the party contributing such money when the minor child receives income from the gainful employment of the child, or is married or enters the military service.

(2) Any custodial parent who does not provide notice, as required by subsection (1) of this section may be required by the court to make restitution to the contributing party of any money paid, as required by the judgment. The court may enter a supplemental judgment or satisfy all or part of the support award to accomplish the restitution. [1971 c.314 §1; 2003 c.576 §120]

107.420 [1961 c.340 §1; repealed by 1971 c.280 §28]

107.425 Investigation of parties in domestic relations suit involving children; physical, psychological, psychiatric or mental health examinations; parenting plan services; counsel for children. (1) In suits or proceedings described in subsection (4) of this section in which there are minor children involved, the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability and financial worth of the parties for the purpose of protecting the children's future interest. The court may defer the entry of a general judgment until the court is satisfied that its judgment in such suit or proceeding will properly protect the welfare of such children. The investigative findings shall be offered as and subject to all rules of evidence. Costs of the investigation may be charged against one or more of the parties or as a cost in the proceedings but shall not be charged against funds appropriated for public defense services.

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

(3)(a) In addition to an investigation, examination or evaluation under subsections (1) and (2) of this section, the court may appoint an individual or a panel or may desig-

nate a program to assist the court in creating parenting plans or resolving disputes regarding parenting time and to assist parents in creating and implementing parenting plans. The services provided to the court and to parents under this section may include:

(A) Gathering information;

(B) Monitoring compliance with court orders;

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

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

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

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

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

(4) The provisions of this section apply when:

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

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

(c) A parent of a child born to an unmarried woman initiates a civil proceeding to determine custody or support under ORS 109.103;

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

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

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

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

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

(7) Prior to the entry of an order, the court on its own motion or on the motion of a party may take testimony from or confer with the child or children of the marriage and may exclude from the conference the parents and other persons if the court finds that such action would be likely to be in the best interests of the child or children. However, the court shall permit an attorney for each party to attend the conference and question the child, and the conference shall be reported. [1971 c.280 §3; 1973 c.502 §11; 1981 c.775 §5; 1981 s.s. c.3 §34; 1983 c.369 §1; 1983 c.386 §1; 1989 c.188 §1; 1989 c.1084 §1; 1999 c.569 §4; 2001 c.873 §§6,6a,6c; 2003 c.73 §§51,52; 2003 c.576 §§121,122; 2007 c.454 §12]

107.430 [Formerly 107.180; 1963 c.223 §1; repealed by 1971 c.280 §28]

107.431 Modification of portion of judgment regarding parenting time or child support; procedure. (1) At any time after a judgment of annulment or dissolution of a marriage or a separation is granted, the court may set aside, alter or modify so much of the judgment relating to parenting time with a minor child as it deems just and proper or may terminate or modify that part of the order or judgment requiring payment of money for the support of the minor child with whom parenting time is being denied after:

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

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

(c) Service of notice on the Administrator of the Division of Child Support of the Department of Justice when the child support rights of one of the parties or of a child of both of the parties have been assigned to the state. As an alternative to the service of notice on the administrator, service may be made upon the branch office of the division which provides service to the county in which the motion was filed. Service may be accomplished by personal delivery or first class mail; and

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

(2) When a party moves to set aside, alter or modify the child support provisions of the judgment:

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

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

(B) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the child, other than the judgment the party is moving to set aside, alter or modify.

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

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

(4) This section does not apply when the child to whom a duty of support is owed is in another state that has enacted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and a court in that state would have subject matter and personal jurisdiction under that Act to determine custody and parenting time rights. [1977 c.878 §4; 1979 c.482 §2; 1997 c.707 §13; 1999 c.649 §49; 2001 c.334 §5; 2003 c.116 §5; 2003 c.576 §123]

107.434 Expedited parenting time enforcement procedure; remedies. (1) The presiding judge of each judicial district shall establish an expedited parenting time enforcement procedure that may or may not include a requirement for mediation. The procedure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a parenting time order. The court shall provide forms for:

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

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

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

(B) A notice in substantially the following form:

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

(c) A motion, affidavit and order that may be filed by either party and providing for waiver of any mediation requirement on a showing of good cause.

(2) In addition to any other remedy the court may impose to enforce the provisions of a judgment relating to the parenting plan, the court may:

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

(A) Specifying a detailed parenting time schedule;

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

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

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

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

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

(e) Terminate, suspend or modify spousal support;

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

(g) Schedule a hearing for modification of custody as provided in ORS 107.135 (11). [1997 c.707 §3; 2003 c.116 §6; 2003 c.737 §§50,51; 2005 c.702 §§57,58,59; 2007 c.493 §14; 2011 c.595 §75]

107.435 [1971 c.280 §19; repealed by 1973 c.502 §18]

107.437 Order of assistance to obtain custody of child held in violation of custody order. (1) A person entitled to physical custody of a child may make an ex parte application for an order of assistance to a court of any county:

(a) In which a child is located if the person is entitled to the physical custody of the child under a valid and current order issued in this state; or

(b) In which a valid and current foreign custody order has been filed with a petition as provided in subsection (3) of this section.

(2) The application must include a certified copy of the custody order. The order of assistance may direct a law enforcement agency having jurisdiction where the child is located to use any reasonable means and force to deliver the child as directed by the court, including directing forcible entry into specified premises. The court may issue an order of assistance upon the sworn affidavit of the applicant and a finding of the court that:

(a) The applicant is entitled to physical custody of the child under a valid and current custody order; and

(b) The child is being held by another person in substantial violation of the custody order.

(3) When the application for an order of assistance is made to a court in which the custody order has been entered or registered, the applicant shall make the application in the form of a motion. In all other cases, the applicant shall make the application in the form of a petition. The court may not charge a filing fee for a motion or petition filed under this section.

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

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

(6) Except for intentional torts committed outside the scope of the peace officer's duties, a peace officer is not civilly or criminally liable for any action taken in recovering the custody of a child pursuant to an order issued under this section. [1997 c.529 §1; 1999 c.59 §20; 1999 c.1081 §6; 2007 c.255 §5]

107.440 [1963 c.434 §14; 1965 c.386 §1; repealed by 1971 c.280 §28]

107.445 Attorney fees in certain domestic relations proceedings. In any proceeding brought under ORS 107.095, 108.110 and 108.120, and in any contempt proceeding in any suit for marital annulment, dissolution or separation, the court may render a judgment awarding to a party, or directly to the party's attorney, a sum of money determined to be reasonable as an attorney fee at trial and on appeal therein. When a district attorney initiates or prosecutes a proceeding pursuant to ORS 33.015 to 33.155 for enforcement of a restraining order issued under ORS 107.716, 107.718, 124.015 or 124.020 or for enforcement of a support order, the court may enter a judgment for a reasonable attorney fee to be paid by the respondent to the county in which the district attorney holds office. A judgment so entered is enforceable by the party or attorney in whose favor the judgment is given against property of the other party or against any property held jointly or in common between the parties. [1971 c.280 §18; 1981 c.775 §6; 1981 c.781 §2; 1981 c.897 §32; 1983 c.728 §4; 1987 c.331 §2; 1991 c.724 §21; 1995 c.666 §16; 1997 c.18 §1; 2003 c.576 §124]

107.449 Transfer of proceeding under ORS 107.135 to auxiliary circuit court. (1) Upon motion of a party to a proceeding under ORS 107.135 (1) that is not otherwise covered under the provisions of ORS 25.100 (1), based upon convenience of the parties, the court that has entered the original judgment may order that the matter be transferred to an auxiliary circuit court where either party resides for the purpose of hearing the matter.

(2) Upon entry of an order under this section and payment by the moving party of the copying and certification costs, the clerk of the court that ordered the transfer shall transmit certified copies of the files, records and prepared transcripts of testimony in the original proceeding to the clerk of the court receiving the matter. Upon receipt of such certified copies, the circuit court of the county to which such certified copies have been transmitted shall have jurisdiction the same as if it were the court that made and entered the original order or judgment.

(3) The only court having jurisdiction to modify any provision of the original order or judgment is the court having original jurisdiction of the cause in which such order or judgment was entered or the circuit court of the county in which either party resides if that court has received the certified copies referred to in subsection (2) of this section.

The provisions of ORS 25.100 (2) to (4) shall apply to all records maintained and orders issued in the auxiliary proceeding. [1993 c.548 §1; 2003 c.576 §125]

107.450 [1963 c.434 §13; 1965 c.386 §2; repealed by 1971 c.280 §28]

107.452 Reopening case if assets discovered after entry of judgment. (1) A court that entered a judgment of marital annulment, dissolution or separation shall reopen the case upon the motion of either party if the moving party alleges that significant assets belonging to either or both of the parties:

(a) Existed at the time of the entry of the judgment; and

(b) Were not discovered until after the entry of the judgment.

(2) If the court finds that the assets were inadvertently omitted from the distribution of the marital estate, the court shall make such distribution of the omitted assets as is just and proper in all the circumstances.

(3) If the court finds that the assets were intentionally concealed and thereby not included in the distribution of the marital estate, the court may order:

(a) The division of the appreciated value of the omitted assets;

(b) The forfeiture of the omitted assets to the injured party;

(c) A compensatory judgment in favor of the injured party;

(d) A judgment in favor of the injured party as punitive damages; or

(e) Any other distribution as may be just and proper in all the circumstances.

(4) The court may award attorney fees on any motion filed pursuant to this section. The court shall award attorney fees to the moving party if the court finds that assets were intentionally concealed and thereby not included in the distribution of the marital estate.

(5)(a) A motion alleging inadvertent omission of assets must be filed within two years after the date of discovery of the omission but no later than three years after the entry of the judgment.

(b) A motion alleging intentional concealment of assets must be filed within two years after the date of discovery of the omission but no later than 10 years after the entry of the judgment.

(6) A motion under this section may be filed with and decided by the trial court during the time an appeal from a judgment is pending before an appellate court. The moving party shall serve a copy of the motion on the appellate court. The moving party shall file a copy of the trial court's order in the appellate court within seven days after the date of the trial court order. Any necessary modification of the appeal required by the trial court order shall be pursuant to rule of the appellate court. [1995 c.800 §6]

SEPARATION

107.455 Effect of separation statutes or judgments on subsequent dissolution proceedings. The provisions of law pertaining to separation are not intended to and shall not repeal or affect any existing law pertaining to the granting of a judgment of dissolution of marriage. The entry of a judgment of separation under ORS 107.475 shall not be a bar to a suit for dissolution by either party. A decree or judgment of dissolution of marriage granted by a court of this or any other state upon constructive service of summons does not affect an award of support or maintenance in a judgment of separation made pursuant to ORS 107.095 or 107.105. [Formerly 107.310; 2003 c.576 §126]

107.465 Conversion of judgment of separation into judgment of dissolution. (1) Upon motion of a party for an order to show cause why a judgment of separation should not be converted to a judgment of dissolution and after service of notice to the other party at least 30 days before the scheduled hearing, the court may, within two years after the entry of a judgment of separation, convert a judgment of separation into a judgment of dissolution of the marriage. The other party may file a written consent to conversion and waiver of the hearing at any time before the hearing. A supplemental judgment of dissolution entered under this section does not set aside, alter or modify any part of the judgment of separation that has created or granted rights that have vested.

(2) Nothing in this section is intended to prevent either party to a judgment of separation from commencing at any time in the manner required by law a suit for dissolution of the marriage. [1973 c.502 §16; 1999 c.569 §5; 2003 c.576 §127]

107.475 Court to determine duration of separation; modification or vacation of judgment. The court shall determine and fix in its judgment the duration of the separation. At the expiration of such time, the judgment shall have no further effect. However, no rights created or granted in the judgment which have vested shall be affected by its termination. Upon motion of a party and service upon the other party of notice in the manner provided by law for service of summons, the court may renew or extend the duration. When the judgment is for unlimited separation, a party may by motion alleging

that the cause for separation no longer exists and after due service of notice upon the other party in the manner provided by law for service of summons, apply for an order modifying or vacating the judgment, subject to the provisions of ORS 107.135. [1973 c.502 §14; 2003 c.576 §128]

SUMMARY DISSOLUTION PROCEDURE

107.485 Conditions for summary dissolution procedure. A marriage may be dissolved by the summary dissolution procedure specified in this section and ORS 107.490 when all of the following conditions exist at the time the proceeding is commenced:

(1) The jurisdictional requirements of ORS 107.025 and 107.075 are met.

(2)(a) There are no minor children born to the parties or adopted by the parties during the marriage;

(b) There are no children over age 18 attending school, as described in ORS 107.108, either born to the parties or adopted by the parties during the marriage;

(c) There are no minor children born to or adopted by the parties prior to the marriage; and

(d) The wife is not now pregnant.

(3) The marriage is not more than 10 years in duration.

(4) Neither party has any interest in real property wherever situated.

(5) There are no unpaid obligations in excess of $15,000 incurred by either or both of the parties from the date of the marriage.

(6) The total aggregate fair market value of personal property assets in which either of the parties has any interest, excluding all encumbrances, is less than $30,000.

(7) The petitioner waives any right to spousal support.

(8) The petitioner waives any rights to pendente lite orders except those pursuant to ORS 107.700 to 107.735 or 124.005 to 124.040.

(9) The petitioner knows of no other pending domestic relations suits involving the marriage in this or any other state. [1983 c.692 §1; 1985 c.610 §12; 1995 c.666 §17; 1997 c.704 §53; 2007 c.11 §3; 2007 c.22 §4]

107.490 Commencement of proceeding; petition content; court authority. (1) A proceeding for summary dissolution of the marriage shall be commenced by filing in the circuit court a petition in the form prescribed by the State Court Administrator under ORS 107.500. The petition shall be signed by the petitioner and shall state that as of the date of the filing of the petition each and every condition set forth in ORS 107.485 has been met. The court, upon its own motion, may require a showing by appearance or affidavit of the petitioner.

(2) The petitioner shall serve the respondent with a summons and a true copy of the petition in the manner provided in ORCP 7 D and E. Service must be proved as required in ORCP 7 F.

(3) Within 30 days after the date on which the respondent is served with the summons or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last publication or posting, the respondent shall file with the court a written answer to the petition or a motion, along with the required filing fee, and proof of service of the answer or motion on the petitioner.

(4) If the respondent fails to file a written answer or motion as required by this section or fails to appear for a hearing in the proceeding, the court may find the respondent in default, enter a judgment of summary dissolution and award costs to the petitioner or the state if fees and costs were waived or deferred. [1983 c.692 §2; 2007 c.11 §4]

107.500 Forms. (1) The State Court Administrator shall prescribe the content of forms for use under ORS 107.485 and 107.490, including forms related to the waiver or deferral of fees and court costs under ORS 21.680 to 21.698, and an instructional brochure describing the procedures set forth in ORS 107.485 and 107.490.

(2) Each circuit court shall make available the appropriate forms and the instructional brochure described in subsection (1) of this section. [1983 c.692 §3; 1985 c.610 §13; 1993 c.448 §5; 1995 c.637 §11; 1995 c.666 §18; 1999 c.738 §6; 2003 c.264 §6; 2003 c.380 §4; 2003 c.576 §129; 2007 c.11 §5; 2007 c.493 §18c]

CONCILIATION SERVICES

107.510 Definitions for ORS 107.510 to 107.610. As used in ORS 107.510 to 107.610:

(1) "Conciliation jurisdiction" means domestic relations conciliation jurisdiction and authority exercised under ORS 107.510 to 107.610 by a circuit court in any controversy existing between spouses which may, unless a reconciliation or a settlement of the controversy is effected, result in the dissolution or annulment of the marriage or in disruption of the household.

(2) "Conciliation services" means domestic relations counseling and related services obtained by a circuit court exercising conciliation jurisdiction and used by the court in exercising that jurisdiction.

(3) "Domestic relations suit" means suit for dissolution of the marriage contract, annulment of the marriage or separation.

(4) "Separation" means separation from bed and board and separate maintenance. [1963 c.434 §1; 1971 c.280 §24; 1973 c.502 §13; 1999 c.59 §21; 2001 c.104 §33]

107.520 Establishment of conciliation jurisdiction. The circuit court for any county or the circuit courts of more than one county comprising a judicial district after making a determination that the social conditions of the county or district make it desirable to establish conciliation services for the full and proper consideration of domestic relations suits filed in such county or district may exercise conciliation jurisdiction and obtain, use and provide conciliation services under ORS 107.510 to 107.610. After conciliation jurisdiction has been established the circuit court or courts of such county or district may at any time determine that the need for such service does not warrant its continuance and terminate the same. [1963 c.434 §2; 1965 c.625 §1; 1971 c.280 §25; 1999 c.59 §22]

107.530 Source of conciliation services; county to pay expenses. (1) A circuit court or the circuit courts of a judicial district exercising conciliation jurisdiction may obtain conciliation services, with the prior approval of the governing body of each county involved, by:

(a) Employing or contracting for counselors and other personnel; or

(b) Contracting or entering into agreements with public or private agencies to provide conciliation services to the court or courts.

(2) Subject to the provisions of the Local Budget Law, the compensation and expenses of personnel performing conciliation services for the circuit court or courts and other expenses of providing conciliation services may be paid by the county or as may be agreed upon between the counties involved. Personnel performing conciliation services are not state employees, and their compensation and expenses shall not be paid by the state. [1963 c.434 §3; 1965 c.625 §2; 1981 s.s. c.3 §35]

107.540 Conciliation jurisdiction by court; effect. Whenever any domestic relations suit is commenced in a circuit court exercising conciliation jurisdiction and providing conciliation services, the court may, in its discretion, exercise conciliation jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy. If, within 45 days after the court commences to exercise conciliation jurisdiction, a reconciliation or a settlement of the controversy has not been effected, the domestic relations suit shall proceed as if the court had not exercised conciliation jurisdiction. [1963 c.434 §4; 1971 c.280 §26]

107.550 Petition for conciliation jurisdiction; content; rules. (1) Whenever either spouse or both spouses file in a circuit court exercising conciliation jurisdiction and providing conciliation services a petition requesting the court to exercise conciliation jurisdiction with respect to a controversy existing between the spouses, the court shall exercise conciliation jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy.

(2) The petition shall:

(a) Allege that a controversy exists between the spouses and request the aid of the court to effect a reconciliation or a settlement of the controversy;

(b) State the name, address and age of each spouse and the date and place of marriage;

(c) State the name, address and age of each minor child of the spouses or either spouse;

(d) State, if known, whether a domestic relations suit involving the same marriage is pending in any other court in this or any other state; and

(e) State such other information as the court, by rule, may require.

(3) No fee shall be charged for filing the petition. [1963 c.434 §5; 1965 c.625 §3]

107.560 Effect of petition; waiver. (1) A petition may be filed under ORS 107.550 whether or not a domestic relations suit in which the spouses are parties has been commenced. Except as provided in subsection (2) of this section, when a petition for conciliation jurisdiction is filed no trial or hearing on the merits of a domestic relations suit between the parties shall be had until after the expiration of 45 days from the filing of the petition; provided, however, that during this period the court may use its full equity powers to protect and preserve the rights of the spouses.

(2) The court may, in its discretion, waive the 45-day period as prescribed by subsection (1) of this section upon stipulation of the parties or upon written motion supported by affidavit setting forth facts which satisfy the court that such waiver is warranted. [1963 c.434 §6; 1965 c.625 §4; 1975 c.228 §1; 2011 c.114 §2]

107.570 Notice; attendance at hearings. When a circuit court undertakes to exercise conciliation jurisdiction pursuant to ORS 107.540 or 107.550, it shall refer the matter to the conciliation services provided by the court. The court shall cause notice to be given to the spouses of the undertaking to exercise conciliation jurisdiction and the

authority therefor, whether under ORS 107.540 or 107.550, and of the time and place of any hearing, conference or other proceeding scheduled pursuant to the exercise of conciliation jurisdiction. The court may require the attendance of the spouses and of witnesses as in other civil cases. [1963 c.434 §7]

107.580 Restriction of services; priority when children involved; rules. Whenever a circuit court determines that the conciliation services provided by it are not adequate for the proper disposition of all matters that may be referred to the services under ORS 107.570, the court, by rule, may restrict the services provided, but shall give priority to controversies in which the spouses have children under 15 years of age whose welfare is involved in the outcome of the controversy. [1963 c.434 §8]

107.590 Court orders; reconciliation agreements. (1) A circuit court undertaking to exercise conciliation jurisdiction pursuant to ORS 107.540 or 107.550, with the consent of the spouses, may make orders with respect to the conduct of the spouses and with respect to the subject of the controversy as it considers necessary to preserve the marriage or to implement the reconciliation of the spouses; but an order shall not be effective for more than 60 days unless the spouses consent to a continuance of the order.

(2) Any reconciliation agreement between the spouses may be reduced to writing, and, with the consent of the spouses, the court may make an order requiring the spouses to comply fully with the agreement.

(3) The court may at any time terminate or modify any order previously made. [1963 c.434 §9; 1965 c.625 §5]

107.600 Privacy of proceedings; confidentiality of communications; records. (1) All hearings, conferences and other proceedings held pursuant to circuit court exercise of conciliation jurisdiction pursuant to ORS 107.540 or 107.550 shall be held in private, and all persons other than officers of the court, conciliation services personnel, the spouses, their counsel and witnesses shall be excluded.

(2) All communications, verbal or written, between spouses and from spouses to counselors, the court, attorneys, doctors or others engaged in the conciliation proceedings, made in conciliation conferences, hearings and other proceedings had pursuant to the exercise of the court's conciliation jurisdiction shall be confidential. A spouse or any other individual engaged in conciliation proceedings shall not be examined in any civil or criminal action as to such communications. Exceptions to testimonial privilege otherwise applicable under ORS 40.225 to 40.295 do not apply to communications made confidential under this subsection.

(3) All records of the court with respect to exercise of conciliation jurisdiction shall be closed. However, any petition filed under ORS 107.550, any written reconciliation agreement between the spouses and any court order made in the matter may be opened to inspection by either spouse or counsel upon written authorization by a judge of the court. [1963 c.434 §10; 1965 c.625 §6; 1981 c.892 §88]

107.610 Qualifications of conciliation counselors. Persons performing conciliation services under ORS 107.510 to 107.610 shall have minimum educational and experience qualifications of a master's degree in the behavioral sciences; or a bachelor's degree and one year's graduate training, both in the behavioral sciences plus two years' paid casework or clinical experience; or a bachelor's degree in the behavioral sciences plus four years' paid casework or clinical experience. [1963 c.434 §12; 1971 c.280 §27; 1999 c.59 §23]

107.615 Fees to support services; contracts for service; eligibility rules. (1) The governing body of any county may impose a fee up to $10 above that prescribed in ORS 205.320 (5) for issuing a marriage license or registering a Declaration of Domestic Partnership.

(2) In addition to any other funds used therefor, the governing body shall use the proceeds from the fee increase authorized by this section to pay the expenses of conciliation services under ORS 107.510 to 107.610 and mediation services under ORS 107.755 to 107.795. If there are none in the county, the governing body may provide conciliation and mediation services through other county agencies or may contract with a public or private agency or person to provide conciliation and mediation services.

(3) The governing body may establish rules of eligibility for conciliation services funded under this section so long as its rules do not conflict with rules of the court adopted under ORS 107.580.

(4) Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited but shall be maintained in a separate account to be used as provided in this section. [1977 c.489 §1; 1983 c.671 §7; 1991 c.230 §33; 2007 c.99 §12]

FAMILY ABUSE PREVENTION ACT

107.700 Short title. ORS 107.700 to 107.735 shall be known and may be cited as the "Family Abuse Prevention Act." [1977 c.845 §4; 1995 c.637 §1]

107.705 Definitions for ORS 107.700 to 107.735. As used in ORS 107.700 to 107.735:

(1) "Abuse" means the occurrence of one or more of the following acts between family or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent bodily injury.

(c) Causing another to engage in involuntary sexual relations by force or threat of force.

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Family or household members" means any of the following:

(a) Spouses.

(b) Former spouses.

(c) Adult persons related by blood, marriage or adoption.

(d) Persons who are cohabiting or who have cohabited with each other.

(e) Persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition under ORS 107.710.

(f) Unmarried parents of a child.

(4) "Interfere" means to interpose in a manner that would reasonably be expected to hinder or impede a person in the petitioner's situation.

(5) "Intimidate" means to act in a manner that would reasonably be expected to threaten a person in the petitioner's situation, thereby compelling or deterring conduct on the part of the person.

(6) "Menace" means to act in a manner that would reasonably be expected to threaten a person in the petitioner's situation.

(7) "Molest" means to act, with hostile intent or injurious effect, in a manner that would reasonably be expected to annoy, disturb or persecute a person in the petitioner's position. [1977 c.845 §5; 1979 c.161 §1; 1981 c.780 §1; 1985 c.629 §1; 1987 c.331 §3; 1987 c.805 §1; 1993 c.643 §1; 1995 c.637 §2; 1997 c.863 §8; 1999 c.617 §6; 1999 c.1052 §12]

107.707 Application of Uniform Child Custody Jurisdiction and Enforcement Act. The Uniform Child Custody Jurisdiction and Enforcement Act, ORS 109.701 to 109.834, applies to proceedings under ORS 107.700 to 107.735. [2005 c.536 §5]

Note: 107.707 was added to and made a part of 107.700 to 107.735 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

107.710 Petition to circuit court for relief; burden of proof. (1) Any person who has been the victim of abuse within the preceding 180 days may petition the circuit court for relief under ORS 107.700 to 107.735, if the person is in imminent danger of further abuse from the abuser. The person may seek relief by filing a petition with the circuit court alleging that the person is in imminent danger of abuse from the respondent, that the person has been the victim of abuse committed by the respondent within the 180 days preceding the filing of the petition and particularly describing the nature of the abuse and the dates thereof. The abuse must have occurred not more than 180 days before the filing of the petition. Allegations in the petition shall be made under oath or affirmation. The circuit court shall have jurisdiction over all proceedings under ORS 107.700 to 107.735.

(2) The petitioner has the burden of proving a claim under ORS 107.700 to 107.735 by a preponderance of the evidence.

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

(4) A petition filed under ORS 107.700 to 107.735 shall disclose the existence of any custody, Family Abuse Prevention Act or Elderly Persons and Persons With Disabilities Abuse Prevention Act proceedings, or any marital annulment, dissolution or separation proceedings, or any filiation proceeding, pending between the parties, and the existence of any other custody order affecting the children of the parties.

(5) When the petitioner requests custody of any child, the petition shall comply with ORS 109.767 and disclose:

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

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

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

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

(e) Whether the party participated as a party, witness or in any other capacity, in

any other litigation concerning the custody of the child in this or any other state;

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

(g) Whether the party knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody, parenting time or 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. [1977 c.845 §6; 1981 c.780 §2; 1985 c.629 §2; 1987 c.805 §2; 1993 c.375 §1; 1995 c.637 §3; 1995 c.666 §19; 1997 c.707 §14; 1999 c.617 §4; 1999 c.649 §50; 1999 c.738 §7; 1999 c.1052 §13; 2003 c.264 §7]

107.715 [1977 c.845 §7; repealed by 1981 c.780 §5 (107.716 enacted in lieu of 107.715)]

107.716 Hearing; order; certificate of compliance; effect on title to real property; no undertaking required. (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 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 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:

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. [1981 c.780 §6 (enacted in lieu of 107.715); 1985 c.629 §3; 1987 c.805 §3; 1995 c.637 §4; 1995 c.794 §2; 1997 c.707 §15; 1999 c.617 §5; 1999 c.1052 §14; 2005 c.536 §1; 2007 c.11 §6]

107.717 Appearance by telephone or two-way electronic communication device. (1) A party may file a motion under ORS 45.400 requesting that the court allow the appearance of the party or a witness by telephone or by other two-way electronic communication device in a proceeding under ORS 107.700 to 107.735.

(2) In exercising its discretion to allow written notice less than 30 days before the proceeding as required under ORS 45.400 (2), the court shall consider the expedited nature of a proceeding under ORS 107.700 to 107.735.

(3) In addition to the factors listed in ORS 45.400 (7) that would support a finding of good cause, the court shall consider whether the safety or welfare of the party or witness would be threatened if testimony were required to be provided in person at a proceeding under ORS 107.700 to 107.735.

(4) A motion or good cause determination under this section or ORS 45.400 is not required for ex parte hearings held by telephone under ORS 107.718. [2011 c.244 §2]

Note: 107.717 was added to and made a part of 107.700 to 107.735 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

107.718 Restraining order; service of order; request for hearing. (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 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 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, or attempting to intimidate, molest, interfere with or menace any children in the custody of the petitioner;

(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 is awarded to the petitioner;

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

(A) Provide for the safety and welfare of the petitioner and the children in the custody of the petitioner, including but not limited to emergency monetary assistance from the respondent; and

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

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

(2) If the court determines that exceptional circumstances exist that affect the custody of a child, the court shall order the parties to appear and provide additional evidence at a hearing to determine temporary custody and resolve other contested issues. Pending the hearing, the court may make

any orders regarding the child's residence and the parties' contact with the child that the court finds appropriate to provide for the child's welfare and the safety of the parties. The court shall set a hearing time and date as provided in ORS 107.716 (2) and issue a notice of the hearing at the same time the court issues the restraining order.

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

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

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

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

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

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

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

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

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

(f) That no overnight parenting time occur.

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

(8) If the court orders relief:

(a) The clerk of the court shall provide without charge the number of certified true copies of the petition and order necessary to provide the petitioner with one copy and to effect service and shall have a true copy of the petition and order delivered to the county sheriff for service upon the respondent, unless the court finds that further service is unnecessary because the respondent appeared in person before the court. In addition and upon request by the petitioner, the clerk shall provide the petitioner, without charge, two exemplified copies of the petition and order.

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

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

(9) If the county sheriff:

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

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

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

(b) If the respondent requests a hearing under paragraph (a) of this subsection, the clerk of the court shall notify the petitioner of the date and time of the hearing, and shall supply the petitioner with a copy of the

respondent's request for a hearing. The petitioner shall give to the clerk of the court information sufficient to allow such notification.

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

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

(12) Service of process or other legal documents upon the petitioner is not a violation of this section if the petitioner is served as provided in ORCP 7 or 9. [1981 c.780 §4; 1983 c.561 §2; 1985 c.629 §4; 1987 c.805 §4; 1989 c.605 §1; 1991 c.303 §2; 1991 c.382 §2; 1991 c.724 §22; 1993 c.375 §2; 1993 c.643 §2; 1995 c.637 §5; 1995 c.794 §1a; 1997 c.607 §1; 1997 c.707 §16; 1997 c.863 §4; 1999 c.617 §2; 1999 c.1052 §§9,9a; 2005 c.536 §2; 2007 c.11 §7; 2009 c.359 §1; 2011 c.274 §1; 2013 c.366 §55]

107.719 Removal of personal effects; party accompanied by peace officer. (1) A peace officer who accompanies a party removing essential personal effects pursuant to an order issued under ORS 107.718 shall remain for up to 20 minutes and may temporarily interrupt the removal of property at any time. Nothing in this subsection shall affect a peace officer's duty to arrest under ORS 133.055 and 133.310.

(2) The party removing essential personal effects from the residence pursuant to an order issued under ORS 107.718 is entitled to be accompanied by a peace officer on one occasion only.

(3) A peace officer who accompanies a party removing essential personal effects pursuant to an order issued under ORS 107.718 shall have immunity from any liability, civil or criminal, for any actions of the party committed during the removal of essential personal effects. [1989 c.605 §3]

107.720 Enforcement of restraining orders; sheriff's proceedings; security; termination order. (1)(a) Whenever a restraining order, as authorized by ORS 107.095 (1)(c) or (d), 107.716 or 107.718, that includes a security amount and an expiration date pursuant to ORS 107.095, 107.716 or 107.718 and this section, is issued and the person to be restrained has actual notice of the order, the clerk of the court or any other person serving the petition and order shall immediately deliver to a county sheriff a true copy of the affidavit of proof of service, on which it is stated that personal service of the petition and order was served on the respondent, and copies of the petition and order. If an order entered by the court recites that the respondent appeared in person before the court, the necessity for service of the order and an affidavit of proof of service is waived. Upon receipt of a copy of the order and notice of completion of any required service by a member of a law enforcement agency, the county sheriff shall immediately enter the order into the Law Enforcement Data System maintained by the Department of State Police and into the databases of the National Crime Information Center of the United States Department of Justice. If the petition and order were served on the respondent by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System and databases of the National Crime Information Center upon receipt of a true copy of the affidavit of proof of service. The sheriff shall provide the petitioner with a true copy of any required proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county or tribal land in this state.

(b) When a restraining order has been entered into the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice under paragraph (a) of this subsection, a county sheriff shall cooperate with a request from a law enforcement agency from any other jurisdiction to verify the existence of the restraining order or to transmit a copy of the order to the requesting jurisdiction.

(2)(a) A restraining order shall remain in effect until the order expires or is terminated by court order.

(b) When a restraining order has been entered under ORS 107.718, the restraining order shall not be terminated upon a motion for dismissal by the petitioner unless the motion is notarized.

(3) In any situation where a restraining order described in subsection (1) of this section is terminated before the expiration date,

the clerk of the court shall immediately deliver a copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of the termination order, the county sheriff shall promptly remove the original order from the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice.

(4) Pending a contempt hearing for alleged violation of a restraining order issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, a person arrested and taken into custody pursuant to ORS 133.310 may be released as provided in ORS 135.230 to 135.290. Whenever a restraining order is issued under ORS 107.095 (1)(c) or (d), 107.716 or 107.718, the issuing court shall set a security amount for the violation of the order. [1977 c.845 §8; 1979 c.522 §1; 1981 c.780 §7; 1983 c.561 §3; 1991 c.382 §1; 1993 c.188 §10; 1999 c.1052 §1; 2007 c.255 §6; 2011 c.269 §1]

107.721 Petitioner's change of residence. If the court does not award parenting time under ORS 107.718 to the parent who committed abuse, the petitioner may move to a residence more than 60 miles from the other parent without giving notice to the other parent of the change of residence. However, the petitioner shall give to the clerk of the court information sufficient to allow notification under ORS 107.718 (10). [1999 c.762 §4; 2005 c.536 §8]

107.722 Effect of dissolution, annulment or separation judgment or modification order on abuse prevention order; modification of preexisting order or judgment. (1) The provisions of an order or judgment, or of a modification to an order or judgment, issued under ORS 107.095 (1)(b), 107.105, 107.135, 109.103 or 109.155 supersede contrary provisions of a preexisting order issued under ORS 107.700 to 107.735, except that an order issued under ORS 107.095 (1)(b) supersedes a preexisting order issued under ORS 107.700 to 107.735 only if the party requesting temporary relief consolidates the subsequently filed matter with the preexisting matter filed under ORS 107.700 to 107.735 and provides the nonmoving party with notice and an opportunity for a hearing.

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

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

(c) If the court, in an order issued under ORS 107.700 to 107.735, modifies the custody provisions of a preexisting order or judgment issued by the tribunal of another jurisdiction, ORS 109.701 to 109.834 apply. [1987 c.805 §6; 1995 c.637 §6; 2005 c.536 §3]

107.723 Service of restraining order; transmission by electronic communication device. (1) A sheriff may serve a restraining order issued under ORS 107.700 to 107.735 in the county in which the sheriff was elected and in any county that is adjacent to the county in which the sheriff was elected.

(2) A sheriff may serve and enter into the Law Enforcement Data System a copy of a restraining order under ORS 107.700 to 107.735 that was transmitted to the sheriff by a court or law enforcement agency using an electronic communication device. Before transmitting a copy of a restraining order to a sheriff under this subsection by telephonic facsimile or electronic mail, the person sending the copy must receive confirmation from the sheriff's office that an electronic communication device is available and operating. For purposes of this subsection, "electronic communication device" means a device by which any kind of electronic communication can be made, including but not limited to communication by telephonic facsimile and electronic mail. [2003 c.304 §10; 2007 c.255 §7; 2011 c.269 §2]

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

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

(b) A person in the situation of a child who was in the petitioner's custody during the time the order existed, who was also included as a protected person in the order and who has reached 18 years of age since the date the order was entered would reasonably

fear further acts of abuse by the respondent if the order is not renewed.

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

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

(4) A court may renew an order on the basis of a sworn, ex parte petition alleging facts supporting the required finding. If the renewal order is granted, the provisions of ORS 107.716 (5) and 107.718 (8) to (10) apply except that the court may hear no issue other than the basis for renewal unless requested in the hearing request form and thereafter agreed to by the petitioner or the child who has reached 18 years of age. The court shall hold a hearing required under this section within 21 days after the respondent's request. [1985 c.629 §46; 1997 c.863 §7; 1999 c.1052 §15; 2003 c.14 §42; 2005 c.536 §9; 2011 c.206 §1]

107.726 Standing to petition for relief of person under 18 years of age. A person who is under 18 years of age may petition the circuit court for relief under ORS 107.710 if:

(1) The person is:

(a) The spouse of the respondent;

(b) The former spouse of the respondent; or

(c) A person who has been in a sexually intimate relationship with the respondent; and

(2) The respondent is 18 years of age or older. [1993 c.643 §4]

107.728 Where to file petition; contempt proceedings. A petition under ORS 107.710 may be filed only in a county in which the petitioner or respondent resides. Any contempt proceedings for violation of a restraining order issued under ORS 107.700 to 107.735 must be conducted by the court that issued the order, or by the circuit court for a county in which a violation of the restraining order occurs. If contempt proceedings are initiated in the circuit court for a county in which a violation of the restraining order occurs, the person initiating the contempt proceedings shall file with the court a copy of the restraining order, certified by the clerk of the court that issued the order. Upon filing of the certified copy of the restraining order, the court shall enforce the order as though that court had issued the order. [2003 c.289 §2]

107.730 Modification of order entered under ORS 107.700 to 107.735; service; attorney fees. (1) At any time after an order has been issued under ORS 107.700 to 107.735 and after the time period set forth in ORS 107.718 (10)(a):

(a) A party may request that the court modify terms in the order that were entered under ORS 107.718 (1)(a), (b), (g) or (i) for good cause shown.

(b) A petitioner may request that the court modify by removing or making less restrictive terms in the order that were entered under ORS 107.718 (1)(b), (g) or (i) for good cause shown. Application to the court under this paragraph may be by ex parte motion.

(2) The clerk of the court shall provide without charge the number of certified true copies of the request for modification of the order and notice of hearing necessary to effect service and, at the election of the party requesting the modification, shall have a true copy of the request and notice delivered to the county sheriff for service upon the other party.

(3) The county sheriff shall personally serve the other party with a request under subsection (1)(a) of this section, unless the party requesting the modification under subsection (1)(a) of this section elects to have the other party personally served by a private party or unless otherwise ordered by the court.

(4) The provisions of ORS 107.716 (5) apply to a modification of an order under this section.

(5) The clerk of the court shall deliver a copy of an order of modification entered under subsection (1) of this section to the county sheriff for service and entry into the Law Enforcement Data System as provided in ORS 107.723.

(6)(a) The county sheriff shall serve a copy of an order of modification:

(A) Entered under subsection (1)(a) of this section by personal service on the nonrequesting party.

(B) Entered under subsection (1)(b) of this section by mailing a copy of the order to the nonrequesting party by first class mail.

(b) If the order of modification recites that the respondent appeared in person before the court, the necessity for service of

the order and an affidavit of proof of service is waived.

(7) The court may assess against either party a reasonable attorney fee and costs that may be incurred in the proceeding. [1985 c.629 §6; 1995 c.637 §7; 1997 c.707 §17; 1999 c.1052 §16; 2005 c.536 §10; 2007 c.22 §5; 2009 c.211 §1; 2011 c.269 §3]

107.732 Recovering custody of child. (1) An order or a modification to an order issued under ORS 107.700 to 107.735 that provides for the custody of a child shall, when requested by the party awarded custody, contain a provision ordering a peace officer to assist in recovering the custody of the child and authorizing the use of any reasonable force necessary to that end, including directing forcible entry into specified premises.

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

(3) No peace officer shall be civilly or criminally liable for any action taken in recovering the custody of a child pursuant to an order issued under ORS 107.700 to 107.735, except for intentional torts outside the scope of the peace officer's duties. [1995 c.637 §9; 2007 c.255 §8]

107.735 Duties of State Court Administrator. The State Court Administrator shall:

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

(2) In accordance with ORS 3.438 (4)(a)(B), develop training information and materials concerning the issues and hearings under ORS 107.716 (2) or 107.718 (2) related to temporary custody of children. The training information and materials are for use by courts, state agencies, legal services providers and others as determined by the State Court Administrator. [2005 c.536 §6]

MEDIATION PROCEDURES

107.755 Court-ordered mediation; rules. (1) Each judicial district shall:

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

(A) What mediation is;

(B) Mediation options available to them; and

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

(b) Except in matters tried under ORS 107.097 and 107.138 or upon a finding of good cause, require parties in all cases described in paragraph (a) of this subsection to attend a mediation orientation session prior to any judicial determination of the issues.

(c) Provide mediation under ORS 107.755 to 107.795 in any case in which child custody, parenting time and visitation are in dispute.

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

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

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

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

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

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

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

(D) When a mediator explains the process to the parties, the mediator shall include in the explanation the disadvantages of mediation and the alternatives to mediation;

(E) All mediators shall obtain continuing education regarding domestic violence and related issues; and

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

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

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

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

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

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

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

(5) A circuit court may provide mediation in connection with its exercise of conciliation jurisdiction under ORS 107.510 to 107.610, but a circuit court need not provide conciliation services in order to provide mediation under ORS 107.755 to 107.795. [1983 c.671 §2; 1993 c.138 §4; 1995 c.273 §10; 1995 c.666 §21a; 1997 c.475 §1; 1997 c.707 §18a; 2001 c.394 §2; 2003 c.791 §24; 2005 c.22 §82]

107.765 When referral to mediation permitted; scope of mediation; report to court of outcome of mediation. (1) In a domestic relations suit, where it appears on the face of one or more pleadings, appearances, petitions or motions, including any form of application for the setting aside, alteration or modification of an order or judgment, that custody, parenting time or visitation of a child is contested, the court may, when appropriate, refer the matter for mediation of the contested issues prior to or concurrent with the setting of the matter for hearing. The purpose of the mediation is to assist the parties in reaching a workable settlement of the contested issues instead of litigating those issues before the court. Unless the court provides for the mediation of financial issues under ORS 107.755 (4), the mediator shall not consider issues of property division or spousal or child support, in connection with the mediation of a dispute concerning child custody, parenting time or visitation, or otherwise, without the written approval of both parties or their counsel.

(2) The mediator shall report to the court and to counsel for the parties the outcome of the mediation at the conclusion of the mediation proceeding. The mediator shall report in writing to the court and to counsel for the parties any agreement reached by the parties as a result of the mediation, and the agreement shall be incorporated in a proposed order or judgment provision prepared for the court. If the parties do not reach an agreement, the mediator shall report only that fact to the court and to counsel for the parties, but shall not make a recommendation to the court without the written consent of the parties or their counsel. [1983 c.671 §3; 1995 c.273 §18; 1997 c.475 §2; 1997 c.707 §19; 1999 c.59 §24; 2003 c.576 §130]

107.775 Methods of providing mediation services; qualifications; costs. (1) A circuit court may obtain mediation services, with the prior approval of the governing body of each county involved, by:

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

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

(c) Employing or contracting for mediators directly.

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

(3) Subject to the provisions of the Local Budget Law, the compensation and expenses of personnel performing mediation services for the circuit court and other expenses of mediation services provided by the court shall be paid by the county or as may be agreed upon by the counties involved. Personnel performing mediation services are not state employees, and their compensation and expenses shall not be paid by the state.

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

(5) Two or more counties may join together to provide services under ORS 107.510 to 107.610 and 107.755 to 107.795. [1983 c.671 §4; 1989 c.718 §25; 1997 c.475 §3; 1997 c.707 §20; 2003 c.791 §25]

107.785 Privacy of proceedings; confidentiality of communications; records. (1) All mediation proceedings under ORS 107.755 to 107.795 shall be held in private, and all persons other than mediation services personnel, the parties, their counsel and children of the parties shall be excluded.

(2) All communications, verbal or written, made in mediation proceedings shall be

confidential. A party or any other individual engaged in mediation proceedings shall not be examined in any civil or criminal action as to such communications and such communications shall not be used in any civil or criminal action without the consent of the parties to the mediation. Exceptions to testimonial privilege otherwise applicable under ORS 40.225 to 40.295 do not apply to communications made confidential under this subsection.

(3) All records of the court with respect to mediation proceedings shall be closed except for:

(a) Records reflecting which cases have been referred for mediation under ORS 107.765 (1);

(b) The mediator's report to the court made under the provisions of ORS 107.765 (2); and

(c) Information used to compile statistical data. [1983 c.671 §5; 1995 c.273 §19]

107.795 Availability of other remedies. Nothing in ORS 107.615 and 107.755 to 107.795 shall preclude a party from obtaining any orders available under ORS 107.700 to 107.735 or ORS 124.005 to 124.040 before or during mediation. [1983 c.671 §8; 1995 c.666 §22; 2011 c.595 §109]

LIFE INSURANCE ON OBLIGOR

107.810 Policy. It is the policy of the State of Oregon to encourage persons obligated to support other persons as the result of a dissolution or annulment of marriage or as the result of a legal separation to obtain or to cooperate in the obtaining of life insurance adequate to provide for the continued support of those persons in the event of the obligor's death. [1981 c.775 §9]

107.820 Support order as insurable interest; order to obtain, renew or continue insurance; right of beneficiary to purchase insurance or pay premiums; attorney fees and costs. A court order for the payment of spousal or child support whether issued prior to, on or following November 1, 1981, constitutes an insurable interest in the party awarded the right to receive the support. In any case of marital annulment, dissolution or separation, the issue of life insurance shall be determined as follows:

(1) When the judgment creates an obligation of spousal or child support or awards a share of a pension or retirement plan, the judgment may also require that the obligated party maintain any existing insurance policies on the life of the obligated spouse and in which the dependent spouse is named as beneficiary. The judgment may require that the policies be maintained until the obligation is fulfilled. The premiums may be paid by the obligated spouse, and the court may consider the cost of premiums when determining the obligation. Any life insurance policies on the life of the obligated spouse owned by parties outside of the marriage or purchased and held for purposes clearly outside the marriage relationship are exempt from this subsection.

(2) If the party ordered to pay support or a share of a pension or retirement plan has no life insurance policy naming as beneficiary the party ordered to receive either support or a share of a pension or retirement plan, or if an existing policy is inadequate to cover the obligation, the court in a judgment may order that the party ordered to pay shall purchase a life insurance policy naming as beneficiary the party ordered to receive the support or a share of a pension or retirement plan and that the obligated party shall pay premiums on the policy and keep the policy in force until the obligation ends. The obligated spouse has the option of obtaining a nonreducing term life insurance policy or any other type of policy in lieu of using existing policies.

(3) Additionally, the party awarded the right to receive support or a share of a pension or retirement plan may purchase a life insurance policy on the life of the obligated party. In such case the court shall order the obligated party to undergo a physical examination. All rights of policy ownership, including those regarding the extent of coverage, shall be in the party purchasing the policy under this subsection who shall also be responsible for paying the premiums. The provisions of this subsection may be exercised at the time of annulment, dissolution or separation, or at any later time while the obligation continues.

(4) Upon motion of either party, the court shall order a party to renew a life insurance policy allowed to lapse for any reason during the pendency of the suit.

(5) A party who is the beneficiary of any policy under this section upon which the other party is obligated to pay premiums, is entitled, in the event of default by the paying party, to pay the premiums on the policy and to obtain a supplemental judgment for reimbursement of any money so expended. A default in the payment of premiums by the party obligated by the judgment or order is a contempt of the court.

(6) Life insurance retained or purchased by an obligor under subsection (1) or (2) of this section for the purpose of protecting the support, pension or retirement plan obligation shall not be reduced by loans or any other means of reduction until the obligation has been fulfilled. The obligee or the attorney of the obligee shall cause a certified

copy of the judgment to be delivered to the life insurance company or companies. If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life insurance company or companies, identifying the policies involved and requesting such notification under this section, the company or companies shall notify the obligee, as beneficiary of the insurance policy, whenever the policyholder takes any action that will change the beneficiary or reduce the benefits of the policy. Either party may request notification by the insurer when premium payments have not been made. If the obligor is ordered to provide for and maintain life insurance, the obligor shall provide to the obligee a true copy of the policy. The obligor shall also provide to the obligee written notice of any action that will reduce the benefits or change the designation of the beneficiaries under the policy.

(7) In a proceeding brought under this section, including a proceeding to enforce the provisions of this section, the court may order a party to pay another party the amount of reasonable attorney fees, costs and expenses incurred by the other party in the proceeding. [1981 c.775 §11; 1983 c.728 §5; 1987 c.885 §4; 1993 c.716 §5; 2003 c.576 §131; 2013 c.127 §1]

107.830 Physical examination may be ordered; responsibility for premiums. The court may order a party to undergo a physical examination for the purpose of obtaining life insurance and may order this party to pay any premiums on such policy, except in cases in which the life insurance policy has been obtained under ORS 107.820 (3). If life insurance is obtained by a spouse or former spouse with an insurable interest, the person obtaining the policy is responsible for all premiums to be paid and for the choice of policy type and amount. If either party owns life insurance on the life of the paying spouse, and it is allowed to lapse for any reason during the suit, upon the request of the party receiving support, the paying spouse can be ordered to submit to a physical examination for the purpose of renewing the policy, if such examination is a requirement for renewal. [1981 c.775 §12]

MISCELLANEOUS

107.835 Waiver of personal service in subsequent contempt proceeding. (1) When a court enters a judgment, order or modification of a judgment or order under ORS 163.760 to 163.777 or ORS chapter 25, 107, 108, 109, 110 or 416, the court shall allow any party to the judgment or order to include in the judgment or order a waiver of personal service in a subsequent contempt proceeding in order to maintain the confidentiality of the party's residential address. In the waiver, the party shall give a contact address for service of process and select one of the following methods of substituted service:

(a) Mailing address;

(b) Business address; or

(c) Specified agent.

(2) Any time after a party has waived personal service under subsection (1) of this section, the party may file an amended waiver designating a different method of substituted service or a different address for substituted service. The party shall give notice of the amendment to all other parties.

(3) The State Court Administrator shall prescribe the content and form of the waiver and amended waiver described in this section. [1993 c.448 §6; 1995 c.608 §35; 2003 c.576 §132; 2007 c.11 §8; 2013 c.687 §14]

Note: 107.835 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 107 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

107.837 Attorney fees; effect of authorization to party. In any proceeding brought under this chapter, an authorization of attorney fees to a party also authorizes an award of attorney fees to or against any person who has appeared or intervened in the proceeding. [1997 c.90 §2; 2005 c.22 §83]

107.840 Confidentiality of Social Security numbers. (1) The State Court Administrator shall establish a procedure applicable to every court in this state that ensures that the Social Security numbers of parties to a proceeding under ORS 107.085 or 107.485 are kept confidential and exempt from public inspection.

(2) The procedure established under this section must:

(a) Require that Social Security numbers be listed on a separate paper attached to an affidavit of the person providing the Social Security number certifying that the Social Security number is correct;

(b) Ensure that the Social Security numbers are provided to or made accessible to the entities primarily responsible for providing support enforcement services under ORS 25.080; and

(c) Comply with the requirements of 42 U.S.C. 666 relating to provision of Social Security numbers. [2003 c.380 §1]

107.843 Supplemental judgments. A judgment entered under this chapter may be altered or modified only by the entry of a supplemental judgment under ORS chapter 18. [2003 c.576 §101]