

Chapter 107

1999 EDITION

Dissolution, Annulment; Separation; Mediation and Conciliation Services

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Note: The name of the Department of Human Resources has been changed to the Department of Human Services and the title of the Director of Human Resources to the Director of Human Services. The name and title changes become operative on July 1, 2000. See sections 10 and 11, chapter 421, Oregon Laws 1999. References to the department and the director in this chapter use the name and the title that become operative on July 1, 2000.

DISSOLUTION, SEPARATION AND ANNULMENT

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 decree.

(3) A marriage once declared valid by the decree 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 s.7]

107.010 [Repealed by 1971 c.280 s.28]

107.015 Grounds for annulment or dissolution of marriage. The annulment or dissolution of a marriage may be decreed for the following causes:

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

(2) When the consent of either party was obtained by force or fraud;
provided that in the situations described in subsection (1) or (2) of this section the contract was not afterward ratified. [1971 c.280 s.8]

107.020 [Repealed by 1971 c.280 s.28]

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

(2) Separation may be decreed 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 s.9; 1973 c.502 s.1]

107.030 [Amended by 1953 c.439 s.2; 1965 c.311 s.1; repealed by 1971 c.280 s.28]

107.035 [1969 c.264 s.2; repealed by 1971 c.280 s.28]

107.036 Doctrines of fault and in pari delicto abolished; evidence admissible not to include fault; decree. (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 not award a decree to either party but shall only decree the annulment or dissolution of the marriage or for separation. A decree of separation shall state the duration of the separation. [1971 c.280 s.10; 1973 c.502 s.2]

107.040 [Amended by 1965 c.388 s.1; repealed by 1971 c.280 s.28]

107.045 [1957 c.444 s.1; 1965 c.603 s.1; repealed by 1971 c.280 s.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 s.4; 1973 c.502 s.3; 1979 c.482 s.1]

107.050 [Amended by 1965 c.603 s.2; repealed by 1971 c.280 s.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 s.11; 1973 c.502 s.4]

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

107.065 Waiting period in dissolution suit; waiver. (1) Except as provided in ORS 107.095 and in subsection (2) of this section, no trial or hearing on the merits in a suit for the dissolution of a marriage shall be had until after the expiration of 90 days from the date of:

- (a) The service of the summons and petition upon the respondent; or
- (b) The first publication of summons.

(2)(a) Upon written motion, the court may in its discretion grant a judgment dissolving the marriage prior to the expiration of the waiting period. The written motion must be supported by an affidavit setting forth grounds of emergency or necessity and facts that satisfy the court that immediate action is warranted to protect the rights or interest of any party or person who might be affected by a final judgment in the proceedings.

(b) An affidavit stating that a stipulated judgment has been signed by the parties is adequate grounds of necessity for immediate action under this subsection.

(c) If the court grants a judgment before the expiration of the waiting period, the court shall find and recite in the judgment the grounds of emergency or necessity and the facts with respect thereto. [1971 c.280 s.6; 1979 c.284 s.99; 1999 c.569 s.1]

107.070 [Repealed by 1971 c.280 s.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 s.5; 1973 c.502 s.5]

107.080 [Repealed by 1971 c.280 s.28]

107.085 Petition; title; content; other required information. (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 petition shall state the following:

(a) The names, social security numbers, if known, 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, social security numbers, if known, and dates of birth of all children born to the parties prior to the marriage; and

(c) To the extent known, whether there is pending in this or any other state a domestic relations suit, as defined in ORS 107.510, or any type of support proceeding involving dependents of the same marriage, including one brought under ORS 108.110, 416.400 to 416.470 or this section.

(3) 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, their wage earner social security account numbers, 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 decree.

(4) 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. [1971 c.280 s.2; 1973 c.502 s.6; 1979 c.144 s.1; 1979 c.421 s.14; 1983 c.728 s.1; 1987 c.586 s.25; 1993 c.448 s.4]

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 aid, as defined in ORS 418.035 (2), is being granted to or on behalf of any dependent child or children, natural or adopted, of the parties, 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 of the division providing service to the county in which the suit is filed. [1979 c.90 s.6]

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 s.4; 1997 c.707 s.32]

Note: 107.088 and 107.089 were enacted into law by the Legislative Assembly but were 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.

107.089 Documents parties in suit must furnish to each other under certain circumstances; 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) 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;
- (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; and
- (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 s.5; 1997 c.631 s.402; 1997 c.707 s.33]

Note: See note under 107.088.

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

107.092 Notice that spouse may continue health insurance coverage; content; 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 s.16; 1987 c.505 s.6; 1995 c.603 s.31]

Note: 107.092 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.

107.095 Provisions court may make by order after commencement of suit and before decree. (1) After the commencement of a suit for marital annulment, dissolution or separation and until a decree therein, the court may provide as follows:

(a) That a party pay to the clerk of the court 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 Department of Justice, court clerk or court administrator, whichever is appropriate, 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) In case default is made in the payment of any moneys falling due under the terms of an order pending suit, any such delinquent amount shall be entered and docketed as a judgment, and execution or garnishment may issue thereon to enforce payment thereof in the same manner and with like effect as upon a final decree. The remedy provided in this subsection shall be deemed cumulative and not exclusive.

(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, the court may, when the cause is otherwise ready for hearing on the merits, in lieu of such hearing, enter a decree 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 child support or custody of minor children is involved, then the affidavit also shall include:

(a) The gross monthly income of each party, to the best of the affiant's knowledge; and

(b) 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 s.12; 1973 c.502 s.7; 1977 c.205 s.1; 1977 c.847 s.1; 1977 c.878 s.1a; 1979 c.86 s.1; 1981 c.668 s.1; 1987 c.873 s.27; 1987 c.885 s.1; 1991 c.82 s.1; 1993 c.223 s.4; 1993 c.716 s.2; 1997 c.704 s.41; 1997 c.707 s.5; 1999 c.569 s.2; 1999 c.1052 s.5]

107.097 Ex parte temporary custody or parenting time orders prohibited; temporary protective order of restraint allowed; hearing; form. (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 hearing request in the form described in ORS 107.097 (5).

(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 hearing request in the form described in ORS 107.097 (5).

(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 form described in subsection (5) 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 hearing request form must be in substantially the following form:

THE STATE OF OREGON
FOR THE COUNTY OF _____

_____,)
PETITIONER,) NO. ____
)
) REQUEST FOR
and) HEARING
)
_____,)
Respondent.)

I request a hearing.
___ I object to the Protective Order of Restraint
because I disagree with the representation of the status quo in the following particulars:

_____.

___ I object to the Temporary Custody and Parenting Time Order on the ground that the child was not in immediate danger at the time the order was issued.

Signature
DATE: _____
ADDRESS: _____

TELEPHONE: _____

- (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 s.1; 1997 c.136 s.1; 1997 c.386 s.3; 1997 c.707 s.6; 1999 c.59 s.19; 1999 c.649 s.44]

Note: 107.097 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.

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

107.101 State 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 s.1]

Note: 107.101 and 107.102 were enacted into law by the Legislative Assembly but were 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.

107.102 Parenting plan required; contents. (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 107.732, 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 s.2]

Note: See note under 107.101.

107.105 Provisions of decree. (1) Whenever the court grants a decree of marital annulment, dissolution or separation, it may further decree as follows:

(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 of grandparents pursuant to a petition filed under ORS 109.121. 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 assuring the safety of the parties, if implicated. 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. 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, 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 (4).

(c) For the support of the children of the marriage by the parties. In ordering child support, the formula established by ORS 25.270 to 25.287 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 who has ceased to attend school after becoming 18 years of age.

(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. The court may approve an agreement for the entry of an order for the support of a party. 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 decree.

(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. A retirement plan or pension or an interest therein shall be considered as property. The court shall consider the contribution of a spouse as a homemaker as a contribution to the acquisition of marital assets. There is a rebuttable presumption that both spouses have contributed equally to the acquisition of property during the marriage, whether such property is jointly or separately held. 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 coownership, and a transfer of marital assets under a decree 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. The court shall require full disclosure of all assets by the parties in arriving at a just property division. 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. If a spouse 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. If the obligor dies prior to the termination of such support and such insurance is not in force, the court may modify the method of payment of spousal support under the decree or order of support from installments to a lump sum payment to the obligee from the estate of the obligor in an amount commensurate with the present value of the spousal support at the time of death. The obligee or attorney of the obligee shall cause a certified copy of the decree 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 decree 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 decreed 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 decree a change if it is requested by the affected party.

(i) For a judgment against one party in favor of the other for any sums of money found to be then remaining unpaid upon any enforceable order or orders theretofore duly made and entered in the proceedings under any of the provisions of ORS 107.095, and for a judgment against one party in favor of the other or in favor of the other's attorney for any further sums as additional attorney fees or additional costs and expenses of suit or defense as the court finds reasonably and necessarily incurred by such party; or, in the absence of any such order or orders pendente lite, a like judgment for such amount of money as the court finds was reasonably necessary to enable such party to prosecute or defend the suit. The decree may include a judgment for any arrearage in any sum ordered while litigation was pending, but if such a judgment is not included in the decree, such arrearages shall not be deemed satisfied.

(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 decree.

(3) Upon the filing of the decree, the property division ordered shall be deemed effective for all purposes. This transfer by decree, which shall effect 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, shall not be deemed a taxable sale or exchange.

(4) If an appeal is taken from a decree of annulment or dissolution of marriage or of separation or from any part of a decree rendered in pursuance of the provisions of ORS 107.005 to 107.085, 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 making such decree may provide in a separate order for any relief provided for in ORS 107.095 and shall provide that the order is to be in effect only during the pendency of the appeal. A temporary order under this subsection may be enforced as provided in ORS 33.015 to 33.155. On motion of a party the Court of Appeals may review the trial court's disposition of a request for a temporary order. A motion under this subsection must be filed with the Court of Appeals within 14 days after the entry of the temporary order. The Court of Appeals may modify the trial court's order only if the Court of Appeals finds an abuse of discretion by the trial court. Upon such finding, the Court of Appeals may enter a temporary order, affirm, modify or vacate the trial court's order, remand the order to the trial court for reconsideration or impose terms and conditions on the order.

(5) If an appeal is taken from the decree 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, it 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 said decree, showing among other things that the original parties to such decree 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 such decree shall have in the first instance and retain jurisdiction in equity therefor. [1971 c.280 s.13; 1973 c.502 s.8; 1975 c.722 s.1; 1975 c.733 s.2; 1977 c.205 s.2; 1977 c.847 s.2; 1977 c.878 s.2a; 1979 c.144 s.2; 1981 c.775 s.1; 1983 c.728 s.2; 1987 c.795 s.9; 1987 c.885 s.2; 1989 c.811 s.6; 1993 c.315 s.1; 1993 c.716 s.3; 1995 c.22 s.1; 1995 c.608 s.3; 1997 c.22 s.1; 1997 c.71 s.19; 1997 c.707 s.7; 1999 c.587 s.1; 1999 c.762 s.1]

Note: Section 3, chapter 587, Oregon Laws 1999, provides:

Sec. 3. The amendments to ORS 107.105 and 107.135 by sections 1 and 2 of this 1999 Act apply only to petitions for annulment, dissolution or separation filed on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.587 s.3]

107.106 Additional requirements of decree. (1) An order or judgment providing for the custody, parenting time, visitation or support of a child under ORS chapter 25, 107, 108 or 109 or ORS 110.303 to 110.452, 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) Maintenance of health insurance for the child.
- (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, domestic relations court clerk or the Department of Human Services at (503) 378-5567 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.

(2) The court or hearings officer 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 s.9; 1997 c.249 s.36; 1997 c.707 s.8]

Note: 107.106 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.

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

107.108 Support or maintenance for child attending school. (1) In addition to any other authority of the court, the court may enter an order against either parent, or both of them, to provide for the support or maintenance of a child attending school:

- (a) After the commencement of a suit for annulment or dissolution of a marriage or for separation from bed and

board and before the decree therein;

(b) In a decree of annulment or dissolution of a marriage or of separation from bed and board; and

(c) During the pendency of an appeal taken from all or part of a decree rendered in pursuance of ORS 107.005 to 107.085, 107.095 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540, 107.610 or this section.

(2) An order providing for temporary support pursuant to subsection (1)(c) of this section may be modified at any time by the court making the decree appealed from, shall provide that the support money be paid in monthly installments, and shall further provide that it is to be in effect only during the pendency of the appeal. No appeal lies from any such temporary order.

(3) If the court provides for the support and maintenance of a child attending school pursuant to this section, the child is a party for purposes of matters related to that provision.

(4) When the court orders support under this section or the administrator or a hearings officer orders support for a child attending school under ORS 416.400 to 416.470, the court, administrator or hearings officer shall order that the support be distributed to the child unless good cause is found for the distribution of the payment to be made in some other manner. When there are multiple children for whom support is ordered, the amount paid directly to a child under this subsection is a prorated share based on the number of children for whom support is ordered unless otherwise ordered by the court, administrator or hearings officer. The Department of Human Services shall adopt rules to define good cause and circumstances under which the administrator or hearings officer may allocate support by other than a prorated share and to determine how support is to be allocated in those circumstances.

(5) A child for whom support has been ordered under this section:

(a) Must maintain the equivalent of a C average or better.

(b) Shall notify a parent paying support when the child ceases to be a child attending school.

(c) Shall submit to the Department of Human Services and the parent paying support, on a form developed by the department, all information necessary to establish eligibility to receive support under this section, including grades earned and the courses in which the child is enrolled. The child shall submit the information required by this paragraph within the first month of each term or semester.

(6) If the child fails to comply with any of the requirements imposed on the child by this section and upon written notice from the obligor, the distribution of the support directly to the child ceases and may not be reinstated unless the parent paying support elects to continue to pay the support, in spite of the child's failure to comply with the requirements of this section, and notifies the Department of Human Services of the election in writing. If the underlying support order is for the support of more than one child, the parent shall pay the amount previously paid directly to the child to the recipient of the rest of the support until such time as the support order is modified. A child's failure to comply with the requirements imposed by this section is a substantial change of circumstances for purposes of modification of a support order.

(7) Orders entered into prior to October 4, 1997, may be modified to include the provisions of subsections (4) to (6) of this section. However, the fact that an order entered, or agreement entered into, prior to October 4, 1997, does not contain any of the provisions of subsections (4) to (6) of this section does not constitute a substantial change of circumstances for purposes of modifying a child support order.

(8) As used in this section, "child attending school" means a child of the parties who is unmarried, is 18 years of age or older and under 21 years of age and is a student regularly attending school, community college, college or university, or regularly attending a course of professional or technical training designed to fit the child for gainful employment. A child enrolled in an educational course load of less than one-half that determined by the educational facility to constitute "full-time" enrollment is not a "child attending school." [1973 c.827 s.12b; 1981 c.669 s.1; 1989 c.518 s.1; 1995 c.343 s.21; 1997 c.704 s.51]

107.110 [Amended by 1965 c.603 s.4; 1969 c.179 s.1; 1969 c.198 s.54; 1969 c.591 s.284; repealed by 1971 c.280 s.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 s.8]

Note: 107.111 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.

107.115 Effect of decree; effective date; appeal. (1) A decree of annulment or dissolution of a marriage restores the parties thereto to the status of unmarried persons, unless a party is married to another person. Such decree shall give the court jurisdiction to award, to be effective immediately, the relief provided by ORS 107.105. However, any judgment or award provided for in the decree shall become effective as a lien upon real property only upon docketing in the county where the decree is originally entered as provided in ORS 18.320 and 18.360. In all other counties, the judgment or award shall become a lien only upon recording a certified copy of the judgment or lien record abstract or a certified copy of the decree in the County Clerk Lien Record. The decree shall revoke a will pursuant to the provisions of ORS 112.315.

(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 s.14; 1981 c.537 s.2; 1987 c.586 s.26; 1993 c.149 s.1; 1999 c.569 s.3]

107.120 [Repealed by 1971 c.280 s.28]

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

107.126 Decrees, judgments and orders as liens; duration. (1) Except as otherwise provided in ORS 18.360 (3), no order, judgment or decree for the future payment of money in gross or in installments, entered under ORS 107.095 or 107.105, shall continue to be a lien on real property for a period of more than 10 years from the date of docketing of such order, judgment or decree unless it is renewed as provided in ORS 18.360 (1).

(2) Notwithstanding subsection (1) of this section, any child support judgment subject to ORS 25.700 (1) to (4) that is entered and docketed on or after January 1, 1994, shall continue to be a lien on real property for a period of 25 years from the date the child support judgment is entered and docketed. [1971 c.280 s.15; 1993 c.716 s.4; 1993 c.763 s.7; 1997 c.801 s.148]

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

107.135 Vacation or modification of decree. (1) The court may at any time after a decree 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 pursuant to subsection (8) of this section:

(a) Set aside, alter or modify so much of the decree as may provide 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 provisions for health or life insurance, or 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 decree was given, were not residents of the state, or were unknown to the court or were erroneously omitted from the decree;

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

(d) Notwithstanding section 84 (2), chapter 827, Oregon Laws 1973, and 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 so much of the decree as may provide 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) In a proceeding under this section to reconsider the spousal or child support provisions of the decree, 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 decree 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.

(3) In considering under this section whether a change in circumstances exists sufficient for the court to reconsider spousal or child support provisions of a decree, 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 received on behalf of a child due to a parent'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 March 1, 1999.

(E) Veterans' benefits received on behalf of a child due to a parent'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 October 23, 1999.

(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.

(4) 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 order.

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

(6) The decree is a final judgment as to any installment or payment of money that has accrued up to the time either party makes a motion to set aside, alter or modify the decree, and the court does not have the power to set aside, alter or modify such decree, or any portion thereof, that provides for any payment of money, either for minor children or the support of a party, that has accrued prior to the filing of such motion. 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 decree, during which the obligated parent has physical custody of the child with the knowledge and consent of the custodial parent; and

(b) The court or the administrator, as defined in ORS 25.010, may allow, as provided in the rules of the Child Support Program, a 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 a parent's disability or retirement.

(7) 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.

(8) Whenever a motion to establish, modify or terminate child support or satisfy or alter support arrearages is filed and public assistance, as defined in ORS 416.400, is being granted to or on behalf of a dependent child or children, natural or adopted, of the parties, 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 of the division providing service to the county in which the motion is filed.

(9)(a) Except as provided in ORS 109.700 to 109.930, 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).

(10) In a proceeding under this section to reconsider provisions in a decree 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.

(11) Within 30 days after service of notice under subsection (1) of this section, the party served shall file a written response with the court. [1971 c.280 s.16; 1973 c.502 s.9; 1981 c.775 s.2a; 1981 c.855 s.1; 1983 c.728 s.3; 1983 c.761 s.9; 1987 c.795 s.10; 1987 c.885 s.3; 1989 c.545 s.1; 1991 c.888 s.2; 1993 c.315 s.2; 1995 c.22 s.2; 1997 c.91 s.1; 1997 c.475 s.6; 1997 c.704 s.52; 1997 c.707 s.9; 1999 c.80 s.65; 1999 c.587 s.2; 1999 c.1030 s.2]

Note: Section 3, chapter 1030, Oregon Laws 1999, provides:

Sec. 3. The amendments to ORS 25.275 and 107.135 by sections 1 and 2 of this 1999 Act apply to child support decrees and child support decree modifications ordered on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.1030 s.3]

Note: See note under 107.105.

Note: 109.700 to 109.930 were repealed by section 55, chapter 649, Oregon Laws 1999. The text of 107.135 was not amended by enactment of the Legislative Assembly to reflect the repeal. Editorial adjustment of 107.135 for the repeal of 109.700 to 109.930 has not been made. In 1999, the Legislative Assembly enacted the Uniform Child Custody Jurisdiction and Enforcement Act, codified as ORS 109.701 to 109.834.

107.136 Reinstatement of terminated spousal support. Whenever spousal support has been terminated under ORS 107.135, the court has the power to order reinstatement of the support obligation if:

(1) The basis for the termination ceases to exist; and

(2) The reinstatement motion is filed within the period of time support would have been paid had the support obligation not been terminated. [1991 c.888 s.1]

Note: 107.136 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.

107.137 Factors considered in determining custody of minor child. (1) 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, 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) 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 life style 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.

(4) 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. [1975 c.722 s.2; 1987 c.795 s.14; 1997 c.707 s.35; 1999 c.762 s.2]

Note: 107.137 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.

107.138 Temporary status quo order allowed. (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 s.2; 1997 c.136 s.2; 1997 c.386 s.1; 1997 c.707 ss.10,10a; 1999 c.649 s.47]

Note: 107.138 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.

107.139 Post-judgment ex parte temporary custody or parenting time order authorized; conditions. (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 hearing request in the form described in ORS 107.139 (3).

(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 form described in subsection (3) 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 hearing request form must be in substantially the following form:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____,)	
Petitioner,)	NO. _____
)	
)	REQUEST FOR HEARING
)	ON TEMPORARY
and)	CUSTODY AND
)	PARENTING TIME
)	ORDER
)	
_____,)	
Respondent.)	

___ I request a hearing. I object to the Temporary Custody and Parenting Time Order on the ground that the child was not in immediate danger at the time the order was issued.

Signature

Date: _____

Address: _____

Telephone: _____

[1997 c.386 s.2; 1997 c.707 s.6a]

Note: 107.139 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.

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

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

107.142 Validation of certain decrees of dissolution or annulment; status of children. (1) Any decree of divorce or annulment entered prior to January 1, 1970, otherwise valid but the validity of which may be affected by failure of the court records to evidence the service of process upon the district attorney or the presence of the district attorney at the final hearing, is in all respects valid.

(2) Any marriage in all other respects legal and regular, made prior to July 31, 1981, hereby is declared valid, and any child conceived or born of the marriage is legitimate, although:

(a) The marriage was made before the expiration of 60 days from the date of a decree declaring a previous marriage of one or both of the contracting parties void or dissolved; or

(b) The marriage was made absent the entry of a decree declaring a previous marriage of one or both of the contracting parties void or dissolved, where a final trial or hearing had been held regarding the annulment or dissolution of the previous marriage and a decision voiding or dissolving the marriage had been rendered but not entered therein.

(3) Any marriage in all other respects legal and regular, made prior to January 1, 1965, hereby is declared valid, and any child conceived or born of the marriage is legitimate, although:

(a) The marriage was made before the expiration of six months from the date of a decree declaring a previous marriage of one or both of the contracting parties void or dissolved; or

(b) The marriage was made absent the entry of a decree declaring a previous marriage of one or both of the contracting parties void or dissolved, where a final trial or hearing had been held regarding the annulment or dissolution of the previous marriage and a decision voiding or dissolving the marriage had been rendered but not entered therein.

(4) Any decree of divorce or annulment entered prior to August 13, 1965, otherwise valid but the validity of which may be affected by irregularities in the procedure relative to the bill of particulars or contents of the complaint, is in all respects valid. [1971 c.280 s.17; 1973 c.530 s.1; 1981 c.537 s.1]

107.149 Policy, generally. 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 s.2]

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

107.154 Effect of order granting sole custody of minor child to one parent on authority of other parent. 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 s.3]

107.159 Effect of order granting parenting time rights or restricting ability of custodial parent to change residence. (1) In any court order or decree 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 107.732, 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 s.4; 1997 c.707 s.11]

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

107.164 When parents to notify each other of emergency circumstances or substantial change in health of child. 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 s.5]

107.169 Joint custody of minor child; order; conditions; 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 decree, 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. [1987 c.795 s.6]

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

107.174 Modification of order for parenting time with minor child; 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 decree 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 s.12; 1997 c.707 s.12; 1999 c.649 s.48]

107.179 Request for joint custody of minor children; mediation proceeding; exception; privileged communications. (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 decree pending outcome of the mediation, in which case the court may enter a temporary decree as to issues other than custody upon completion of the trial or may postpone entry of any decree 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 s.13]

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

107.210 [Repealed by 1973 c.502 s.18]

107.220 [Repealed by 1973 c.502 s.18]

107.230 [Repealed by 1973 c.502 s.18]

107.240 [Repealed by 1973 c.502 s.18]

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

107.260 [Repealed by 1973 c.502 s.18]

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

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

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

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

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

107.320 [Repealed by 1973 c.502 s.18]

107.400 Amendment of pleadings in dissolution, annulment or separation proceeding to change relief sought.

At any time prior to the entry of a decree, 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 s.15(2)]

107.405 Powers of court in dissolution, separation or annulment 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 s.1]

107.407 Setting aside portion of decree for support of former spouse. 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 court decree 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 decree, the individual paying the support may petition the court that issued the decree to set aside so much of the decree as may provide for the support of the former spouse. The petition shall not be granted if spousal support was granted in the decree in lieu of a share of property in order to provide the other spouse with a tax benefit. [1975 c.500 s.2; 1983 c.728 s.7]

107.410 [1961 c.418 s.1; repealed by 1971 c.280 s.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 decree 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 decree, 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 decree, 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 s.3; 1995 c.343 s.22]

107.415 Notice of change of status of minor child required; effect of failure to give notice. (1) If a party is required by a decree 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 decree. The court may enter a judgment or satisfy all or part of any accrued judgment to accomplish the restitution. [1971 c.314 s.1]

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

107.425 Investigation of parties in domestic relations suit involving children; physical, psychological, psychiatric or mental health examinations; counsel for children. (1) In suits or proceedings described in subsection (2) 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 final 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 indigent defense services.

(2) The provisions of subsection (1) 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 decree in a domestic relations suit is before the court;

(c) A parent of a child born out of wedlock 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 child's grandparent petitions for visitation rights under ORS 109.121;

(f) A person or state agency files a petition under ORS 109.125 to establish paternity and paternity is established;

or

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

(3) 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 appear and to testify as witnesses during this investigation and to be interviewed, evaluated and tested by an expert. The court may also authorize the expert to interview other persons and to request other persons to make available to the expert records deemed by the court or the expert 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 the psychologist, psychiatrist or registered clinical social worker to conduct the investigation, the court shall choose such expert from a list of three submitted to the court by each party with a statement of the experts' qualifications and fees for the investigation. The court shall direct one or more of the parties to pay for the investigation 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 indigent 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.

(4) The court, on its own motion or 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 indigent defense services.

(5) Prior to the entry of an order, the court on its own motion or upon 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 s.3; 1973 c.502 s.11; 1981 c.775 s.5; 1981 s.s. c.3 s.34; 1983 c.369 s.1; 1983 c.386 s.1; 1989 c.188 s.1; 1989 c.1084 s.1; 1999 c.569 s.4]

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

107.431 Modification of portion of decree regarding parenting time with minor child; procedure. (1) At any time after a decree of annulment or dissolution of a marriage or a separation is granted, the court may set aside, alter or modify so much of the decree 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 decree 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 aid, as defined in ORS 418.035 (2), is being granted to or on behalf of any dependent child of the parties. 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) The court may request the appearance of the district attorney or the Division of Child Support in any proceeding under this section in which it finds that the state may have a substantial interest.

(3) This section shall 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 s.4; 1979 c.482 s.2; 1997 c.707 s.13; 1999 c.649 s.49]

107.434 Expedited parenting time enforcement procedure; establishment; remedies available. (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 charge a filing fee of \$45, subject to ORS 21.605. 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 (10). [1997 c.707 s.3]

Note: 107.434 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.

107.435 [1971 c.280 s.19; repealed by 1973 c.502 s.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. 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 s.1; 1999 c.59 s.20; 1999 c.1081 s.6]

Note: 107.437 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.

Note: Section 7, chapter 1081, Oregon Laws 1999, provides:

Sec. 7. The amendments to ORS 107.437 by section 6 of this 1999 Act apply only to orders of assistance issued by a court on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.1081 s.7]

107.440 [1963 c.434 s.14; 1965 c.386 s.1; repealed by 1971 c.280 s.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 make an order 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 order a reasonable attorney fee to be paid by the respondent to the county in which the district attorney holds office. The order shall be entered and docketed as a judgment, and execution may issue thereon in the same manner and with like effect as upon a final decree. A judgment so ordered or decreed is enforceable by the party or attorney in whose favor the order is issued against property of the other party or against any property held jointly or in common between the parties. [1971 c.280 s.18; 1981 c.775 s.6; 1981 c.781 s.2; 1981 c.897 s.32; 1983 c.728 s.4; 1987 c.331 s.2; 1991 c.724 s.21; 1995 c.666 s.16; 1997 c.18 s.1]

107.449 Vacation or modification of decree; transfer of matter to auxiliary circuit court for hearing. (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 or decree 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 decree.

(3) The only court having jurisdiction to modify any provision of the original order or decree is the court having original jurisdiction of the cause in which such order or decree 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 s.1]

Note: 107.449 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.

107.450 [1963 c.434 s.13; 1965 c.386 s.2; repealed by 1971 c.280 s.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 s.6]

Note: 107.452 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.

SEPARATION

107.455 Effect of separation statutes or decrees 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 decree of dissolution of marriage. The entry of a decree of separation under ORS 107.475 shall not be a bar to a suit for dissolution by either party. No decree of dissolution of marriage granted by a court of this or any other state upon constructive service of summons shall affect an award of support or maintenance in a decree of separation made pursuant to ORS 107.095 or 107.105. [Formerly 107.310]

107.465 Conversion of decree of separation into decree of dissolution. (1) Upon motion of a party for an order to show cause why a decree of separation should not be converted to a decree 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 decree of separation, convert a decree of separation into a decree 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. Any supplemental decree of dissolution shall not set aside, alter or modify any part of the decree of separation that has created or granted rights that have vested.

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

107.475 Court to determine duration of separation; modification or vacation of decree. The court shall determine and fix in its decree the duration of the separation. At the expiration of such time the decree shall have no further effect. However, no rights created or granted in the decree 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 decree 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 decree, subject to the provisions of ORS 107.135. [1973 c.502 s.14]

SUMMARY DISSOLUTION PROCEDURE

107.485 Conditions for summary dissolution procedure. A marriage may be dissolved by the summary dissolution procedure specified in ORS 107.485 to 107.500 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) There are no minor children born to the parties or adopted by the parties during the marriage. 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. There are no minor children born to or adopted by the parties prior to the marriage. 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 107.732 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 s.1; 1985 c.610 s.12; 1995 c.666 s.17; 1997 c.704 s.53]

Note: 107.485 to 107.500 were enacted into law by the Legislative Assembly but were 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.

107.490 Commencement of proceeding; petition content; court authority. A proceeding for summary dissolution of the marriage shall be commenced by filing in the circuit court a petition in the form prescribed by 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. [1983 c.692 s.2]

Note: See note under 107.485.

107.500 Forms. Each circuit court shall make available with appropriate forms an instructional brochure prescribed by the State Court Administrator and describing the procedures set forth in ORS 107.485 to 107.500. The content of the forms used pursuant to ORS 107.485 to 107.500 shall be substantially as follows:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,) PETITION FOR
) SUMMARY
and) DISSOLUTION
) OF MARRIAGE
_____,)
Respondent.)
)

1. (_____, Petitioner,) (_____, Respondent,) has been a resident of Oregon continuously for the past six months before filing this petition.

2. Statistical Facts:

a. Date of marriage:

b. Place of marriage:

c. Wife's address:

d. Wife's maiden name:

e. Wife's former legal names:

f. Wife's age:

g. Wife's social security number:

h. Husband's address:

i. Husband's former legal names:

j. Husband's age:

k. Husband's social security number:

3. My spouse and I have not been married more than 10 years.

4. Petitioner does not know of any pending (not yet decided by a judge) domestic relations suits involving this marriage in this or any other state.

5. There are no minor children born to the parties or born during the marriage. There are no adopted minor children. The wife is not now pregnant.

6. Petitioner requests a dissolution because irreconcilable differences between the parties have caused the irreparable breakdown of the marriage.

7. The personal property of the parties is not worth more than \$30,000. Petitioner requests that the Court divide the property as follows:

(a) The wife should be awarded the following personal property:

Additional pages have been attached and labeled "7a. continued."

(b) The husband should be awarded the following personal property:

Additional pages have been attached and labeled "7b. continued."

(c) The husband and wife should each sign any documents necessary to remove his or her name as owner of personal property awarded to the other party.

8. Neither the husband nor the wife own any real property.

9. The debts incurred by the husband and wife together or separately from the date of the marriage are not greater than \$15,000.

Petitioner requests the following division of debts:

(a) The wife be required to pay the debts listed below. The husband is awarded a judgment against the wife in the sum of \$_____. The wife can satisfy this judgment by paying off the following debts:

Name of Creditor Amount Owed

(b) The husband be required to pay the debts listed below. The wife is awarded a judgment against the husband in the sum of \$_____. The husband can satisfy the judgment by paying off the following debts:

Name of Creditor Amount Owed

10. I relinquish all rights I may have to spousal support and waive any right to pendente lite orders (temporary orders) except those pursuant to ORS 107.700 to 107.732 (the Family Abuse Prevention Act) or 124.005 to 124.040 (the Elderly and Disabled Person Abuse Prevention Act).

(Complete only if petitioner is paying fees and wants reimbursement from spouse or if fees are being deferred for the petitioner.)

11. (a) If petitioner has paid court costs and service fees, petitioner requests that costs and fees paid by petitioner be repaid by respondent spouse, _____, and that a judgment in the amount of such costs and fees be entered in favor of petitioner, _____, in the amount of \$_____.

(b) If fees are being deferred for petitioner:

Petitioner requests that judgment be entered against

(_____, Petitioner)

(_____, Respondent) in favor of the state in the amount of \$_____.

12. Petitioner requests that:

wife's legal name be restored to

husband's legal name be restored to

(Petitioner's signature)
Address: _____

Telephone: _____

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,) SUMMONS FOR SUMMARY
) DISSOLUTION
) Marriage Dissolution Suit
and)
)
_____,)
Respondent.)
)

TO: Name of Respondent

Address of Respondent

_____, Oregon

YOU HAVE BEEN SUED. The court may decide against you without your being heard unless you respond within 30 days of the day you received these papers. Read the information below.

NOTICE TO RESPONDENT:
READ THESE PAPERS CAREFULLY

Your spouse has filed a petition with the court to end your marriage and asking to divide your property and debts, if any. You must "appear" in this case or the court will grant your spouse's requests. To "appear," you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the Court Clerk or Administrator at: (location) _____ within 30 days of the day you received these papers, along with the required filing fee. The "motion" or "answer" must be in proper form and you must show that your spouse has been served with a copy of it.

Name of Petitioner

Address of Petitioner

City/State/Zip Code

Important Information about Respondent (A recent photo may be attached in addition to the requested information.)

Height: _____
Weight: _____
Race: _____
Date of Birth: _____

Automobile license number and description:

Other identifying information:

Best time and place to locate:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
)
_____,)
Petitioner,) AFFIDAVIT OF PROOF
) OF SERVICE
)
and)
)
_____,)
Respondent.)
)

STATE OF OREGON)
) ss.
County of)

I, _____, swear/affirm under oath that:

I am a resident of the State of Oregon. I am a competent person over 18 years of age. I am not an attorney for or a party to this case, or an officer, director or employee of any party to this case. On the ____ day of _____, 2__, I served the Summons and Petition in this case personally upon the above named respondent in _____ County by delivering to the respondent a copy of those papers, each of which was certified to be a true copy of each original.

Signature of _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 2__.

NOTARY PUBLIC FOR OREGON
My Commission Expires: ____

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____

_____,)
Petitioner,)
) MOTION AND ORDER FOR
) WAIVER OF FEES
)
and)
)
)
_____,)
Respondent.)
)

Petitioner moves the Court for an order waiving payment of filing fees, service fees, and other costs.

Petitioner

POINTS AND AUTHORITIES

ORS 21.605; the Court shall waive all fees and costs if the Court finds that the party is unable to pay such fees and costs.

ORDER

IT IS SO ORDERED.

DATED: This ___ day of ____, 2__.

COURT

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
_____,)
Petitioner,)
) AFFIDAVIT FOR
and)
) WAIVER OF
) FEES AND COSTS
)
_____,)
Respondent.)
)

STATE OF OREGON)
) ss.
County of)

I, _____ being first duly sworn upon oath, depose and declare that I am the petitioner for a Decree of Summary Dissolution and am unable to pay necessary filing fees, service fees and court costs. My total monthly income from all sources is \$_____. I have \$_____ as assets and \$_____ as savings. I support ___ people. My monthly expenses are \$___ housing, \$___ food, \$___ utilities, \$___ transportation, \$___ laundry, cleaning and personal requirements, \$___ medical expenses, \$___ clothing, \$___ telephone, \$___ total installment payments, \$___ other expenses, for total monthly expenses of \$_____.

Signature of _____

SUBSCRIBED AND SWORN TO before me this ___ day of ____, 2__.

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
_____) No. _____
Petitioner,)
) PETITIONER'S
) AFFIDAVIT, MOTION
and) AND ORDER FOR
) DEFAULT DECREE
) OF DISSOLUTION
)
)
_____,)
Respondent.)
)

STATE OF OREGON)
) ss.
County of)

I, _____, swear/affirm under oath that:

I am the Petitioner. The Respondent is not now nor was at the time of the commencement of this suit in the military service of the United States; nor is the Respondent a legally mentally incapacitated person; nor is the Respondent under 18 years of age.

The Respondent was served with Summons and Petition for Dissolution on the _____ day of _____, 2__, in _____ County, Oregon, and has failed to answer or appear.

Petitioner

SUBSCRIBED AND SWORN TO before me this ___ day of _____, 2__.

NOTARY PUBLIC FOR OREGON
My Commission Expires _____

Petitioner moves the Court for an Order entering the default of Respondent.

Petitioner

Address of Petitioner

City, State Zip

ORDER

IT IS SO ORDERED.
DATED: This ___ day of _____, 2__.

CIRCUIT COURT JUDGE

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

In the Matter of)
the Marriage of)
) No. _____
)
_____,)
Petitioner,) DECREE OF SUMMARY
) DISSOLUTION
)
and)
)
_____,)
Respondent.)
)
)

Statistical Facts:

a. Date of marriage:

b. Place of marriage:

c. Wife's address:

d. Wife's maiden name:

e. Wife's former legal names:

f. Wife's age:

g. Wife's social security number:

h. Husband's address:

i. Husband's former legal names:

j. Husband's age:

k. Husband's social security number:

This matter came before the Court for default. Petitioner appeared (in person) (by affidavit), and Respondent did not appear. THE COURT HAS BEEN FULLY ADVISED, AND THEREFORE IT IS HEREBY DECREED THAT:

1. Dissolution: This marriage is dissolved and shall terminate on _____.

2. Prior Wills: Any will previously executed by either spouse with provisions in favor of the other spouse is revoked with respect to those provisions, unless the will expresses a different intent.

3. Division of Property: (a) The wife is awarded and shall own by herself the following personal property:

Additional pages have been attached as C-1.

(b) The husband is awarded and shall own by himself the following personal property:

Additional pages have been attached as C-2.

(c) Husband and wife each shall sign any documents necessary to remove his or her name as owner of personal property awarded to the other. If either fails to sign the necessary documents, a certified copy of the Decree shall serve as a conveyance of the property.

4. Payment of Debts: (a) The wife shall pay the debts listed below. The husband is awarded a judgment against the wife in the sum of \$ _____. The wife can satisfy this judgment by paying the following debts:

Name of Creditor Amount Owed

Additional pages have been added as D-1.

(b) The husband shall pay the debts listed below. The wife is awarded a judgment against the husband in the sum of \$ _____. The husband can satisfy the judgment by paying the following debts:

Name of Creditor Amount Owed

Additional pages have been added as D-2.

5. The wife shall have her former legal name restored. The restored name is _____.

The husband shall have his former legal name restored. The restored name is _____.

6. A judgment against (the husband) (the wife) for court costs and service fees in the amount of \$ _____ is awarded to (the husband) (the wife) (this state if fees were waived or deferred).

DATED: This ____ day of _____, 2__.

CIRCUIT COURT JUDGE

[1983 c.692 s.3; 1985 c.610 s.13; 1993 c.448 s.5; 1995 c.637 s.11; 1995 c.666 s.18; 1999 c.738 s.6]

Note: See note under 107.485.

CONCILIATION SERVICES

107.510 Definitions for ORS 107.510 to 107.610. As used in ORS 21.112 and 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 s.1; 1971 c.280 s.24; 1973 c.502 s.13; 1999 c.59 s.21]

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 s.2; 1965 c.625 s.1; 1971 c.280 s.25; 1999 c.59 s.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 s.3; 1965 c.625 s.2; 1981 s.s. c.3 s.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 s.4; 1971 c.280 s.26]

107.550 Petition for conciliation jurisdiction; contents. (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 s.5; 1965 c.625 s.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) Subject to the provisions of ORS 107.065, 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 s.6; 1965 c.625 s.4; 1975 c.228 s.1]

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 s.7]

107.580 Restriction of services; priority where children involved. 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 s.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 s.9; 1965 c.625 s.5]

107.600 Privacy of hearings; confidentiality of communications; records closed. (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 s.10; 1965 c.625 s.6; 1981 c.892 s.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 case work or clinical experience; or a bachelor's degree in the behavioral sciences plus four years' paid case work or clinical experience. [1963 c.434 s.12; 1971 c.280 s.27; 1999 c.59 s.23]

107.615 Fees to support service; 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 a marriage license.

(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 107.785. If there are none in the county, the governing body may provide such services through other county agencies or may contract with a public or private agency or person to provide such 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 s.1; 1983 c.671 s.7; 1991 c.230 s.33]

Note: 107.615 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.

107.700 Short title. ORS 107.700 to 107.732 shall be known and may be cited as the “Family Abuse Prevention Act.” [1977 c.845 s.4; 1995 c.637 s.1]

107.705 Definitions for ORS 107.700 to 107.732. As used in ORS 107.700 to 107.732:

- (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 s.5; 1979 c.161 s.1; 1981 c.780 s.1; 1985 c.629 s.1; 1987 c.331 s.3; 1987 c.805 s.1; 1993 c.643 s.1; 1995 c.637 s.2; 1997 c.863 s.8; 1999 c.617 s.6; 1999 c.1052 s.12]

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 107.732, 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 107.732.

(2) The petitioner has the burden of proving a claim under ORS 107.700 to 107.732 by a preponderance of the evidence.

(3) A person's right to relief under ORS 107.700 to 107.732 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 107.732 shall disclose the existence of any custody, Family Abuse Prevention Act or Elderly and Disabled Person 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 s.6; 1981 c.780 s.2; 1985 c.629 s.2; 1987 c.805 s.2; 1993 c.375 s.1; 1995 c.637 s.3; 1995 c.666 s.19; 1997 c.707 s.14; 1999 c.617 s.4; 1999 c.649 s.50; 1999 c.738 s.7; 1999 c.1052 s.13]

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

107.716 Hearing; additional relief; certificate of compliance; effect on title to real property; no undertaking required. (1) If the respondent requests a hearing pursuant to ORS 107.718 (8), the court shall hold the hearing within 21 days following the request, and may cancel or change any order issued under ORS 107.718.

(2) In addition to the relief available under ORS 107.718, the court, in a hearing held pursuant to subsection (1) of this section, may assess against either party a reasonable attorney fee and such costs as may be incurred in the proceeding.

(3) Where temporary custody is contested, the hearing shall be held within five days of the respondent's request. If the respondent is represented by an attorney, time for the hearing may be extended for up to five days at the request of the petitioner so that the petitioner may seek representation.

(4) 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.

(5) The court shall have the further power to 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.

(6) 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.

(7) No undertaking shall be required in any proceeding under ORS 107.700 to 107.732.

(8) Any proceeding under ORS 107.700 to 107.732 shall be in addition to any other available civil or criminal remedies. [1981 c.780 s.6 (enacted in lieu of 107.715); 1985 c.629 s.3; 1987 c.805 s.3; 1995 c.637 s.4; 1995 c.794 s.2; 1997 c.707 s.15; 1999 c.617 s.5; 1999 c.1052 s.14]

107.718 Petition for relief when petitioner in danger of abuse; forms; restraining 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, 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:

(a) 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, birth certificates, 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 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; or

(i) That the respondent have no contact with the petitioner in person, by telephone or by mail except as described in parenting time ordered under this section.

(2) 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.

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

(4) 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.

(5) An instruction brochure shall be available from the clerk of the circuit court explaining the rights set forth under ORS 107.700 to 107.732. The petition, order and related forms shall be available from the clerk of the court and shall be in substantially the following form:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
THE COUNTY OF _____

_____,)
Petitioner)
(your name))
)
)
)

PETITION FOR
RESTRAINING ORDER
TO PREVENT ABUSE

vs.)
) No. _____
)
 _____,)
 Respondent)
 (person to be)
 restrained))

YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CONTEMPT OF COURT.

If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the Court and the Sheriff can reach you if necessary.

**ATTACH ADDITIONAL PAGES
 IF NECESSARY.**

I am the Petitioner and I state that the following information is true:

I am a resident of _____ County, Oregon.

Respondent is a resident of _____ County, Oregon.

I am _____ years of age and Respondent is _____ years of age.

1. CHECK AND FILL OUT THE SECTION(S) that apply to you and respondent:

- A. Respondent is my _____ spouse _____ former spouse. We were married on _____, 2____. We were divorced on _____, 2____.
- B. Respondent and I are adults related by blood, marriage or adoption. Respondent is my _____ (type of relationship).
- C. Respondent and I have been living together since _____, 2____.
- D. Respondent and I lived together from _____, 2____, to _____, 2____.
- E. Respondent and I have been involved in a sexually intimate relationship within the last two years.
- F. Respondent and I are the unmarried parents of a child.
- G. I am a minor and have been involved in a sexually intimate relationship with respondent who is 18 years of age or older.

2. To qualify for a restraining order, respondent must have done one or more of the following:

Within the last 180 days, respondent has:

- A. Caused me bodily injury.
- B. Attempted to cause me bodily injury.
- C. Placed me in fear of imminent bodily injury.
- D. Caused me to engage in involuntary sexual relations by force or threat of force.

3. Any period of time after the abuse occurred during which respondent was incarcerated (in jail or prison) or lived more than 100 miles from your home is not counted as part of the 180-day period, and you may still be eligible for a restraining order.

Respondent was incarcerated from _____, 2____, to _____, 2____.

Respondent lived more than 100 miles from my home from _____, 2____, to _____, 2____.

4. Did the abuse happen within the last 180 days not including the times respondent was incarcerated (in jail or prison) or lived more than 100 miles from your home? Yes No
 Date and location of abuse:

How did respondent hurt or threaten you?

5. Are there incidents other than those described in question 4 above, in which respondent has hurt or threatened to hurt you? If Yes, Explain:

6. I am in imminent danger of further abuse by respondent because:

7. In any of the above incidents:

Were drugs, alcohol or weapons involved? Yes No

Did you need medical help? Yes No

Were the police or the courts involved? Yes No

If you have circled yes to any of the above questions, explain:

8. A. There (is) (is not) another restraining order pending between respondent and me. It is filed in ____ (County), ____ (State), and I am (Petitioner) or (Respondent) in that case.

The case number of the case is: _____

B. There (is) (is not) another lawsuit pending between respondent and me for divorce, annulment, legal separation, filiation (paternity), custody, parenting time or visitation.

If yes, type of lawsuit: _____

It is filed in _____ (County), _____ (State).

C. If you and respondent are unmarried, has legal paternity of your children been established? Yes No

In what way? Birth certificate

Child support proceeding

Paternity lawsuit

Other

Explain: _____

9. A. The children of respondent and me who are under 18 years of age are:

Name _____ Age ____

Name _____ Age ____

Name _____ Age ____

Name _____ Age ____

B. The children are now living with _____, at _____ (address).

For how long? _____

C. I believe that I will need the assistance of a peace officer to regain custody of my children from respondent.

Yes No

D. Is there a custody or any other order now in effect concerning any of these children? Yes No

Type of order: _____

The case number is: _____ and it is filed in _____ (County), _____ (State).

E. Where have the children listed in A. above lived for the last five years and with whom?

<u>Dates</u>	<u>County/</u>	<u>Lived</u>	<u>Present</u>
	<u>State</u>	<u>With</u>	<u>Address</u>
From ____ to ____	_____	_____	_____
From ____ to ____	_____	_____	_____
From ____ to ____	_____	_____	_____
From ____ to ____	_____	_____	_____

F. I have not been involved as a party, witness or in any other capacity in any other custody, parenting time or visitation lawsuits concerning the children in this or any other state except:

G. I know of no other custody, parenting time or visitation lawsuits concerning the children in this or any other state except:

H. I know of no one, other than respondent, who has physical custody of the children or who claims custody,

County _____
Birthdate _____ Age _____
Race _____
Height _____ Weight _____
Eye Color _____

*If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the Court and the Sheriff can reach you if necessary.

PLEASE FILL OUT THIS INFORMATION
TO AID IN SERVICE OF
THE RESTRAINING ORDER

Where is respondent most likely to be located?

Residence Hours _____
Employment Hours _____
Address: _____

Employment Hours _____
Address: _____

Description of vehicle _____

Does respondent have any weapons or access to weapons? Explain:

Has respondent ever been arrested for or convicted of a violent crime? Explain:

Is there anything about respondent's character, past behavior or the present situation that indicates that respondent may be a danger to self or other? Explain:

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____,)
Petitioner) RESTRAINING ORDER
(your name)) TO PREVENT ABUSE
)
vs.)
) No. _____
)
_____,)
Respondent)
(person to be)
restrained))

TO THE RESPONDENT: VIOLATION OF THIS RESTRAINING ORDER MAY RESULT IN YOUR ARREST AND IN CIVIL AND/OR CRIMINAL PENALTIES. THIS ORDER IS ENFORCEABLE IN EVERY STATE. REVIEW THIS ORDER CAREFULLY. EACH PROVISION MUST BE OBEYED. SEE YOUR RIGHTS TO A HEARING.

The Court, having reviewed the petition, makes the following findings:

Judge's Initials

1. Petitioner and respondent are related as follows (check all that apply):
 - A. Petitioner and respondent are spouses. _____
 - B. Petitioner and respondent are former spouses. _____
 - C. Petitioner and respondent are adult persons related by blood, marriage or adoption. _____
 - D. Petitioner and respondent are cohabiting or have cohabited with each other. _____
 - E. Petitioner and respondent have been involved in a sexually intimate relationship with each other within the last two years. _____
 - F. Petitioner and respondent are unmarried parents of a child. _____
 - G. Petitioner is a minor and has been involved in a sexually intimate relationship with respondent who is 18 years of age or older. _____
2. Additional findings:
 - A. Petitioner has been abused by respondent as defined by ORS 107.705. _____
 - B. The abuse of petitioner by respondent occurred within the last 180 days as provided in ORS 107.710. _____
 - C. Respondent represents a credible threat to the physical safety of petitioner or petitioner's child and there is an imminent danger of further abuse to petitioner. _____
 - D. If there are children, Oregon has jurisdiction over the issue of the custody of the children under ORS 109.701 to 109.834 on the following grounds:
 - a. Oregon is the home state of the child on the date this proceeding was commenced; or
Oregon was the home state within six months before this proceeding was commenced and the child is absent from the state, but a parent or person acting as a parent continues to live in Oregon under ORS 109.741 (1)(a). _____
 - b. No other state has home state jurisdiction under ORS 109.741 (1)(a); or
The home state of the child _____ (name) has declined jurisdiction and the child's parents have, or one of the child's parents or a person acting as a parent has, a significant connection with Oregon and substantial evidence is available here concerning the child's care, protection, training and personal relationships under ORS 109.741 (1)(b). _____
 - c. All courts having jurisdiction under home state grounds under ORS 109.741 (1)(a), or significant connections grounds under ORS 109.741 (1)(b), have declined to exercise jurisdiction under ORS 109.741 (1)(c). _____
 - d. No court of any other state has jurisdiction under ORS 109.741 (1)(a), (b) or (c). _____
 - e. Emergency grounds exist for the exercise of temporary emergency jurisdiction because the child is present in this state and has been abandoned; or
Emergency grounds exist for the exercise of temporary emergency _____

jurisdiction because it is necessary to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse under ORS 109.751.

- f. Because a previous child custody, parenting time, guardianship or juvenile dependency determination has been made in _____ (State/Tribe/Country), the custody and parenting time provisions in this order remain in effect for one year or until _____ (State/Tribe/Country) issues an order, whichever occurs first; _____
- Because a child custody, parenting time, guardianship or juvenile dependency proceeding has been commenced in _____ (State/Tribe/Country), the custody and parenting time provisions in this order remain in effect for one year or until _____ (State/Tribe/Country) issues an order, whichever occurs first; or _____
- No child custody, parenting time, guardianship or juvenile dependency determination has been issued or proceeding commenced in another state, tribe or country having jurisdiction under ORS 109.701 to 109.834. The custody and parenting time provisions in this order shall become a final determination for purposes of ORS 109.701 to 109.834 if Oregon becomes the home state of the child. _____

IT IS HEREBY ORDERED that:

<u>Petitioner's Request</u>	<u>Judge's Initials</u>
<input type="checkbox"/> 1. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing petitioner, or attempting to intimidate, molest, interfere with or menace petitioner.	_____
<input type="checkbox"/> 2. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing any minor children in petitioner's custody, or attempting to intimidate, molest, interfere with or menace any minor children in petitioner's custody: _____ _____	_____
<input type="checkbox"/> 3. Respondent is restrained (prohibited) from entering, or attempting to enter: (Include names and address unless withheld for safety reasons.)	_____
<input type="checkbox"/> Petitioner's current or subsequent residence.	_____
<input type="checkbox"/> Petitioner's business or place of employment.	_____
<input type="checkbox"/> Petitioner's school.	_____
<input type="checkbox"/> Other locations.	_____
<input type="checkbox"/> The area surrounding petitioner's current or subsequent residence or petitioner's school, business, place of employment or other named premises described as follows (specifically describe area): _____ _____	_____
<input type="checkbox"/> 4. Respondent is restrained (prohibited) from:	
<input type="checkbox"/> Contacting, or attempting to contact, petitioner by telephone.	_____
<input type="checkbox"/> Contacting, or attempting to contact, petitioner by mail.	_____
<input type="checkbox"/> 5. Respondent is restrained (prohibited) from entering, or	

attempting to enter:

- [] The premises of the children's day care provider. _____
- [] The children's school. _____
- [] 6. Respondent shall move from and not return to the residence located at _____ except with a peace officer in order to remove essential personal effects of the respondent, and if the respondent is the legal custodian, essential personal effects of respondent's children, including, but not limited to: clothing, toiletries, diapers, medications, social security cards, birth certificates, identification and tools of the trade. _____
- [] 7. A peace officer shall accompany the petitioner to the parties' residence in order to remove essential personal effects of petitioner, and if the petitioner is the legal custodian, essential personal effects of the petitioner's children, including, but not limited to: clothing, toiletries, diapers, medications, social security cards, birth certificates, identification and tools of the trade. _____
- [] 8. Petitioner is awarded custody of the following children of the parties, subject to the parenting time terms set forth below. _____
 Name: _____
 Age: _____
 Name: _____
 Age: _____
- [] 9. Respondent is awarded custody of the following children of the parties, subject to the parenting time terms set forth below. _____
 Name: _____
 Age: _____
 Name: _____
 Age: _____
- [] 10. A peace officer of the county or city in which the children are located shall assist in recovering the custody of the children of the above parties whose custody has been awarded to petitioner. The peace officer is authorized to use any reasonable force necessary to that end. _____
- [] 11. Other relief: _____

IT IS FURTHER ORDERED that the party not awarded custody shall be allowed parenting time as set forth below:

- | <u>Petitioner's Request</u> | <u>Judge's Initials</u> |
|--|-------------------------|
| <input type="checkbox"/> [] 12. NO PARENTING TIME due to _____
_____ | _____ |
| <input type="checkbox"/> [] 13. SUPERVISED PARENTING TIME: Three hours per week,
Supervised by:
As follows:
(day of week, location, times) | _____ |
| <input type="checkbox"/> [] 14. Once per week on _____ (day) from _____ | _____ |

- a.m./p.m. to ____ a.m./p.m.
- [] 15. On the FIRST and THIRD weekends of each month from 7:00 p.m. Saturday to 7:00 p.m. Sunday. The first weekend is the one in which both Saturday and Sunday are in the new month. _____
 - [] 16. On the FIRST and THIRD weekends of each month from 7:00 p.m. Friday to 7:00 p.m. Sunday. The first weekend is the one in which both Saturday and Sunday are in the new month. _____
 - [] 17. OTHER PARENTING TIME AS FOLLOWS: _____

 - [] 18. Parenting time details not provided for in this ORDER, including the days or hours of parenting time, shall be arranged through _____.
 - [] 19. The parent not awarded custody will pick up and return the children at the curb, or driveway if no curb, of the residence of the custodial parent or at _____ (name and address of different location) no more than 15 minutes early nor 15 minutes late.
IF RESPONDENT IS NOT AWARDED CUSTODY AND IF RESPONDENT IS OTHERWISE PROHIBITED FROM BEING AT PETITIONER'S RESIDENCE, RESPONDENT MAY BE AT THE CURB, OR DRIVEWAY IF NO CURB, OF PETITIONER'S RESIDENCE FOR A MAXIMUM OF FIVE MINUTES AT THE PARENTING TIME HOUR SPECIFIED IN THE ORDER TO PICK UP OR RETURN THE CHILDREN OR AT ANY OTHER TIME THE PARTIES AGREE TO.
 - [] 20. No further service is necessary because respondent appeared in person before the Court. _____

IT IS FURTHER ORDERED that:

SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS \$5,000 unless otherwise specified.

Other Amount (\$)

THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR A PERIOD OF ONE YEAR OR UNTIL THE ORDER IS VACATED, MODIFIED OR SUPERSEDED, WHICHEVER OCCURS FIRST.

DATED this ____ day of _____, 2____.

CIRCUIT COURT JUDGE (signature)

CIRCUIT COURT JUDGE (printed)

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____,)
) No. _____

Petitioner,)
vs.) AFFIDAVIT OF PROOF
_____,) OF SERVICE
Respondent.)
)
)
STATE OF)
OREGON)
) ss.
County of ____)

I am a resident of the State of Oregon. I am a competent person 18 years of age or older. I am not an attorney for or a party to this case, or an officer, director or employee of any party to this case.

On the ____ day of _____, 2____, I served the Restraining Order to Prevent Abuse and the Petition for Restraining Order to Prevent Abuse in this case personally upon the above-named respondent in _____ County by delivering to the respondent a copy of those papers, each of which was certified to be a true copy of each original.

Signature of _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 2____.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

IN THE CIRCUIT COURT OF
THE STATE OF OREGON
FOR THE COUNTY OF _____

_____,)
Petitioner,) No. ____
vs.)
_____,) MOTION AND ORDER
Respondent.) OF DISMISSAL
)
)

Comes now petitioner, _____, and moves this Court for an order allowing the voluntary withdrawal and dismissal of the Restraining Order on file herein.

Petitioner

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 2____.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

IT IS SO ORDERED this ____ day of _____, 2____.

JUDGE

IN THE CIRCUIT COURT OF
THE STATE OF OREGON

FOR THE COUNTY OF _____

_____,)
(D.O.B. ____)) NOTICE TO RESPONDENT
) (Family Abuse
Petitioner,)) Prevention Act)
))
and)) No. _____
)) _____,
_____,))
(D.O.B. ____))
))
Respondent.))

THIS FORM MUST BE
ATTACHED TO SERVICE COPY
OF RESTRAINING ORDER

TO RESPONDENT: A RESTRAINING ORDER HAS BEEN ISSUED BY THE COURT WHICH AFFECTS YOUR RIGHTS AND IS NOW IN EFFECT. THIS ORDER BECOMES EFFECTIVE IMMEDIATELY. IF YOU WISH TO CONTEST THE CONTINUATION OF THIS ORDER, YOU MUST COMPLETE THIS FORM AND MAIL OR DELIVER IT TO:

REQUESTS FOR HEARING MUST BE MADE WITHIN 30 DAYS AFTER YOU RECEIVE THE ORDER. YOU MUST INCLUDE YOUR ADDRESS AND TELEPHONE NUMBER WITH YOUR REQUEST FOR A HEARING. THE HEARING WILL BE HELD WITHIN 21 DAYS, OR WITHIN FIVE DAYS IF YOU ARE CONTESTING A CUSTODY PROVISION (NOT PARENTING TIME). AT THE HEARING, A JUDGE WILL DECIDE WHETHER THE ORDER SHOULD BE CANCELED, CHANGED OR EXTENDED. THE ONLY PURPOSE OF THIS HEARING WILL BE TO DETERMINE IF THE TERMS OF THE COURT'S ORDER SHOULD BE CANCELED, CHANGED OR EXTENDED.

IF YOU DO NOT REQUEST A HEARING WITHIN THE TIME ALLOWED BY LAW, THIS RESTRAINING ORDER WILL BE CONFIRMED BY OPERATION OF LAW. THAT MEANS THAT THIS RESTRAINING ORDER WILL CONTINUE IN EFFECT AS ISSUED BECAUSE YOU HAVE BEEN GIVEN BUT HAVE NOT EXERCISED YOUR RIGHTS TO REQUEST AND PARTICIPATE IN A HEARING. OREGON LAW CONSIDERS THIS CONFIRMATION SUFFICIENT TO MEET THE REQUIREMENTS OF FEDERAL LAW THAT MAY PROHIBIT YOU FROM POSSESSING A FIREARM OR FIREARM AMMUNITION WHILE THIS RESTRAINING ORDER IS IN EFFECT.

KEEP IN MIND THAT THE RESTRAINING ORDER YOU HAVE RECEIVED IS IN EFFECT AND REMAINS IN EFFECT UNTIL THE COURT THAT ISSUED THE ORDER MODIFIES IT OR DISMISSES IT OR UNTIL IT EXPIRES. THE ORDER MAY ALSO BE RENEWED UPON A FINDING THAT A PERSON IN THE PETITIONER'S SITUATION WOULD REASONABLY FEAR FURTHER ACTS OF ABUSE BY YOU IF THE ORDER IS NOT RENEWED. IF YOU ARE ARRESTED FOR VIOLATING THIS ORDER, THE SECURITY AMOUNT (BAIL) IS \$5,000, UNLESS A DIFFERENT AMOUNT IS ORDERED BY THE COURT.

This restraining order, or any order continuing or changing this order, is enforceable in every county in Oregon. It is also enforceable in all 50 states, the District of Columbia, tribal lands and territories of the United States.

Violation of this restraining order, or any order continuing or changing this order, constitutes contempt of court, punishable by a fine of up to \$500 or one percent of your annual gross income, whichever is greater, or a jail term of up to six months, or both. Other sanctions may also be imposed for contempt.

While this order, or any order continuing or changing this order, is in effect, federal law may prohibit you from:
Traveling across state lines or tribal land lines with the intent to violate this order and then violating this order.
Causing the petitioner to cross state lines or tribal land lines for your purpose of violating the order.

Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

Whether or not a restraining order is in effect, federal law may prohibit you from:

Traveling across state lines or tribal land lines with the intent to injure the petitioner and then intentionally committing a crime of violence causing bodily injury to the petitioner.

Causing the petitioner to travel across state lines or tribal land lines if your intent is to cause bodily injury to the petitioner or if the travel results in your causing bodily injury to the petitioner.

REQUEST FOR HEARING

I am the Respondent in the above-referenced action and I request a hearing to contest all or part of the order as follows (mark one or more):

The order restraining me from contacting or attempting to contact the petitioner.

The order granting child custody to the petitioner.

The terms of the parenting time order.

Other _____

I (will) (will not) be represented by an attorney at the hearing.

Notice of the time and place of the hearing can be mailed to me at the address below my signature.

Date: _____

SIGNATURE OF RESPONDENT

ADDRESS

TELEPHONE NUMBER

(6) 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 107.732.

(7) If the county sheriff:

(a) Determines that the order and petition are incomplete, the order and petition shall be returned 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 county 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.

(8)(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 and shall be in substantially the form provided in subsection (5) of this section.

(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 such 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.

(9) 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. [1981 c.780 s.4; 1983 c.561 s.2; 1985 c.629 s.4; 1987 c.805 s.4; 1989 c.605 s.1; 1991 c.303 s.2; 1991 c.382 s.2; 1991 c.724 s.22; 1993 c.375 s.2; 1993 c.643 s.2; 1995 c.637 s.5; 1995 c.794 s.1a; 1997 c.607 s.1; 1997 c.707 s.16; 1997 c.863 s.4; 1999 c.617 s.2; 1999 c.1052 ss.9,9a]

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 s.3]

Note: 107.719 was added to and made a part of ORS chapter 107 by legislative action but was not added to any series therein. See Preface to Oregon Revised Statutes for further explanation.

107.720 Enforcement of restraining orders; sheriff's proceedings; contempt hearings; security. (1)(a) Whenever a restraining order, as authorized by ORS 107.095 (1)(c) or (d), 107.716 or 107.718 which 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 thereof, the clerk of the court or any other person serving the petition and order shall deliver forthwith 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, a copy of the petition and a true copy of the order. If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service of the order is waived and an accompanying proof of service is not necessary. Upon receipt of a true copy of proof of service, when required, and a true copy of the order, the county sheriff shall forthwith 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. The sheriff shall also provide the petitioner with a true copy of the proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of such order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of such order may be informed of the existence and terms of such order. Such order shall be fully enforceable in any county or tribal land in the state. The petitioner may elect to deliver documents personally to a county sheriff or to have them delivered by a private person for entry into the Law Enforcement Data System and the databases of the National Crime Information Center of the United States Department of Justice.

(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 deliver forthwith a true copy of the termination order to the county sheriff with whom the original order was filed. Upon receipt of such 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 pursuant to 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 such restraining order is issued, the issuing court shall set a security amount for the violation of such order. [1977 c.845 s.8; 1979 c.522 s.1; 1981 c.780 s.7; 1983 c.561 s.3; 1991 c.382 s.1; 1993 c.188 s.10; 1999 c.1052 s.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 (8). [1999 c.762 s.4]

107.722 Effect of dissolution, separation or annulment decree or modification order on abuse prevention order. The provisions of an order or modification to an order issued under ORS 107.095 (1)(b), 107.105, 109.103 or 109.155 supersede contrary provisions of a preexisting order issued under ORS 107.700 to 107.732, except an order issued under ORS 107.095 (1)(b) shall only supersede a preexisting order issued under ORS 107.700 to 107.732 if the party requesting temporary relief consolidates the subsequently filed matter with the preexisting matter filed under ORS 107.700 to 107.732 and provides the nonmoving party with notice and an opportunity for a hearing. [1987 c.805 s.6; 1995 c.637 s.6]

107.725 Renewal of order entered under ORS 107.716 or 107.718. The court may renew an order entered under ORS 107.716 or 107.718 upon a finding that a person in the petitioner's situation would reasonably fear further acts of abuse by the respondent if the order is not renewed. A finding that there has been a further act of abuse is not required. 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 (4) and 107.718 (6) to (8) 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. The court shall hold a hearing required under this section within 21 days after the respondent's request. The provisions of this section apply to any order entered under ORS 107.716 or 107.718 that is in effect on August 15, 1997. [1985 c.629 s.46; 1997 c.863 s.7; 1999 c.1052 s.15]

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 s.4]

107.730 Modification of custody and parenting time provisions of order entered under ORS 107.700 to 107.732. (1) At any time after an order has been issued under ORS 107.700 to 107.732 and after the time period set forth in ORS 107.718 (8)(a), a party may request that the court modify terms in the order that provide for custody and parenting time.

(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) Service shall be in the manner provided by law for service of summons. The county sheriff shall serve the other party personally unless the party requesting the modification elects to have the other party served personally by a private party.

(4) The provisions of ORS 107.716 (4) apply to a modification of an order under this section. [1985 c.629 s.6; 1995 c.637 s.7; 1997 c.707 s.17; 1999 c.1052 s.16]

107.732 Recovering custody of child. (1) An order or a modification to an order issued under ORS 107.700 to 107.732 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.

(2) 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 107.732, except for intentional torts outside the scope of the peace officer's duties. [1995 c.637 s.9]

MEDIATION PROCEDURES

107.755 Circuit court may establish mediation procedures; mediation as part of conciliation services. (1) No later than January 1, 1999, each judicial district shall:

(a) Provide a mediation orientation session for all parties in cases in which child custody, parenting time or visitation are in dispute. 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 107.785 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 108.620.

(2) Notwithstanding any other provision of law, mediation under ORS 107.755 to 107.785, 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 107.732, 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 107.785 to govern the operation and procedure of the mediation provided.

(4) If a court provides mediation of financial issues, it shall develop a list of mediators who meet the minimum education and experience qualifications required by rule of the Dispute Resolution Commission. The rules must require demonstrated proficiency in mediation of financial issues. Once the list is developed, the judicial district shall maintain the list.

(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 107.785. [1983 c.671 s.2; 1993 c.138 s.4; 1995 c.273 s.10; 1995 c.666 s.21a; 1997 c.475 s.1; 1997 c.707 s.18a]

107.765 When referral to mediation required; scope of mediation; effect of agreement. (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 decree, 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 decree 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 s.3; 1995 c.273 s.18; 1997 c.475 s.2; 1997 c.707 s.19; 1999 c.59 s.24]

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 required by rule of the Dispute Resolution Commission.

(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 107.785. [1983 c.671 s.4; 1989 c.718 s.25; 1997 c.475 s.3; 1997 c.707 s.20]

107.785 Mediation proceedings closed; information confidential; records closed; exceptions. (1) All mediation proceedings under ORS 107.755 to 107.785 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 s.5; 1995 c.273 s.19]

107.795 Availability of other remedies. Nothing in ORS 21.112, 107.615 and 107.755 to 107.795 shall preclude a party from obtaining any orders available under ORS 107.700 to 107.732 or ORS 124.005 to 124.040 before or during

mediation. [1983 c.671 s.8; 1995 c.666 s.22]

Note: 107.795 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.

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 s.9]

Note: 107.810 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.

107.820 Support order as insurable interest; order to obtain, renew or continue insurance; right of beneficiary to purchase insurance or pay premiums. 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 decree creates an obligation of spousal or child support or awards a share of a pension or retirement plan, the court may also order the obligated party to maintain any existing insurance policies on the life of the obligated spouse and in which the dependent spouse is named as beneficiary. The court may order the policies 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 its decree 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 judgment for reimbursement of any money so expended. A default in the payment of premiums by the party obligated by the decree 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 decree 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 decree 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. [1981 c.775 s.11; 1983 c.728 s.5; 1987 c.885 s.4; 1993 c.716 s.5]

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 s.12]

MISCELLANEOUS

107.835 Waiver of personal service in subsequent contempt proceeding. (1) When any court enters a decree, order or modification of any decree or order under ORS chapter 25, 107, 108, 109 or 416 or ORS 110.303 to 110.452, the court shall allow any party to the decree or order to include in the decree or order a waiver of personal service in a subsequent contempt proceeding. The content of the waiver shall be substantially as follows:

In order to maintain the confidentiality of my residential address, I hereby waive my right to personal service if I am subsequently charged with contempt. I am giving the following contact address for service of process and select the following method of substituted service:

- () Mailing address: _____
- () Business address: _____
- () Specified agent: _____
Signed: _____

(2) Any time after a party has waived personal service under subsection (1) of this section, the party may file an amended waiver in substantially the same form designating a different method of substituted service or a different address for substituted service. The party must give notice of the amendment to all other parties. [1993 c.448 s.6; 1995 c.608 s.35]

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 on or after October 4, 1997, 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 s.2]
